

2010-11  
Equivalent 15-Hr National USPAP Course  
Student Manual

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## Tips for Taking the Online Course

Each lesson of the online course includes learning objectives that are specific to that lesson. Please take the time to read through each of the learning objectives before you start the lesson so that you can be prepared to identify the essential concepts and points that are being covered.

Don't assume because this is an online course that notes are not important. Just as with any class, taking good notes in this course is very helpful, as it helps to reinforce the material and allows you to put in your own words what you are learning. This student manual includes ample space for you to take notes on the topics you're learning.

Also, it is recommended that you print a copy of the 2010-2011 Edition of USPAP and other guidance material before you begin the online course. You will want to reference those throughout the course.

# Module 1: Introduction

## Welcome

Welcome to the 2010-11 Equivalent 15-Hr National USPAP Course. In this course, you'll learn essential USPAP requirements that will help you in your appraisal business.

Your success in learning USPAP is the primary goal of this course. Take time to study the material. It will enable you to learn and succeed in this course.

## Course Description

This course focuses on the 2010-2011 Uniform Standards of Professional Appraisal Practice as set forth by the Appraisal Standards Board of The Appraisal Foundation.

## Goal of USPAP: Promoting and Maintaining Public Trust

A. The **goal of USPAP** as indicated in the Foreword:

*is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. (USPAP 2010-2011 Edition, p. U-v)*

B. Professional **appraisers promote public trust** in appraisal practice when they perform with:

- Impartiality and objectivity,
- Ethical conduct,
- Full disclosure,
- Confidentiality,
- Competency, and
- Independence.

## Appraisers Role in Maintaining Public Trust

A. USPAP sets forth the ethical and performance standards for appraisers.

B. The role of the appraiser as specified in the ETHICS RULE:

*An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics. (USPAP 2010-2011 Edition, p. U-7)*

C. When appraisers **must** comply with USPAP:

- Obligated by law or regulation
- Agreement with the client or intended users

D. Even though individuals may not be obligated by any of these forces, they could still **choose** to comply.

- An individual **should** comply with USPAP when choosing to represent himself as an appraiser.

## Benefits of Ensuring Public Trust

A. The USPAP benefit of ensuring public trust is recognized by many individuals and organizations:

- Recognized by U.S. Congress
- Required by government agencies, businesses, and organizations
- Trusted by clients and users of appraisal services

## **Benefits to the Appraisal Profession**

- A. The appraisal profession benefits from USPAP as well:
- Source of reference for appraisers and users of appraisal services
  - Source for standardized enforcement
  - Cornerstone to the appraisal profession

## **Guidance for Business and Technology Decisions**

- A. Appraisers consult USPAP when they need guidance in making business and technology decisions.
- B. Guidance obtained through USPAP applies to all asset types.
- C. Changes and developments in economics, finance, law, technology, and society impact the appraisal profession.
- D. Appraisers must understand and employ accepted methodologies and techniques.

## **Contacting the Appraisal Standards Board**

The ASB may be contacted at:

Appraisal Standards Board  
The Appraisal Foundation  
1155 15th Street, NW, Suite 1111  
Washington, DC 20005

Phone: 202-347-7722  
Fax: 202-347-7727  
E-Mail: [info@appraisalfoundation.org](mailto:info@appraisalfoundation.org)  
Website: [www.appraisalfoundation.org](http://www.appraisalfoundation.org)

## Course Structure

This course is divided into 11 modules:

- Module 1: Course Introduction
- Module 2: Introduction to USPAP
- Module 3: USPAP Definitions
- Module 4: PREAMBLE and When USPAP Applies
- Module 5: ETHICS RULE and COMPETENCY RULE
- Module 6: SCOPE OF WORK RULE and JURISDICTIONAL EXCEPTION RULE
- Module 7: STANDARD 1
- Module 8: STANDARD 2
- Module 9: STANDARD 3
- Module 10: STANDARDS 4-10
- Module 11: Statements and Advisory Opinions

Each module contains one to three lessons. In addition, Modules 1-10 include a review quiz at the end.

Case examples from the online course are included in this manual. You may check your answers against the case example answers in the Appendix of this manual.



## Course Learning Objectives

After completing this course, you will be able to:

- Recognize significant historical events that influenced appraisal practice.
- Describe the structure of The Appraisal Foundation and its various relationships.
- Identify the roles of The Appraisal Foundation and its boards.
- Identify the responsibilities of the sponsors and councils of The Appraisal Foundation.
- Describe the role of the Appraisal Subcommittee.
- Explain how State licensure and certification agencies are regulated.
- Define key USPAP terms and other appraisal-related terms.
- Describe the purpose and content of USPAP.
- Explain when compliance with USPAP is required.
- Discuss the purpose of additional guidance documents.
- Describe the relationships between valuation services and appraisal practice.
- Describe the four sections of the ETHICS RULE.
- Describe the three sections of the COMPETENCY RULE.
- Determine when the JURISDICTIONAL EXCEPTION RULE is applicable.
- Describe the obligations of an appraiser that are addressed in STANDARDS 1-10.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

## Reference Materials

Accessing online reference documents:

- Reference Materials option on the Course Menu toolbar
- Tools option on the Lesson toolbar

Current USPAP publication from the Appraisal Standards Board:

- *Uniform Standards of Professional Appraisal Practice, 2010-2011 Edition*

Guidance material from the Appraisal Standards Board:

- *USPAP Advisory Opinions, 2010-2011 Edition*
- *USPAP Frequently Ask Questions, 2010-2011 Edition*
- *USPAP Index, 2010-2011 Edition*

Student Manual:

- *2010-11 Equivalent 15-Hr National USPAP Course Student Manual*

## **Module 2: Introduction to USPAP**

### **Lesson 1: Appraisal History and The Appraisal Foundation**

#### **Learning Objectives**

After completing this lesson, you will be able to:

- Recognize significant historical events that influenced appraisal practice.
- Describe the structure of The Appraisal Foundation and its various relationships.
- Identify the roles of The Appraisal Foundation and its boards.

#### **Background of Appraisal**

- A. Appraisers have not always been regulated by states. Appraiser licensing and certification credentials issued by states for real property appraisers have only existed since the early 1990's.
- B. In the early part of the 1900's and prior, appraisal was performed primarily by members of other professions. Most prominent in providing appraisal services were members of the real estate brokerage industry.
- C. The first standards of practice for appraisal were developed by an industry organization serving real estate brokerage professionals.

#### **History of Appraisal Standards**

- A. As the appraisal profession evolved, it was strongly influenced by historical events.
- B. Episodes of turmoil began in the 1920-30s, then reappeared again in the 1950s and were evident for several decades. Throughout those years, professional appraisal organizations were formed to assist their members with education and establishing a public trust for the profession.

## The Influence of Historical Events

- A. Beginning with the 1920s and 1930s, a period of financial turmoil in the United States transpired.
- B. Two major contributors to this chaotic period were the **1929 Wall Street stock market crash** followed by the **Great Depression**.
- C. In the 1950s through the 1970s, episodes of chaos and abuse began again in public-works areas, property taxation, and federal housing programs.
- D. These incidents intensified in the late 1980s during the **Savings and Loan (S&L) Crisis**, at the time the greatest banking collapse since the Great Depression.
- E. In the 1990s, **mortgage fraud schemes** and **illegal property flipping** consumed the appraisal and lending industries.
- F. The more recent housing slump resulting in a full-blown economic crisis nationwide beginning in 2007 has had significant impact on regulations and legislative movements affecting appraisers, which includes provisions to prevent mortgage fraud, preserve appraiser independence and impartiality, and impose stricter appraisal regulations.
- G. Today, those issues, along with appraiser identity theft and appraisal report tampering, are serious issues affecting the appraisal profession.

## Historical Role of the Appraiser

- A. Prior to the 1930s, appraisal of real property was often performed by mortgage brokers and real estate agents.
- B. In the early 1930s, the first organized groups of professional appraisers appeared within the United States.
- C. By the 1950s and 1960s, appraisers were represented by more organizations that shared a common goal: Establish qualifications and standards of professional practice for their membership.

## Issues for Appraisers

- A. Professional appraisal organizations recognized three critical issues pertaining to appraisers:
1. The need for **credible appraisal services**, which are important to the general economic well-being of society
  2. A social need for **ethical and competent individuals** to perform appraisal services
  3. The creation of **public trust** in the individual appraiser and in appraisal practice when performing professional services

## The Need for Regulation

- A. Professional appraisal organizations recognized the need for a **common set of standards**, as well as a **mechanism to enforce those standards**.
- B. Eight U.S.-based appraisal organizations and the Appraisal Institute of Canada formed an ad hoc committee to develop what would become, in 1989, the USPAP (Uniform Standards of Professional Appraisal Practice).
- C. This group further recognized:
- A new organization would be needed to achieve public recognition.
  - The new organization would have independent authority over the standards and place the public's benefit ahead of any other interest.
- D. Other factors indicating a need for regulation stemmed from:
- A direct result of the financial institution crisis of the 1980s.
  - Individuals forming value opinions for loans that were not regulated by the states or the federal government.
  - Title XI of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA), which, in part, mandated the regulation of real estate appraisers by the states for federally-related transactions.
  - Regulation under FIRREA, which applies only to real property appraisers.

## Unique Partnerships form the Regulatory Program

- A. To impose regulations, several unique partnerships were formed:
- **State Governments:** Established regulatory agencies to issue credentials and perform disciplinary actions
  - **Private Sector:** The Appraisal Foundation (TAF), a non-profit private organization with no members, provides Standards of Professional Appraisal Practice and Appraiser Qualifications Requirements
  - **Federal Government:** The Appraisal Subcommittee (ASC), a federal agency, oversees the regulatory program to ensure it remains consistent with the original intent of Congress

## Acceptance and Legal Authority of USPAP

- A. **USPAP is not law** and neither The Appraisal Foundation nor its boards have any legal authority in any jurisdiction.
- B. USPAP gained public acceptance as the recognized standards of practice by which appraisers should comply through recognition by several legislative and administrative bodies as well as private groups and entities.
- C. One of the more notable contributions to public acceptance was by the U.S. Congress when they recognized USPAP as the generally recognized standards by which professional appraisers should practice.
- D. In 1989, the Savings and Loan Bail-Out Bill or Title XI of FIRREA (Financial Institutions Reform, Recovery, and Enforcement Act) specified USPAP in their regulations.
- E. Appraisers performing appraisals for federally-related loan transactions that could put the government at risk are required to comply with USPAP.
- F. Similarly from the private sector, regulations requiring USPAP compliance by appraisers was incorporated into policies of industry groups such as Fannie Mae, Freddie Mac, Farmer Mac, the Farm Credit Administration, and the Employee Relocation Council. When appraisers are completing assignments for use with any of these entities, USPAP compliance is required.

G. Other government entities that are recognizing USPAP, and therefore, garnering public acceptance include:

- The Executive Branch, which followed the congressional recognition, when they referenced USPAP in the Uniform Relocation and Assistance and Real Property Acquisition Policies Act
- The Office of Management and Budget (OMB) when it referenced USPAP in Circular A-129, causing other federal agencies to recognize USPAP

## **Structure of The Appraisal Foundation**

A. See the *Appraisal Foundation and Relationships* chart under the Reference Materials link in the online course or in the Appendix of this manual.

B. TAF is:

- Not a government agency.
- Not an appraisal organization.
- A non-profit organization with no members.

## **Boards of The Appraisal Foundation**

A. The Appraisal Foundation comprises three distinct boards:

1. Board of Trustees (BOT)
2. Appraiser Qualifications Board (AQB)
3. Appraisal Standards Board (ASB)

## Role of the Board of Trustees

- A. Basically, the Board of Trustees (BOT) oversees all functions of the Foundation and its boards, and its primary functions are to:
- Appoint individuals to the AQB and ASB.
  - Ensure financing of TAF.
  - Monitor performance and oversight of TAF and its two boards (AQB and ASB).

## Structure of the Board of Trustees

- A. The Board of Trustees comprises 27 individuals, not necessarily appraisers, including 10 At-Large Trustees elected by the Board.
- B. Anyone interested party may apply to serve as an At-Large Trustee. The Foundation announces the opportunity to apply for a seat each Spring.
- C. Public meetings are held in the Spring and Fall of each year.

## Relationship Among The Appraisal Foundation and Its Boards

- A. The Appraisal Foundation is **an umbrella organization for the two independent boards.**
- B. The Board of Trustees of The Appraisal Foundation is charged with funding the activities of the AQB and ASB as well as appointing members to the boards and overseeing their activities.



## **Role of the Appraiser Qualifications Board**

- A. The **Appraiser Qualifications Board (AQB)** establishes minimum education, experience, and examination requirements for real property appraisers to obtain certification, which involves:
- Exercising all authority over the establishment of minimum education, experience, and other criteria for licensing, certification, and recertification of qualified appraisers
  - Defining, issuing, and promoting such qualification criteria
  - Disseminating such qualification criteria to states, government entities, and others
  - Creating and maintaining the National Appraisal Examination
  - The administration of the 7- and 15-hour National USPAP Courses
  - Certifying national USPAP instructors
  - The national Course Approval Program (CAP)
- B. In addition, the AQB performs duties related to real property and personal property appraiser qualifications.

## **Structure of the Appraiser Qualifications Board**

- A. The AQB comprises at least five practicing appraisers, who are appointed by the Board of Trustees.
- B. Board members of the AQB are appointed for three-year terms.
- C. The AQB works under the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) to establish the minimum education, experience, and examination requirements for real property appraisers.

## Role of the Appraisal Standards Board

- A. The **Appraisal Standards Board (ASB)** writes, amends, and interprets USPAP and performs other tasks, which includes:
- Exercising all authority and power over the subject, style, content, and substance of USPAP and other communications related to Standards
  - Performing all functions of the Foundation and the Board of Trustees with respect to establishing, improving, and promulgating uniform standards of professional appraisal practice and ethics
  - Issuing exposure drafts for public comment of proposed changes to USPAP
  - Holding public meetings during the year in various regions
  - Educating appraisers and the public on USPAP by issuing monthly Q&As on the Foundation's website
  - Participating in speaking engagements
  - Updating USPAP instructors and state regulators

## Structure of the Appraisal Standards Board

- A. The Appraisal Standards Board shall consist of not less than five and not more than seven members; currently, the ASB has six members who were appointed by the Board of Trustees.
- B. If the initial term of a member shall be greater than one year, the first year of that initial term shall be probationary, and the completion of the initial term shall be subject to approval of the Standards and Qualifications Board Nominating Committee.
- C. No member of the Standards Board shall be appointed to a third consecutive three-year term.
- D. In no event shall any individual serve more than eight years as a member of the Appraisal Standards Board.
- E. Members of the ASB have backgrounds in personal property, real property, and business asset appraisal.

- F. Activities of the Board are directed by the Chair, who is appointed by the Board of Trustees for a one-year term.

## **Cultivating Public Trust**

- A. In addition to the roles just described, the AQB and the ASB, with support from the sponsoring organizations of The Appraisal Foundation, are tasked with the commitment to **cultivate greater trust and confidence in professional appraisal practice**.
- B. Trust, in concept, requires a professional appraiser to **act in the best interest of the public**, which includes these qualities:
- Experience
  - Independence
  - Integrity
  - Objectivity (Impartiality)
  - Specialized knowledge
- C. A professional appraiser must act in an ethical and competent manner.

## Lesson 2: Other Relationships of The Appraisal Foundation

### Learning Objectives

After completing this lesson, you will be able to:

- Identify the responsibilities of the sponsors and councils of The Appraisal Foundation.
- Describe the role of the Appraisal Subcommittee.
- Explain how State licensure and certification agencies are regulated.

### Sponsors of The Appraisal Foundation

A. The Appraisal Foundation has **two categories of sponsors**:

- **Appraisal Sponsors:** Non-profit organizations *servicing appraisers*
- **Affiliate Sponsors:** Non-profit organizations serving those with an interest in appraisal, mainly *users of appraisal services*

B. Each sponsor **appoints one member** to the Board of Trustees.

C. The Appraisal Foundation is funded, in part, by a federal grant, sales of publications and services, and from sponsoring organizations.

## **Appraisal Sponsors of The Appraisal Foundation**

A. The following are **appraisal sponsors** of the Foundation:

- American Society of Appraisers
- American Society of Farm Managers & Rural Appraisers
- Appraisal Institute
- Appraisers Association of America
- Instituto de Evaluadores de Puerto Rico
- International Association of Assessing Officers
- International Right of Way Association
- Massachusetts Board of Real Estate Appraisers
- National Association of Independent Fee Appraisers

## **Affiliate Sponsors of The Appraisal Foundation**

A. The affiliate sponsors of the Foundation are:

- American Bankers Association
- Farm Credit Council
- Mortgage Insurance Companies of America
- National Association of Realtors

## Advisory Councils of The Appraisal Foundation

A. The Appraisal Foundation also has **five advisory councils**:

- The Appraisal Foundation Advisory Council (TAFAC)
- Education Council of Appraisal Foundation Sponsors (ECAFS)
- Industry Advisory Council (IAC)
- International Valuation Council (IVC)
- State Regulator Advisory Group (SRAG)

### The Appraisal Foundation Advisory Council (TAFAC)

- A. **The Appraisal Foundation Advisory Council (TAFAC)** makes recommendations to the boards on major issues; as well as contributes to the agenda of projects; selection of task forces; and amendments to USPAP, Advisory Opinions, and AQB Appraiser Qualification Criteria and Interpretations/Clarifications.
- B. TAFAC involves the public in the appraisal standards and appraiser qualifications development process.
- C. TAFAC comprises 58 non-profit organizations and government agencies, and represents appraisers, users of appraisal services, and government agencies.
- D. Professions and occupations represented by the member organizations include appraisers, home builders, real estate brokers, financial institution regulators, federal land acquisition agencies, the secondary mortgage market, and the private mortgage insurance industry.

## **Education Council of Appraisal Foundation Sponsors (ECAFS)**

- A. The **Education Council of Appraisal Foundation Sponsors (ECAFS)** was established to ensure public trust in the appraisal profession, raise competency of appraisers, and encourage high ethical standards through a cooperative effort to provide the highest quality uniform USPAP education.
- B. Representatives from eight appraisal sponsors, both non-profit and for-profit organizations, comprise ECAFS.

## **Industry Advisory Council (IAC)**

- A. The **Industry Advisory Council (IAC)** was created by the Board of Trustees to provide advice and input from the marketplace.
- B. IAC provides advice and input on reports provided to them by the Chairs of the ASB and AQB.
- C. IAC members are from for-profit organizations with an interest in valuation.
- D. Members include lending institutions, accounting firms, appraisal companies, insurers, brokerage firms, pension funds, investment bankers, relocation companies, and others.
- E. IAC presents these organizations with opportunities to advise and council The Appraisal Foundation.

## International Valuation Council (IVC)

- A. The **International Valuation Council (IVC)** provides global and international information and support to the Board of Trustees, ASB, and AQB.
- B. Although the IVC is **not** directly involved in International Standards, the council does maintain contact and a reciprocal process to share experiences with other national standard and qualification setting bodies.
- C. The IVC interacts with the International Valuation Standards Board, Regional Valuation Standards Boards, and other National Valuation Standards and Qualifications Boards to facilitate strong and consistent national standards.
- D. The IVC also seeks out opportunities to help promote global acceptance of the appraisal and valuation profession.
- E. Members of the IVC comprise both for-profit and non-profit groups with international valuation concerns/interests.

## State Regulator Advisory Group

- A. TAF formed the **State Regulator Advisory Group (SRAG)** as a direct link to the regulators who implement the work of the AQB and ASB.
- B. SRAG comprises a panel of state appraisal or appraiser board members, administrators, investigators, and legal staff.
- C. The role of SRAG is to:
  - Identify disciplinary related USPAP issues that should be incorporated into revisions to the *15-Hour National USPAP Update Course*.
  - Address enforcement and regulatory issues relating to USPAP and the *Real Property Appraiser Qualification Criteria*.
  - Ensure that the qualification criteria continue to reflect current capabilities and expectations of the marketplace regarding distance education.



## Role of the Appraisal Subcommittee

- A. The role of the **Appraisal Subcommittee (ASC)** is to ensure that real estate appraisers who could expose the United States to financial loss are sufficiently trained and tested to **ensure competency and independent judgment**, according to uniform high professional standards and ethics.
- B. The ASC consists of members of the five federal banking agencies plus HUD.
- C. The Appraisal Subcommittee, while not a part of The Appraisal Foundation, has authority from FIRREA to oversee The Appraisal Foundation and its two major Boards, the AQB and the ASB, in its real property related work.
- D. FIRREA also gave the ASC supervisory power to oversee state appraisal regulatory bodies.
- E. The ASC maintains the National Registry of licensed and certified real property appraisers, which is funded by license/certification renewal fees collected by states and forwarded to the ASC.
- F. The ASC makes an annual report to Congress.
- G. The Appraisal Foundation receives grants managed by the ASC to support, in part, the real property related efforts of the AQB and the ASB.

## The Appraisal Subcommittee and FIRREA

- A. The ASC was created as a result of the **Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA)**. This Act is also known as the *Savings and Loan Bailout Bill*.
- B. **Title XI of FIRREA** set up a real estate appraiser regulatory system involving the federal government, the states, and The Appraisal Foundation.
- C. Title XI is intended to provide that federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals used in **connection with federally-related transactions** meet certain guidelines.

## The Appraisal Subcommittee and FFIEC

- A. The ASC was established within the Federal Financial Institutions Examination Council (FFIEC).
- B. To view the structure of FFIEC, see *The Appraisal Foundation and FIRREA* Chart under the Reference Materials link in the online course or in the Appendix of this manual.
- C. FFIEC prescribes uniform principles, standards, and report forms, and makes recommendations to promote uniformity in the supervision of financial institutions.

## State Appraisal Licensure and Certification Agencies

- A. Each U.S. state or territory has a state appraiser regulatory agency.
- B. Each state appraiser regulatory agency is responsible for certifying and licensing real estate appraisers and supervising their appraisal-related activities, **as required by federal law**.
- C. State appraiser regulatory agencies are involved in setting standards.
- D. The states have the **authority to establish higher than minimum criteria for appraiser requirements and higher than minimum standards of practice**. Thus, appraisers should be well versed in the state licensure and certification laws and regulations where they practice.
- E. The ASC has the authority to ensure that the states and the Foundation meet the requirements that the states use to certify appraisers and the standards of professional practice to which appraisers are held by the states (USPAP).

## Lesson 3: Purpose & Contents of USPAP

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the purpose of USPAP.
- Identify individuals who benefit most from USPAP.
- Explain when compliance with USPAP is required.
- Examine the contents of USPAP.
- Discuss the purpose of additional guidance documents.
- Recognize the framework of the appraisal process in the context of USPAP.

### What is USPAP?

- A. USPAP or the Uniform Standards of Professional Appraisal Practice is the professional appraisal standards promulgated by The Appraisal Foundation and now recognized throughout the United States as the accepted standards of appraisal practice.

### What are the Contents of USPAP?

- A. USPAP contains DEFINITIONS, the PREAMBLE, Rules, Standards, Standards Rules, and Statements on Appraisal Standards.
- B. The RULES include the ETHICS RULE, COMPETENCY RULE, SCOPE OF WORK RULE, and the JURISDICTIONAL EXCEPTION RULE.
- C. RULES cover general practice requirements. Standards Rules elaborate on those requirements within specific disciplines and assignment types.

## What is the Purpose of USPAP?

- A. According to the PREAMBLE, the purpose of USPAP is: To promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. (USPAP 2010-2011 Edition, p. U-6)
- B. The PREAMBLE stipulates that appraisers develop and communicate their analysis, opinions, and conclusions to intended users of their services **in a manner that is meaningful and not misleading**.
- C. The PREAMBLE also sets forth when the appraiser is obligated to comply with USPAP and that appraisers can choose to comply when not obligated.
- D. Ethical and performance obligations of appraisers are addressed through the USPAP DEFINITIONS, Rules, Standards, Standards Rules, and Statements.

## DEFINITIONS

- A. The DEFINITIONS section contains terms that have a specific meaning in USPAP.
- B. These terms may have a different meaning in context of USPAP when compared to other sources. The DEFINITIONS also contain terms that are only found in USPAP.

## PREAMBLE

- A. Sets the tone of commitment for professionalism and maintaining a high level of public trust in appraisal practice.
- B. Includes a preliminary explanation regarding the purpose of USPAP and the principles behind its philosophy.

## The ETHICS RULE and the COMPETENCY RULE

- A. The ETHICS RULE contains ethical obligations and prohibitions that generally apply to an individual acting in the role of an appraiser.
- B. The ETHICS RULE is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping.
- C. The COMPETENCY RULE contains general requirements directed to performance while in the role of an appraiser.
- D. The ETHICS RULE and the COMPETENCY RULE work in concert. Compliance with both is necessary for the purpose of maintaining public trust in the appraisal profession. In other words, appraisers must perform ethically and possess competence in providing their services.

## SCOPE OF WORK RULE

- A. The SCOPE OF WORK RULE (USPAP 2010-2011 Edition, p. U-13) indicates that *for each appraisal, appraisal review, and appraisal consulting assignment, an appraiser must:*
  - *identify the problem to be solved;*
  - *determine and perform the scope of work necessary to develop credible assignment results; and*
  - *disclose the scope of work in the report.*
- B. The assignment elements that are part of problem identification are the basis for the appraiser's scope of work.

## **JURISDICTIONAL EXCEPTION RULE**

- A. The JURISDICTIONAL EXCEPTION RULE applies in circumstances where laws or regulations take precedence over USPAP.
- B. In the occurrence when a law or regulation precludes compliance with any part of USPAP, only that particular part of USPAP becomes void in a specific assignment.
- C. When USPAP is contrary to law or regulation, applying the JURISDICTIONAL EXCEPTION RULE is not an option or choice that can be made by the appraiser.
- D. In addition to identification and compliance requirements, the JURISDICTIONAL EXCEPTION RULE also has disclosure and citation requirements.

## **USPAP STANDARDS**

- A. STANDARDS address an appraisal function of a particular type of asset or discipline, while standards rules act as a “checklist” for the development and/or reporting.
- B. The functions of the 10 STANDARDS establish the requirements for appraisal, appraisal review, and appraisal consulting service, as well as the manner in which each is communicated:
  - STANDARD 1: Development of a real property appraisal
  - STANDARD 2: Reporting of a real property appraisal
  - STANDARD 3: Appraisal review, development, and reporting
  - STANDARD 4: Development of a real property appraisal consulting service
  - STANDARD 5: Reporting of a real property appraisal consulting service
  - STANDARD 6: Development and reporting of a mass appraisal
  - STANDARD 7: Development of a personal property appraisal
  - STANDARD 8: Reporting of a personal property appraisal
  - STANDARD 9: Development of a business or intangible asset appraisal
  - STANDARD 10: Reporting of a business or intangible asset appraisal

## Statements on Appraisal Standards

- A. Statements on Appraisal Standards (SMTS) are explained in the USPAP Table of Contents as follows:

*“Statements on Appraisal Standards 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.”*

- B. In total, the Appraisal Standards Board has issued ten statements to date, five of which are now retired.

## Comments

- A. An integral part of USPAP, Comments can be found throughout USPAP as extensions of DEFINITIONS, RULES, and Standards Rules and carry identical weight as to the specific portion of USPAP that they address.
- B. Comments are for the purpose of interpretation and provide for establishment of the context and conditions for applying the specific portion of USPAP that they follow.

## Additional Guidance Issued by the Appraisal Standards Board

- A. The Appraisal Standards Board (ASB) issues additional guidance in the form of the *USPAP Advisory Opinions and USPAP Frequently Asked Questions (FAQ)*, intended to help appraisers in the application of USPAP, as well as a Master Index, all bound in the same publication with USPAP.
- B. Advisory Opinions are issued to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB in the appraiser’s resolution of appraisal issues and problems.
- C. The FAQ similarly offers guidance by the ASB in the form of responses to questions posed by appraisers, enforcement officials, users of appraisal services, and the public.
- D. Likewise, the FAQ are intended to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB.

- E. Advisory Opinions and FAQ **are not part of USPAP**.
- F. Advisory Opinions **do not** establish new standards or interpret existing standards.
- G. The ASB can approve the issuance of Advisory Opinions without public exposure and comment.
- H. To date, 32 Advisory Opinions have been issued, five of which have been retired.
- I. The ASB compiles the monthly USPAP Q&A into the USPAP FAQ for publication with each edition of USPAP.
- J. The most recent questions and responses issued by the ASB are incorporated into each edition.
- K. As well, with each edition, the USPAP FAQ is reviewed and updated to ensure that it represents the most recent guidance from the ASB.
- L. Advisory Opinions and Frequently Asked Questions are bound in the same publication with USPAP for convenience, along with an Index.

## **USPAP and the Appraisal Process**

- A. Appraisers apply their knowledge and specialized skills in solving valuation problems by following a recognized and distinct method known as the appraisal process.
- B. No matter whether the asset is tangible (real or personal property) or intangible (business assets), the method offers a framework for the appraiser to solve all types of valuation problems.
- C. The first six steps in the process relate to the development of a value opinion, while the last step in the process addresses the performance obligations of reporting.
- D. See the USPAP and The Appraisal Process diagram under the Reference Materials link in the online course or in the Appendix of this manual.



E. Below are the steps in the appraisal process:

- Step 1: Definition of the Problem
- Step 2: Scope of Work
- Step 3: Data Collection and Analysis
- Step 4: Application of the Approaches to Value
- Step 5: Reconciliation of Value Indications and Final Opinion of Value
- Step 6: Report of Defined Value Opinions

F. The process is orderly by using a progression of a thorough, comprehensive, and accurate manner leading to the appraisal report.

G. USPAP has divided the process into two specific types of actions that an appraiser uses to solve valuation problems: Development and reporting.

H. Appraisers begin their development process with the elements of defining the problem, also known as problem identification (Step 1).

I. The elements of problem identification include the identification of:

- The client and any other intended users.
- Intended use.
- Type and definition of value.
- Effective date of the opinion.
- Relevant property characteristics.
- Assignment conditions (which also include extraordinary assumptions, hypothetical conditions, jurisdictional exceptions, assumptions, and limiting conditions).

J. The information learned in problem identification assists the appraiser with making a scope of work decision.

- K. The scope of work decision (Step 2) is specific to the type and extent of research and analysis that the appraiser will perform to produce a credible opinion.
  
- L. Next, based on the scope of work decision, the appraiser performs the research and analysis determined necessary (Steps 3 & 4) and reconciles the conclusions (Step 5).
  
- M. The final step in the process is to report the conclusions (Step 6), including disclosure of the scope of work that was performed in the assignment.

# Module 3: USPAP Definitions

## Lesson 1: Definitions – Part I

### Learning Objectives

After completing this lesson, you will be able to:

- Define key USPAP terms and other appraisal-related terms.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Introduction

- A. There are a variety of key terms that will be referenced in this course and found throughout USPAP. It is important to understand the meaning of these terms in order to assist you with comprehension of USPAP.
- B. Some of the key terms in this section are from the USPAP DEFINITIONS. Other key terms that will be introduced in this module are not found in the DEFINITIONS but are repeatedly used throughout USPAP, and therefore, are critical to be familiar with as well.
- C. The meanings of USPAP DEFINITIONS are distinct in context of their use within USPAP and may have a different meaning than found in other sources.
- D. There are other terms specifically related to the appraisal industry that are only found in USPAP, and therefore, USPAP is the source and authority for their definition.

## USPAP and Market Value

- A. The term “market value” must be discussed as there are many definitions of this term and not a solitary common definition from a single common source.
- B. Regulatory agencies, recognized authorities, and jurisdictional entities such as a bankruptcy court or the Internal Revenue Service could have a specified definition of market value that is unique to their intended use.
- C. The definition of market value identified during problem identification could be unique and specific to the assignment, client, or intended users, or could be custom tailored in the assignment to the intended use.
- D. While the term market value is included in the USPAP DEFINITIONS, the term is defined broadly and defines the components of market value rather than providing a definition for the term:

***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.

- E. The Comment following the definition of market value provides further insight:

*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).

***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.***

## USPAP Key Terms

- A. All of the terms used throughout USPAP are important; however, selected terms are being discussed in this particular module of the course.
- B. Some of the terms will be discussed together to assist with understanding the differences among terms that are often confused.

## Appraisal, Appraisal Review, and Appraisal Consulting

- A. Many different services could be provided by an individual while acting in the role of an appraiser.
- B. Some (if not most) of the services provided by an appraiser are identified as an appraisal, an appraisal review, or an appraisal consulting assignment.
- C. Appraisers must take great care not to mislabel the service they are providing as this could be misleading.

## Appraisal

- A. For most appraisers in most assignments, their clientele is comprised of those who are seeking an appraisal.

**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).

B. An appraisal can be expressed as:

- A single number, "\$100,000" or
- A range, "From \$95,000 to \$100,000" or
- A relationship to a previous value opinion or numerical benchmark, "Value is greater than the previous appraised value," or "Yes, the property is worth at least as much as the amount indicated to facilitate the loan."

## Appraisal Review

A. Appraisal review is also a common service provided by appraisers.

**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.*

- Appraisers who are performing a review assignment are developing and communicating an opinion regarding the quality of another appraiser's work.
- Their subject of the review could be all or part of a report, a workfile, or a combination.

## Appraisal Consulting

A. Appraisal consulting can be easily confused or interchanged with other services provided by appraisers if the term and the concept are not adequately understood.

**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.*

- When the purpose of an assignment is to conclude a value opinion or the opinion of the quality of another appraiser's work, it is not an appraisal consulting assignment.
- Appraisal consulting includes analysis of at least one value opinion that leads the consulting appraiser to his opinion, conclusion, or recommendations.

## Appraiser

A. USPAP defines an appraiser as follows:

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

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.*

- The appraiser is in a position of public trust.
- The public includes clients and others who rely on the opinions, conclusions, and recommendations of appraisers as trusted professionals.
- The appraiser, under this definition, is obligated to be objective and unbiased in his opinions, conclusions, and recommendations.

## Client

A. Identification of the client is a primary element of identifying the problem.

**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.*

B. While the client is the party that engages an appraiser in a specific assignment, an appraiser must be independent, impartial, and objective.

- An appraiser can never advocate for his client.
- The party (or parties) engaging the appraiser in a specific assignment is the client.
- Payment by a party (or parties) for the appraiser's services does not make that party (or parties) the client.
- The appraiser may be engaged by parties that are duly authorized representatives of the client.

### **Case Example: Who is the Client? #1**

**SCENARIO:** An appraiser has received and accepted an assignment from a lender to appraise a residential dwelling that is being refinanced. As part of the arrangement, the appraiser receives payment for his services from the homeowner.

Who is the client in this situation?

### **Case Example: Who is the Client? #2**

**SCENARIO:** Frequently, appraisers receive assignments for lenders through appraisal management companies. An appraisal management company (AMC) informs the appraiser that, for the assignment being offered, the lender is the client and that they have the lender's authorization to engage the appraiser's services.

Can the appraiser consider the lender the client since he has had no communication with, or been directly engaged by them?



## Intended Use and Intended User

- A. Two very important definitions that are integral to the appraisal process are the terms “intended use” and “intended user.”
- B. Identification of the intended use and the intended user(s) in an assignment are key elements of problem identification that lead the appraiser to a scope of work decision.
- C. The appraiser identifies the intended use and intended user(s) **at the time of the assignment** based upon communication with the client.
- D. Once identified, the intended use and intended user(s) in an assignment cannot change once the assignment is completed.

## Intended Use

- A. The appraiser’s opinions and conclusions are always specific to the intended use.

***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

- A. The **client is always an intended user in a specific assignment**. There could be intended users other than the client in a specific assignment, if identified by 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.

## Case Example: Intended Use and Intended User

**SCENARIO:** A lender, who was the client in a recently completed assignment performed by an appraiser for a purchase transaction, has provided a copy of the appraisal report to the homeowner's accountant for accounting purposes.

Does receiving a copy of the report from the client allow the accountant to be considered an intended user and the accounting purpose an intended use?

## Assignment

- A. The term “assignment” has special meaning in context with USPAP and has a very distinct definition in USPAP than would be found in other sources.

**ASSIGNMENT:** *An agreement between an appraiser and a client to provide a valuation service; the valuation service that is provided as a consequence of such an agreement.*

- B. Under this definition, an assignment can be either:

- the agreement between an appraiser and a client to provide a valuation service, or
- the valuation service provided as a result of the agreement.

## Scope of Work

- A. The scope of work decision is at the heart of the process the appraiser uses to solve valuation problems.

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

- B. In every appraisal, appraisal review, and real property appraisal consulting assignment, the appraiser must:

- Identify the problem to be solved,
- Determine and perform the scope of work that is necessary to produce credible assignment results for the intended use, and
- Disclose in the report the scope of work that was performed.

## Advocacy vs. Bias

- A. The term advocacy is not included in the USPAP DEFINITIONS, while the term bias is.

## Advocacy

- A. When an appraiser advocates for his client or a particular issue, the appraiser is not acting impartially.
- B. Advocacy occurs when the appraiser is representing the cause or interest of another regardless of whether the cause or interest may be contrary to the appraiser's beliefs, opinions, conclusions, or recommendations.
- C. An appraiser can **never advocate the cause or interest of any party or issue** and always remain impartial (not favoring one side over the other) and objective; much like a judge would in a court case. This could be very different from that in other professional roles. As an example, real estate brokers often advocate for their client's position and interest, similar to the duties expected of an attorney or certain other professionals when representing their clients.

## Bias

- A. Often, those newly entering the appraisal profession, as well as seasoned appraisers, will ask "May I appraise a property that is owned by a friend or relative?" USPAP doesn't directly address the issue other than to admonish that **bias is not allowed when acting in the role of an appraiser**.
- B. Appraisers must use special caution in circumstances where personal inclinations or preferences might cause assignment results to be biased.

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

## Lesson 2: Definitions – Part II

### Learning Objectives

After completing this lesson, you will be able to:

- Define key USPAP terms and other appraisal-related terms.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Assumptions

- A. In every appraisal, appraisers make numerous assumptions. In fact, many appraisal reports may contain a lengthy list of boilerplate assumptions being made by the appraiser applicable in every assignment. These assumptions often encompass areas that are outside of an appraiser's expertise. The assumptions are general in nature and often include assumptions that the title to the property is free from problems or that no hidden or unapparent environmental problems exist in the property, etc.

**ASSUMPTION:** *that which is taken to be true.*

### Extraordinary Assumption vs. Hypothetical Condition

- A. The terms "extraordinary assumption" and "hypothetical condition" are unique to USPAP and are repeatedly referenced throughout USPAP, including in all of the Standards.
- B. At first, these terms may seem similar and are sometimes confused by appraisers. However, the terms extraordinary assumption and hypothetical condition are very different, and each has a specific context for its use and application.

## Extraordinary Assumption

**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.*

- A. An extraordinary assumption is a circumstance of a **specific assignment** (as opposed to an assumption, which is something that is taken to be true in many or all assignments).
- B. Extraordinary assumptions communicate to the client that something that the appraiser has taken to be true or correct is uncertain.
- C. The use of an extraordinary assumption is appropriate when the appraiser has a reasonable basis for his belief, but he is not certain.
- D. Disclosure of the use of an extraordinary assumption is required. The disclosure of the extraordinary assumption alerts the client as to the uncertainty of the information.
- E. A common application of an extraordinary assumption is in the situation of an exterior-only (drive-by) appraisal. In such case, the appraiser does not inspect the interior of the subject property. If the appraiser has a reasonable basis and credible assignment results can be achieved, an extraordinary assumption might be used regarding the characteristics of the subject property's interior.
- F. The Comment to the definition of extraordinary assumption clarifies that other information, in addition to the physical characteristics of the property, that the appraiser could presume as fact, but for which he is uncertain could include:
  - Legal or economic characteristics of the subject property
  - Conditions external to the property such as market conditions or trends
  - Integrity of data used in an analysis

## Hypothetical Condition

**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.*

- A. A hypothetical condition is different from an extraordinary assumption (for which the appraiser has a reasonable belief certain information or circumstances are true) in that with a hypothetical condition, the appraiser knows that the circumstances for which he is considering data for the property itself are **not true**.
- B. The circumstances warranting the use of a hypothetical condition are easiest thought of as “what if” situations. In these cases, the appraiser is aware that the circumstances of how the property is being considered are **not what actually exists on the effective date** of the appraisal.
- C. One of the more common examples is when an appraisal is performed for a proposed new construction with a current effective date. The appraiser is fully aware that, on the current effective date, the structure has not yet been built, but he is completing the appraisal as if it were true.
- D. Hypothetical conditions **must be prominently disclosed in the report**, alerting the client and intended users of the circumstances considered that were not as they actually were on the effective date.
- E. Other common examples of when hypothetical conditions might be used include:
  - Appraising a property “as-repaired” that has not been repaired on the effective date
  - Considering a completed addition to a property that has not been started on the effective date
  - Appraising a property with different zoning than exists on the effective date
  - Appraising a property that has environmental issues and considering the issues have been corrected on the effective date

## Case Example: Extraordinary Assumption vs. Hypothetical Condition #1

**SCENARIO:** At the time of an appraiser's inspection of a residential property, the utilities servicing the home are shut off. However, all visible mechanical components in the two-year-old home appear to be in good condition.

Should the appraiser base his conclusions on an extraordinary assumption or a hypothetical condition?

## Case Example: Extraordinary Assumption vs. Hypothetical Condition #2

**SCENARIO:** At the time of an appraiser's inspection of a residential property, the heating and cooling system and water heater had been removed from the house. However, the client in the transaction has specified that the value opinion by the appraiser be considered as if the components had been replaced and currently in satisfactory working order.

Should the appraiser base his conclusions on an extraordinary assumption or a hypothetical condition?

## Cost, Price, and Value

- A. The terms cost, price, and value can be mistakenly interchanged by some.
- B. Appraisers must be well aware of the USPAP definition of each of these terms and **be cautious not to misapply them when providing a valuation service.**
- C. As will be discussed later in the course, depending on which of these the appraiser is stating or expressing, an appraiser has certain obligations to comply with USPAP.



## Cost

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

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

- When the cost is known at the conclusion of a construction project, it is a fact.
- When an appraiser estimates the cost-new of property improvements, it is an estimate of fact.

## Price

**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.*

- The asking price of a property, once it is stated, is a fact.
- The amount offered by a prospective purchaser, once it is stated, is a fact.
- The amount a property sold for or that a buyer paid for a property, once it is stated, is a fact.

## Value

**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, or investment value.*

- The amount for which a property is **expected to sell** is a value opinion

- Value is **always an opinion** and is never a fact

## Assignment Results

- A. Assignment results are the appraiser's opinions, conclusions, or recommendations in an assignment.

**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.

## Confidential Information

**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 (such as the Gramm-Leach-Bliley Act).*

## Report, Signature and Workfile

- A. The terms report, signature, and workfile are presented here for a basic understanding of the USPAP definitions.

**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 are included to cover court testimony and other oral communications of an appraisal, appraisal review, or appraisal consulting service.*

**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.*

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

## Valuation Services and Appraisal Practice

- A. It is important to understand the differences between “valuation services” and “appraisal practice” in USPAP.
- B. To illustrate the differences, see *Relationships Between Valuation Services and Appraisal Practice* under the Reference Materials link in the online course or in the Appendix of this manual.

## Valuation Services

- A. Valuation services encompass **all value-related services** and pertain to **all aspects of property value** (tangible and intangible).
- B. Valuation services are not limited to those services provided by appraisers.
- C. Appraisers and others—such as attorneys, accountants, insurance estimators, auctioneers, and real estate brokers—provide valuation services.

**VALUATION SERVICES:** *services pertaining to aspects of property value.*

## Appraisal Practice

- A. Appraisal practice is a **subset of valuation services** that is provided by an individual acting in the role of an appraiser.
- B. Appraisal practice is performed only by appraisers.

- C. Since USPAP obligations apply to those who are acting as appraisers, USPAP applies to appraisal practice.
- D. Advocacy is not permitted in appraisal practice.
- E. When in the role of an appraiser, the client has an expectation related to that role including, but not limited to, impartiality, objectivity, and independence.

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

- F. Services provided by an appraiser in appraisal practice include:
  - Appraisal
  - Appraisal Review
  - Appraisal Consulting
  - Other services provided while in the role of an appraiser (Other services could include supplying factual sales data to others, teaching appraisal courses, providing information from a survey of rental rates, etc.)

### **Case Example: Valuation Services vs. Appraisal Practice**

**SCENARIO:** John is both a real property appraiser and an attorney. He has been offered an estate settlement case that will include completion and filing of legal documents with the courts as well as an appraisal of the real property owned by the decedents. The executor of the estate hired John due to his expertise as an appraiser as well as an attorney.

Since John is functioning in two roles, is he providing a valuation service or appraisal practice?

## Standards and Standards Rule

- A. The terms Standard and Standard Rule are not defined in USPAP.
- B. There are 10 Standards in USPAP with each establishing a benchmark of criteria to measure ethics and competency:
- Standards 1 & 2 – Development and reporting (respectively) of a real property appraisal
  - Standard 3 – Development and reporting of an appraisal review
  - Standards 4 & 5 – Development and reporting (respectively) of a real property appraisal consulting assignment
  - Standard 6 – Development and reporting of a mass appraisal (real or personal property)
  - Standards 7 & 8 – Development and reporting (respectively) of a personal property appraisal
  - Standards 9 & 10 – Development and reporting (respectively) of a business or intangible asset appraisal
- C. Each Standard is comprised of Standards Rules, which identify applicable requirements.

# Module 4: PREAMBLE and When USPAP Applies

## Lesson 1: PREAMBLE and When USPAP Applies

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the purpose of USPAP.
- Identify individuals who benefit most from USPAP.
- Explain when compliance with USPAP is required.
- Describe the relationships between valuation services and appraisal practice.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### PREAMBLE

- A. The PREAMBLE sets the tone of commitment for professionalism and maintaining a high level of public trust in appraisal practice.
- B. The PREAMBLE includes a preliminary explanation regarding the purpose of USPAP and the principles behind its philosophy.
- C. According to the PREAMBLE, the purpose of USPAP is: *To promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers.* (USPAP 2010-2011 Edition, p. U-6)

## When Does Compliance with USPAP Apply?

- A. The PREAMBLE to USPAP indicates that an appraiser must comply with USPAP when required by:
- Law.
  - Regulation.
  - Agreement (with the client or intended users).
- B. Even though individuals may not be obligated by any of these forces, they could still **choose** to comply.
- C. An individual **should** comply with USPAP when choosing to represent himself as an appraiser.

## Who Benefits from USPAP?

- A. Those who benefit most from USPAP include:
- **Providers of appraisal services.** Providers of appraisal services benefit by having uniform standards of professional practice by which to benchmark an expectation including, but not limited to, the expectation of ethical behavior and performance while acting in the role of an appraiser.
  - **Users of appraisal services.** USPAP assists users of appraisal services to understand the standards of professional practice that should be expected from an appraiser. Users of appraisal services are not particularly defined by USPAP, but would certainly include (but may not be limited to) the client and other intended users in the course of an appraisal, appraisal review, or appraisal consulting assignment.

## The Contents of USPAP

A. The ethical and performance obligations of appraisers are addressed in USPAP through:

- DEFINITIONS.
- Rules.
- Standards.
- Standards Rules.
- Statements.

## What Appraisal Services are Covered?

A. USPAP covers the following appraisal services:

- Appraisal
- Appraisal review
- Real property appraisal consulting
- Other services when choosing to represent oneself as an appraiser

## What Property Types are Covered?

A. USPAP addresses the appraisal of many types of assets.

B. The following property types are covered by USPAP:

- **Tangible (real and personal property).** Real property is land and everything attached to it, while personal property is any property that is moveable and not affixed to land.
- **Intangible.** Items that represent value but are not actual, tangible objects (e.g., stocks, bonds, copyrights, trademarks).



## Valuation Services and Appraisal Practice

- A. A review of the USPAP definitions of the terms “valuation services” and “appraisal practice” will assist in reinforcing the concepts that have just been discussed and will be important as we move forward in our discussion of individuals acting in the role of an appraiser.

- B. USPAP defines valuation services as:

**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.*

- C. When an appraiser is providing a valuation service, the appraiser is performing appraisal practice. USPAP defines appraisal practice as follows:

**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. (p. U-1)*

- D. Appraisal practice is included in the world of valuation services. See *Relationships Between Valuation Services and Appraisal Practice* under the Reference Materials link in the online course or in the Appendix of this manual.

- E. USPAP applies to that part of valuation services found within appraisal practice.

- F. Some individuals may be both an appraiser and a real estate broker.

- G. When an individual is acting as a real estate broker in performing a valuation service, **he must be careful not to misrepresent his role.**

- H. If the individual is holding himself out as an appraiser or the party for which he is performing is looking to him as (or has expectation of) an appraiser, the valuation service is appraisal practice, for which USPAP obligations apply.
- I. Take a look at a table that identifies valuation services. See the *Valuation Services* table under the Reference Materials link in the online course or in the Appendix of this manual.
- J. An individual **acting as a real estate broker** is providing a valuation service outside of appraisal practice and, therefore, **may act as an advocate** for his clients.
- K. An individual **acting as an appraiser performing a similar service** is performing appraisal practice, has USPAP obligations, and **must not advocate** for any party or issue.
- L. Key Points to remember:
- Valuation services are provided by appraisers and others.
  - Appraisal practice is performed only by those acting in the role of an appraiser.
  - Appraisal practice includes performing an appraisal, appraisal review, or an appraisal consulting service, but could include other services provided by an appraiser as well.

### **Case Example: Providing a Valuation Service as an Appraiser**

**SCENARIO:** Marty, a real property appraiser, is performing a valuation service for a client by supplying factual data in order to assist an attorney with certain information necessary for a court proceeding. The service does not include advocacy and he is being paid a flat fee for his services regardless of the outcome of the proceeding.

Does Marty need to follow USPAP?

## Expectations for Appraisers

- A. What does acting as an appraiser or performing a service as an appraiser mean?
- Representing oneself as an appraiser
  - An expectation of competence in the service being provided
  - An expectation of the service being provided in a manner that is independent, impartial, and objective as an ethical requirement of operating within USPAP
- B. When someone “acts as an appraiser,” he is **representing himself as an appraiser**. This places ethical obligations on the individual to be competent, unbiased, independent, impartial, and objective. These obligations allow appraisers to meet the expectations of the public (i.e., prospective clients).
- C. This expectation for an individual to act as an appraiser indicates an obligation to comply with USPAP to:
- Maintain public trust.
  - Adhere to the definition of “appraiser,” not by an individual’s credentials.
  - Meet expectations of clients and other intended users when an appraiser is identified.
- D. Responsibilities of an individual regarding user expectations include:
- Identifying the capacity in which he is performing
  - Inquiring about the intended users’ expectations
  - Not misrepresenting oneself when performing services outside appraisal practice
  - Choosing to provide a valuation service as an appraiser or in some other capacity, while using great care to maintain public trust

## User Expectations and Responsibility

A. What are the responsibilities of an individual regarding user expectations?

- An individual must **recognize and inquire about the expectations** of intended users. This communication is critical in order to develop a proper scope of work that is appropriate for the intended use.
- When performing a valuation service not as an appraiser and outside of appraisal practice, you must **not misrepresent your role** as acting in the capacity of an appraiser.
- You must also take care in **not violating public trust** when providing a valuation service as an appraiser or in some other capacity.

## Lesson 2: USPAP Compliance Obligations

### Learning Objectives

After completing this lesson, you will be able to:

- Describe USPAP compliance obligations for appraisal practice and other services.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### USPAP Compliance Obligations for Appraisal Practice

- A. In appraisal practice, appraisers have USPAP obligations.
- B. When the appraiser's services in appraisal practice **does** include an appraisal, appraisal review, or appraisal consulting service, the appraiser must comply with the DEFINITIONS, PREAMBLE, ETHICS RULE, COMPETENCY RULE, SCOPE OF WORK RULE, JURISDICTIONAL EXCEPTION RULE, and applicable performance STANDARD(s) 1-10.
- C. When the service being provided by an appraiser **does not** include appraisal, appraisal review, or an appraisal consulting service, the appraiser must comply with the DEFINITIONS, PREAMBLE, ETHICS RULE (except Record Keeping/workfile), COMPETENCY RULE, and JURISDICTIONAL EXCEPTION RULE.
- D. There is no record keeping or workfile requirement, nor does the SCOPE OF WORK RULE apply.

## Compliance Obligations for Other Services

- A. What are the USPAP compliance obligations for various services other than appraisal, appraisal review, and appraisal consulting provided under appraisal practice?
- As you know, appraisal, appraisal review, and appraisal consulting require compliance with all sections of USPAP, including the applicable STANDARDS 1 through 10. Services that are performed by an **individual acting as an appraiser**, but to which STANDARDS 1 through 10 do not apply, must still comply with the portions of USPAP that generally apply to appraisal practice. These are in the ETHICS RULE (except Record Keeping), COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE.
  - For assignments that fall outside STANDARDS 1 through 10, there are no workfile or record keeping requirements, and the SCOPE OF WORK RULE does not apply.

## Services Without Specific Performance Standards

- A. The services within appraisal practice that have no specific performance standards (i.e., they do not fall under STANDARDS 1-10) might include:
- Providing sales data (i.e., a market analysis that does not render an opinion of value for a specific property)
  - Analyzing specific elements of value, such as reproduction cost and functional utility (i.e., the impact of a floor plan with a poor layout; for example, walking through a bathroom to access the kitchen)
  - Property utilization study
  - Zoning study
  - Trend analysis and lease analysis
  - Developing appraisal educational texts (or teaching appraisal courses)

## Valuation Services Outside of Appraisal Practice

- A. What are the USPAP obligations for valuation services performed by an individual outside of appraisal practice?
- An individual who performs in other professional roles, such as an attorney, accountant, broker, or consultant, must take great care **not to misrepresent their role** when performing in these other capacities outside of appraisal practice.
  - Furthermore, a valuation service based on advocacy or compensation arrangements that are contrary to the ETHICS RULE cannot be performed by an individual acting as an appraiser.
- B. Always remember what role you are performing that day. Who did the client hire? The appraiser or the home inspector? The appraiser or the attorney? For example, if you practice both real estate brokerage and appraisal and perform an analysis for determining the estimated sales price of a property that might be offered to you as a listing, would the property owner expect an appraisal due to your appraisal expertise?
- C. Make very certain that you do not misrepresent your role or violate public trust. Individuals who have expertise in professional areas other than appraisal must exercise great care to explain their role in a particular valuation service outside of appraisal practice.
- D. In many instances, simply holding yourself out as an appraiser may create an expectation that you will be performing in the role of an appraiser when performing a particular valuation service.
- E. You should certainly inquire about the expectation of the party engaging you to perform the service, as this provides significant insight as to whether the particular valuation service is appraisal practice.
- F. 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.

## Case Example: Which Hat is Being Worn?

**SCENARIO:** Bob provides real estate brokerage and appraisal services. He has been contacted by a former real estate client to list a property that the broker sold to him several years ago. The former real estate client is not aware that Bob also provides appraisal services. The property owner would like him to provide a market analysis to assist with determining what price he might list his property.

Can Bob provide this service as a real estate broker? Can the service be considered a valuation service, or must it be considered appraisal practice?

## Case Example: Advocating for the Client

**SCENARIO:** A real property appraiser has been engaged to provide his services in a litigation matter. The appraiser's role is not to provide a value opinion but rather to assist the client's attorney in strategizing cross examination questions, which will produce results that will favor the cause of the client.

Can the appraiser provide this service and still comply with USPAP?

## Case Example: Preliminary Appraisals and/or Comp Checks

**SCENARIO:** A phone call has just been received by a real property appraiser from an out-of-town lender who is in the process of taking a loan application for a property in the appraiser's local service area. The lender provides the appraiser with the property address, a brief description of the property, and a value estimate that must be met in order to facilitate the loan. The lender then asks the appraiser if data is available to support the value estimate.

Since the lender is only asking about data and is not pressing the appraiser for a specific value opinion, must this request be considered a request for an appraisal?



# Module 5: ETHICS RULE and COMPETENCY RULE

## Lesson 1: The ETHICS RULE – Part I

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the four sections of the ETHICS RULE.
- Explain USPAP requirements of the Conduct and Management sections of the ETHICS RULE.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Overview of the ETHICS RULE

- A. The ETHICS RULE sets forth foundational obligations when acting in the role of an appraiser and amplifies that an appraiser is required to always observe the highest standards of professional ethics.
- B. Inherent within this requirement are general obligations for appraisers to:
  - Not misrepresent their role when providing a valuation service that is outside of appraisal practice,
  - Perform in compliance with USPAP when required by law regulation or agreement,
  - Certify compliance with USPAP, and
  - Not communicate in a manner that is misleading.
- C. The ETHICS RULE is applicable to an appraiser's conduct in general, as well as to development and communication issues.

D. The ETHICS RULE consists of four sections:

- Conduct
- Management
- Confidentiality
- Record Keeping

E. The Conduct, Management, and Confidentiality sections of the ETHICS RULE are applicable to all appraisal practice.

F. The Record Keeping section applies whenever the service being provided by an appraiser is an appraisal, appraisal review, or appraisal consulting service for which Standards 1-10 apply.

## **Introduction to the ETHICS RULE**

A. The ETHICS RULE commences by reciting a foundational obligation:

*An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.*

*An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. 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. (USPAP 2010-2011 Edition, p. U-7)*

B. The Comment within the introduction to the ETHICS RULE clarifies that:

- The ETHICS RULE contains personal obligations and responsibilities for individual appraisers.
- Individual appraisers employed by a group or organization that conducts itself in a manner that does not conform to USPAP should take steps that are appropriate under the circumstances to ensure compliance with USPAP.

## Conduct Section – General Conduct

A. Obligations of the Conduct section of the ETHICS RULE regarding **general conduct** include:

- Appraisers must not engage in criminal conduct
- Appraisers must always be impartial, objective, and independent, without accommodating personal interests
- Appraisers must perform in compliance with USPAP

## Conduct Section – Development Issues

A. Obligations of the Conduct section of ETHICS RULE regarding **development issues** include:

- Appraisers must not perform an assignment with bias.
- Appraisers must not advocate for the cause or interest of any party or issue.
- Appraisers must not accept assignments that include reporting predetermined opinions and conclusions.
- Appraisers must not misrepresent their role when providing valuation services outside of appraisal practice.
- Appraisers must not perform assignments in a grossly negligent manner.

**Note:** These prohibitions address the appraiser's obligation to not act in a **grossly negligent manner** in all appraisal practice. Standards 1, 3, 4, 6, 7, and 9 contain prohibitions specific to the appraiser when performing an appraisal, appraisal review, or appraisal consulting assignment to not render those services in a **careless or negligent manner**.

B. Obligations of the Conduct section of ETHICS RULE regarding **development issues**:

- Appraisers must not use or rely on unsupported conclusions regarding characteristics related to specifically recognized protected classes, or an unsupported conclusion indicating that homogeneity of such characteristics is necessary to maximize value.

C. Protected classes or related characteristics of those classes that are indicated in USPAP include:

- Race
- Color
- Religion
- National origin
- Gender
- Marital status
- Familial status
- Age
- Receipt of public assistance income
- Handicap

### **Case Example: Assignment Conditions**

**SCENARIO:** A real property appraiser has been asked by a local lender to perform an appraisal of a vacant land parcel for the purpose of determining a market value. The intended use of the appraisal is for mortgage finance purposes in a sales transaction. The land parcel is being sold by a parent to one of her children. The lender has been provided with a previous appraisal of the property performed by an appraiser who was engaged by the property owner. The lender tells the appraiser that the present transaction price, between parent and child, is for an amount that is about one-half of the value indication concluded by the appraiser in that assignment.

The lender informs the appraiser that although his analysis may indicate a value opinion greater than the contract sale price, the lender's policies prohibit the appraised value in this assignment being more than 5% higher than the contract sale price as this tends to signal red flags to underwriters. The appraiser accepts and completes the assignment with this condition.

Has the appraiser failed to comply with USPAP?

## Case Example: Reporting Neighborhood Property Value

**SCENARIO:** Many, if not most, of a residential appraiser's assignments are for use in a mortgage finance transaction. Nearly all of the appraisals for use in these transactions require the use of specific forms that are provided in most appraisal software programs. One of the questions common to these forms regards neighborhood property values and asks the appraiser to indicate if values are increasing, stable, or declining. Many appraisers report they have been admonished by clients in such work to never check "declining," even when this is the case, and that unless "stable" or "increasing" is checked, the appraisal is of no use to them.

Since this is at the direction of the client and could result in loss of their future business, is this a violation of USPAP?

### Conduct Section – Communication Issues

A. Obligations of the Conduct section of ETHICS RULE regarding **communication issues**.

Appraisers must not:

- Communicate assignment results with the intent to mislead or defraud.
- Communicate, use, or allow an employee or others to use a fraudulent or misleading report.

B. The following information must be disclosed to the client if known prior to accepting an assignment, or if discovered at any time during an assignment:

- Any current or prospective interest in a subject property or the parties involved in the assignment
- Any services as an appraiser, or in any other capacity, regarding the subject property performed within a three-year period prior immediately preceding acceptance of the assignment

C. In addition to the disclosure made prior to accepting the assignment or one made if discovered any time during an assignment, **disclosure must be made in the certification** of the subsequent report.

- D. Disclosing this information is important to preserving public trust, and it gives the client an opportunity to evaluate the information before engaging the appraiser.
- E. The Comment to this portion of the Conduct section of the ETHICS RULE provides specific advice regarding how these requirements interact with the appraiser's obligation of confidentiality:

*Comment: 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. (USPAP 2010-2011 Edition, p. U-8)*

### **Case Example: Requirement to Disclose Prior Service**

**SCENARIO:** John, a real property appraiser, appraised a high-end residential property two years ago. He was engaged in the assignment by the property's owner, a high profile individual. At the time of the assignment, the property owner required John to sign a confidentiality agreement with several prohibitions, including disclosure of the fact that John had appraised the property, for a period of five years. John is offered an appraisal assignment of the property by a national bank.

Can John accept the assignment for a different client?

### **Management Section of ETHICS RULE**

- A. The Management section of the ETHICS RULE addresses, in part:
- Disclosing fees, commissions, or things of value paid in connection with the procurement of an assignment.
  - Unacceptable assignment conditions and compensation arrangements.
  - Advertising/soliciting assignments in a false, misleading, or exaggerated manner.
  - Affixing or authorizing the use of the appraiser's signature to certify recognition and acceptance of that appraiser's USPAP responsibilities in appraisal practice.

## Management Section – Disclosure of Payments by the Appraiser

- A. The Management section of the ETHICS RULE requires that fees, commissions, or things of value relating to the procurement of an assignment **must be disclosed**.

*An appraiser must disclose that he or she paid a fee or commission, or gave a thing of value in connection with the procurement of an assignment.*

*Comment: The disclosure must appear in the certification and in any transmittal letter in which conclusions are stated; however, disclosure of the amount paid is not required. In groups or organizations engaged in appraisal practice, intra-company payments to employees for business development do not require disclosure. (USPAP 2010-2011 Edition, p. U-8)*

- B. Disclosure:

- Refers to payments being made **by the appraiser**, not to the appraiser.
- References to a particular assignment and does not reference gifts or other things of value provided to a client as a “thank you” or other appreciation for business in general.
- Must be made in the certification and in any letter of transmittal in which conclusions are stated.
- Is not required for the amount (or value) of the payment.

### Case Example: Disclosure of Payments by the Appraiser

**SCENARIO:** As a condition of receiving an assignment from a client, Helen gave the client two tickets to the opera. The client attended the opera, and the following week Helen completed her assignment for the client, but she didn’t discuss the tickets in the certification.

Was this acceptable under USPAP?

## Management Section – Assignment Conditions

A. The Management section of the ETHICS RULE states, in part:

*An appraiser must not accept an assignment, or 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 (e.g., that the loan closes, or taxes are reduced); or*
5. *the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose. (USPAP 2010-2011 Edition, p. U-8)*

## Case Example: Assignment Conditions in a Real Property Appraisal

**SCENARIO:** A real property appraiser has just received an appraisal request that includes the direction to call the lender immediately after inspecting the property if the value indicated on the request cannot be met. The appraiser recognizes that the instruction is unacceptable. He accepts the assignment with the intention of ignoring the instruction and completing the assignment.

Is this in compliance with USPAP?

## Management Section – Advertising

A. With regard to advertising, the Management section of the ETHICS RULE states, in part:

*An appraiser must not advertise for or solicit assignments in a manner that is false, misleading, or exaggerated. (USPAP 2010-2011 Edition, p. U-8)*



## Management Section – Signatures

- A. Signature requirements are addressed in the Management section of the ETHICS RULE as follows:

*An appraiser must affix, or authorize the use of, his or her signature to certify recognition and acceptance of his or her USPAP responsibilities in an appraisal, appraisal review, or appraisal consulting assignment (see Standards Rules 2-3, 3-6, 5-3, 6-9, 8-3, and 10-3). An appraiser may authorize the use of his or her signature only on an assignment-by-assignment basis.*

*An appraiser must not affix the signature of another appraiser without his or her consent.*

*Comment: An appraiser must exercise due care to prevent unauthorized use of his or her signature. An appraiser exercising such care is not responsible for unauthorized use of his or her signature. (USPAP 2010-2011 Edition, p. U-8)*

- B. The appraiser affixes his signature, or authorizes the use of his signature in an appraisal, appraisal review, or appraisal consulting assignment to **certify recognition and acceptance of his obligations to USPAP.**
- C. The signature of one appraiser must not be affixed by another without the signing appraiser's consent.
- D. Authorization to affix or use an appraiser's signature can only be granted on an **assignment-by-assignment basis.**

## Lesson 2: The ETHICS RULE – Part II

### Learning Objectives

After completing this lesson, you will be able to:

- Explain the USPAP requirements of the Confidentiality and Record Keeping sections of the ETHICS RULE.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Confidentiality Section of ETHICS RULE

- A. Before we begin the discussion of the Confidentiality section of the ETHICS RULE, let's revisit the term confidential information from the USPAP DEFINITIONS:

**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. (USPAP 2010-2011 Edition, p. U-2)*

- B. The Confidentiality section of the ETHICS RULE addresses, in part:

- Protection of the confidential nature of the appraiser-client relationship.
- Acting in good faith with the legitimate interests of the client relating to confidential information and in communicating assignment results.
- Obligation to be aware and to comply with all confidentiality laws and regulations applicable in an assignment.
- Disclosure requirements and exceptions to the protection of confidential information and assignment results.

## Confidentiality Section – Who May Have Access to Information

- A. The focus of the Confidentiality section of the ETHICS RULE is on the appraiser-client relationship and the use of confidential information and assignment results.

*An appraiser must not disclose (1) confidential information; or (2) assignment results to anyone other than:*

- *the client;*
- *persons specifically authorized by the client;*
- *state appraiser regulatory agencies;*
- *third parties as may be authorized by due process of law; or*
- *a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.*

*A member of a duly authorized professional peer review committee must not disclose confidential information presented to the committee.*

*Comment: When all confidential elements of confidential information and assignment results are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified. (USPAP 2010-2011 Edition, p. U-9)*

### Case Example: Confidentiality About Property Condition

**SCENARIO:** In the course of inspecting a subject property for an appraisal being performed for a lender-client, the homeowner has asked the appraiser to keep confidential certain information about the condition of the property in the appraisal report to the lender.

Can the appraiser treat this information as confidential?

## **Case Example: Confidentiality in Subsequent Assignments**

**SCENARIO:** An appraisal report of a residential property has just been completed by a real property appraiser for the Apex Bank. The next day, after submitting the appraisal report to Apex Bank, the appraiser receives an appraisal request for the same property from Sunbridge Bank. The appraiser informs Sunbridge that he has recently performed an appraisal of the property for Apex Bank, and that he would need a release from them or he cannot accept the assignment.

Can the appraiser accept the assignment?

## **Case Example: Who May Have Access to Information**

**SCENARIO:** Barry, an appraiser, has applied for a professional designation of a major appraisal organization. As part of the approval process, Barry must submit sample appraisals reports for review by the designation committee of the organization. The committee is comprised of appraisers.

Can Barry comply with USPAP and supply the sample reports?

## Record Keeping Section of ETHICS RULE

A. The Record Keeping section of the ETHICS RULE addresses, in part:

- Workfile preparation and content requirements for an appraisal, appraisal review, or appraisal consulting assignment.
- Retention period for the appraiser's workfile.
- Workfile custody by the appraiser and workfile retention, access, and retrieval arrangements with others.
- The purpose of a workfile.
- Workfiles for oral reports.
- Access to workfiles by other parties.

B. According to the Record Keeping section of the ETHICS RULE:

*An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. A workfile must be in existence prior to 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.*

*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 (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire signed report transmitted to the client satisfies the requirement of a true copy.);*
- *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 USPAP, or references to the location(s) of such other documentation. (USPAP 2010-2011 Edition, p. U-9)*

C. In summary:

- Every appraisal, appraisal review, or appraisal consulting report must have a workfile.
- The workfile must be in existence prior to a report being issued.
- For an oral report, a summary of the oral report must be included in the workfile within a reasonable period of time of the issuance of the oral report.

D. In summary, the workfile must include:

- A true copy of any written report on any type of media.
- A summary of any oral reports or testimony (or a transcript of testimony)
- Oral reports require a signed and dated certification be included in the workfile.
- All data, documents, and other information that is necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP.
- If documentation is not (or cannot be) included in the workfile, the workfile should reference where the documentation is located.

## **Record Keeping Section – Workfile Retention**

A. The Record Keeping section addresses the time frame for retaining a workfile:

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

## Record Keeping Section – Custody and Access to Workfile

- A. Custody and access to a workfile is also addressed in the Record Keeping section.

*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.*

*An appraiser having custody of a workfile must allow other appraisers with workfile obligations related to an assignment appropriate access and retrieval for the purpose of:*

- *submission to state appraiser regulatory agencies;*
- *compliance with due process of law;*
- *submission to a duly authorized professional peer review committee; or*
- *compliance with retrieval arrangements.*

- B. Let's review the Comment to the Record Keeping section:

*Comment: Care should be exercised in the selection of the form, style, and type of medium for records to ensure that they are retrievable by the appraiser throughout the prescribed record retention period.*

*A workfile must be made available by the appraiser when required by a state appraiser regulatory agency or due process of law.*

*A workfile in support of a Restricted Use 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). (USPAP 2010-2011 Edition, p. U-10)*

## Lesson 3: The COMPETENCY RULE

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the three sections of the COMPETENCY RULE.
- Explain the USPAP requirements of the COMPETENCY RULE.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Overview of the COMPETENCY RULE

- A. Competency in context with USPAP refers to an appraiser's knowledge and experience to provide a service or complete an assignment.
- B. The COMPETENCY RULE applies to appraisal practice.
- C. Competency could apply to the appraiser's knowledge and experience regarding:
  - A specific type of property or asset.
  - A market.
  - A geographic area.
  - An intended use.
  - Specific laws and regulations.
  - An analytical method.
- D. The COMPETENCY RULE sets forth the obligations of the appraiser to have or acquire competency to adequately perform an assignment, or to decline or withdraw.



E. Components of the COMPETENCY RULE include, in part:

- Possessing competency prior to accepting an assignment.
- Having the ability to identify the problem.
- Having knowledge and experience to competently complete the assignment.
- Recognizing and complying with pertinent laws and regulations.
- Recognizing when an appraiser lacks competency.
- Disclosing the lack of knowledge or experience before an assignment, or if facts discovered during an assignment reveal a lack of competency.
- Methods for obtaining competency if the appraiser does not already possess adequate competency.

## Sections of the COMPETENCY RULE

A. The three sections of Rule consist of:

- **Being Competent** – Requirements for competency
- **Acquiring Competency** – Requirements if an appraiser is not competent at the onset but wishes to accept the assignment
- **Lack of Competency** – Requirements of an appraiser who realizes he does not possess and cannot acquire competency to complete an assignment

## Being Competent

A. The first section of the COMPETENCY RULE, **Being Competent**, establishes these requirements:

1. Being able to correctly identify the problem
2. Having the knowledge and experience to competently complete the assignment
3. Recognition of, and compliance with, any laws and regulations applicable to the appraiser or assignment

- B. In the first section, the Comment points out factors the appraiser must consider when assessing his or her competency:

*Comment: Competency may apply to factors such as, but not limited to, an appraiser's familiarity with a specific type of property or asset, a market, a geographic area, an intended use, specific laws and regulations, 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 below to satisfy this COMPETENCY RULE.*

- C. The remainder of the revised Comment clarifies that the appraiser's competency applies **at the time of the assignment** when retrospective opinions and conclusions are being expressed:

*For assignments with retrospective opinions and conclusions, the appraiser must meet the requirements of this COMPETENCY RULE at the time of the assignment, rather than the effective date. (USPAP 2010-2011 Edition, p. U-11)*

## Acquiring Competency

- A. The second section of the COMPETENCY RULE, **Acquiring Competency**, addresses an appraiser who lacks competency but would like to accept an assignment.

- B. The appraiser must:

1. Disclose the lack of competency to the client prior to accepting the assignment,
2. Take all necessary steps to competently complete the assignment, and
3. Describe the lack of competency in the report, including the steps taken to competently complete the assignment.

- C. The Comment to the second section of the COMPETENCY RULE addresses **how competency can be acquired**.

*Comment: Competency can be acquired in various ways, including, but not limited to, personal study by the appraiser, association with an appraiser reasonably believed to have the necessary knowledge and/or experience, or retention of others who possess the necessary knowledge and/or experience.*

- D. Geographic competency is but one of numerous areas where an appraiser could lack competency; however, the appraiser is still responsible for being geographically competent, as is emphasized in the remainder of the Comment:

*In an assignment where geographic competency is necessary, an appraiser who is not familiar with the relevant market characteristics must acquire an understanding necessary to produce credible assignment results for the specific property type and market involved. (USPAP 2010-2011 Edition, p. U-11)*

- E. If during the course of an assignment, facts or conditions are discovered that cause the appraiser to realize that he or she lacks the required knowledge and experience to complete the assignment competently, the appraiser must:
1. Notify the client,
  2. Take all necessary steps to competently complete the assignment, and
  3. Describe the lack of competency in the report, including the steps taken to competently complete the assignment.

### **Case Example: Geographic and Market Trends**

**SCENARIO:** A Certified General Appraiser has been asked by one of his regular lender-clients to perform an appraisal of the real property interests for a chain of five auto parts stores. The stores are all owned by the same borrower. The appraisal is to be performed to establish a current opinion of market value for use in a mortgage finance transaction being secured by all five real properties.

Four of the stores are located within the appraiser's standard market service area for which he has had significant experience and stored data. The fifth store, however, is located approximately 100 miles away. The appraiser has never worked in this area, nor does he have any knowledge of the market in this particular section of the state. The prospective lender-client, having been advised by the appraiser of his lack of knowledge and experience, expresses his confidence in the appraiser's ability to acquire market intelligence and complete the assignment. According to the lender-client, this property couldn't be much different from the other near-identical stores in the appraiser's market area.

Prior to the appraiser's site visit, he obtains traffic counts for the busy primary thoroughfare on which the subject is located, as well as the property's legal description, and zoning and use information. In addition, the appraiser obtains demographic and economic data from local, regional, and national sources. Comparable sales and income data were compiled through local real estate brokers, although most of the data is between two to four years old.

As the demographics and physical characteristics of the market appear to be very similar to the appraiser's local market, he applies a market condition adjustment, derived from his local market, to the sales data from the subject market. However, the appraiser fails to recognize that a planned bypass thoroughfare of the city, which will open in the coming months, is expected to reduce traffic by 75% on the current highly exposed and traveled street. Further, the appraiser does not take note of, and thus, does not analyze the current high level of vacancies and listed commercial properties on the street, due to the anticipated traffic reduction, which should be considered in the market analysis, particularly as it applies to the income approach.

Has the appraiser complied with the requirements of the COMPETENCY RULE of USPAP?

## **Lack of Competency**

- A. The last section of the COMPETENCY RULE, **Lack of Competency**, describes the appraiser's obligation to decline or withdraw from the assignment if unable to comply with the rule to complete the assignment competently.

## **Case Example: COMPETENCY RULE**

**SCENARIO:** Jane, a real property appraiser, has been offered the opportunity for an appraisal assignment for which the date of the report is retrospective to an effective date prior to her becoming an appraiser.

In compliance with the COMPETENCY RULE, can Jane accept the assignment since she wasn't an appraiser on the effective date specified in the assignment?

# Module 6: SCOPE OF WORK RULE and JURISDICTIONAL EXCEPTION RULE

## Lesson 1: SCOPE OF WORK RULE

### Learning Objectives

After completing this lesson, you will be able to:

- Identify and describe the three primary obligations for appraisers in an appraisal, appraisal review, or appraisal consulting assignment.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Overview of the SCOPE OF WORK RULE

- A. Determining the appropriate scope of work in an assignment is at the core of the appraisal process.
- B. The USPAP definition of the term scope of work:

**SCOPE OF WORK:** *the type and extent of research and analyses in an assignment.* (USPAP 2010-2011 Edition, p. U-4)

- C. The SCOPE OF WORK RULE addresses **three primary obligations for appraisers** in an appraisal, appraisal review, or appraisal consulting assignment; each of these sections of the rule will be discussed in this lesson:
  - Problem Identification
  - Scope of Work Acceptability
  - Disclosure Obligations

- D. Additional guidance about the scope of work can be found in Advisory Opinion 28 and Advisory Opinion 29. It is suggested that you read and become familiar with the contents of the rule and the additional guidance provided by the ASB before you continue with this course.
- E. The SCOPE OF WORK RULE (USPAP 2010-2011 Edition, p. U-13) indicates that *for each appraisal, appraisal review, and appraisal consulting assignment, an appraiser must:*
- *identify the problem to be solved;*
  - *determine and perform the scope of work necessary to develop credible assignment results; and*
  - *disclose the scope of work in the report.*
- F. Additionally, the SCOPE OF WORK RULE, in part:
- Establishes fundamental considerations by the appraiser in determining the proper scope of work in an assignment.
  - Requires the appraiser to properly identify the problem and gather and analyze information about the assignment elements that lead the appraiser to a scope of work decision.
  - Describes the role of the client in determining the scope of work in an assignment.
  - Establishes a benchmark for scope of work acceptability.
  - Discusses the disclosure obligations of the appraiser regarding the scope of work performed in an assignment.

## **Scope of Work Decision**

- A. In general, when an appraiser determines the appropriate scope of work to be applied in an assignment, he is making a decision regarding (but not limited to) the:
- Extent to which a property is identified.
  - Extent of property inspection (tangible property).
  - Type of data to be researched and to what extent.
  - Type and extent of analysis applied in order to reach opinions or conclusions.

- B. USPAP recognizes that these elements will not be the same in every assignment, or with every property. As such, the SCOPE OF WORK RULE requires that the scope of work be determined in each appraisal, appraisal review, or appraisal consulting assignment.
- C. The following excerpts, taken from the introduction of the SCOPE OF WORK RULE, are important to understand the appraiser's scope of work decision:

*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. (USPAP 2010-2011 Edition, p. U-13)*

- D. Guidance offered by the following excerpts from Advisory Opinion 28 assist in understanding this portion of the rule:

- *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. (USPAP 2010-2011 Edition, p. A-96)*

- E. Let's review additional excerpts from the introduction of the SCOPE OF WORK RULE regarding the appraiser's scope of work decision:

*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.*

- F. Another term defined by USPAP is the term "credible." Since this term is used throughout the SCOPE OF WORK RULE (and in other parts), we should review the USPAP definition of this term:

**CREDIBLE:** *worthy of belief.* (USPAP 2010-2011 Edition, p. U-3)

## Scope of Work – Problem Identification

- A. The requirement for an appraiser to identify the problem to be solved is prominently integrated into the introduction to the SCOPE OF WORK RULE:

*An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work.*

- B. The obligation to identify the problem to be solved is further defined in a section of the SCOPE OF WORK RULE titled Problem Identification. Overall, this section states:

*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.*

- C. The subsequent Comment to this section further elaborates on the elements of problem identification that must be identified. The elements of problem identification include:

- *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.*



D. Assignment conditions include:

- assumptions
- extraordinary assumptions
- hypothetical conditions
- laws and regulations
- jurisdictional exceptions
- other conditions that affect the scope of work

E. Laws include constitutions, legislative and court-made law, administrative rules, and ordinances.

F. Regulations include rules or orders, having legal force, issued by an administrative agency.

G. The correlation of problem identification and the appraisal process is amplified by these excerpts from Advisory Opinion 28:

- *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.*
- *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. (USPAP 2010-2011 Edition, p. A-95)*

H. Proper identification of the problem is necessary for compliance with the COMPETENCY RULE. The information learned or determined by the appraiser during problem identification provides a basis for determining the type and extent of analysis to include in the development of an appraisal. Similar information is necessary for problem identification in an appraisal review or an appraisal consulting assignment.

**Note:** The scope of work addresses only the development process.

- I. An appraiser's obligation to properly identify the problem is also found in each development Standard (1, 3, 4, 6, 7, and 9). Communication with the client is required to establish most of the information necessary for problem identification. Identification of relevant characteristics, though, is a judgment made by the appraiser that requires competency in that type of assignment.

## Scope of Work – Acceptability

- A. The second section of the rule, Scope of Work Acceptability, addresses the acceptability of the scope of work in an assignment and commences with a general obligation:

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

- B. The Comment following this obligation defines how the appraiser determines when the scope of work in an assignment is acceptable. In part, the Comment 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.* (USPAP 2010-2011 Edition, p. U-14) (Bold added for emphasis.)

- C. According to USPAP, an "appraiser's peer" is defined as *other appraisers who have expertise and competency in a similar type of assignment.* (USPAP 2010-2011 Edition, p. U-2)

- D. The Comment continues:

*Determining the scope of work in an assignment is an ongoing process throughout the assignment.*

- E. An appraiser may reconsider or change the scope of work during the course of an assignment, based on information or conditions that the appraiser discovers.

- F. If any investigation, information, method, or technique would appear relevant to the client, another intended user, or the appraiser's peers, an appraiser must be prepared to support the decision for its exclusion.

G. Let's look again at Advisory Opinion 28, which has additional guidance for an appraiser in deciding the scope of work through these excerpts:

- *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. (USPAP 2010-2011 Edition, p. A-96)*

H. Advisory Opinion 29 is specifically focused on guidance regarding the acceptability of the scope of work. In this excerpt from Advisory Opinion 29, the discussion of an "appraiser's peers" is helpful:

*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. (USPAP 2010-2011 Edition, p. A-99)*

I. Advisory Opinion 29 further advises:

- *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.*
- *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. (USPAP 2010-2011 Edition, p. A-100)*

J. The Scope or Work Acceptability section continues with a specific prohibition regarding the scope of work:

*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. (USPAP 2010-2011 Edition, p. U-14)*

K. The Comment following this prohibition provides further guidance as to how the appraiser must proceed in such circumstances:

*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.*

- L. A final obligation in the Scope of Work Acceptability section contains another specific prohibition regarding bias.

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

### **Case Example: Appraiser's Peers**

**SCENARIO:** Julie has accepted an assignment for an appraisal of real property that is located within her market area. Due to its high cost, Julie does not subscribe to a regional database containing real estate listings and transfer information used by other appraisers in her market. Julie's scope of work in this assignment includes only gathering data provided by a source that is free of charge, which is what she does in all other assignments.

The service offers only limited real estate transfer information, which is known to be substantially less detailed and accurate. Is Julie's scope of work in this assignment acceptable?

### **Case Example: Information Discovered During the Assignment**

**SCENARIO:** Chris has accepted an assignment from a local lender to appraise a single-family home located in a rural area of his market. The lender has requested a drive-by appraisal and has further indicated that the appraisal must meet the appraisal guidelines of Fannie Mae. Upon obtaining the county's assessment records for the property, Chris realizes that the subject is actually a manufactured dwelling, which is obvious upon Chris's drive-by of the property.

Does this fact change the scope of work in the assignment?

## Case Example: Assignment Conditions Affecting the Scope of Work

**SCENARIO:** A lender-client has engaged a real property appraiser to perform an appraisal assignment with the direction to only perform an exterior inspection. The appraiser agrees.

Does the assignment condition of requiring the appraiser to only inspect the exterior of the subject property affect the scope of work in the assignment?

### Scope of Work – Disclosure Obligations

- A. The scope of work that was performed in an assignment must be disclosed in the report. The final section of the SCOPE OF WORK RULE, Disclosure Obligations, presents a general disclosure obligation for the scope of work plus a Comment that contains the rationale for the obligation and explanation of “sufficient information:”

*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. (USPAP 2010-2011 Edition, p. U-14)*

B. Looking once more look at Advisory Opinion 28 for additional guidance regarding disclosure of the scope of work through these excerpts:

- *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. (USPAP 2010-2011 Edition, p. A-97)*

## Lesson 2: JURISDICTIONAL EXCEPTION RULE

### Learning Objectives

After completing this lesson, you will be able to:

- Determine when the JURISDICTIONAL EXCEPTION RULE is applicable.
- Evaluate a case example and apply the appropriate action that is compliant with USPAP.

### Jurisdictional Exception Defined

A. Let's begin this lesson by reviewing the USPAP definition of jurisdictional exception:

***JURISDICTIONAL EXCEPTION:*** *an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.* (USPAP 2010-2011 Edition, p. U-3)

### Overview of the JURISDICTIONAL EXCEPTION RULE

- A. The JURISDICTIONAL EXCEPTION RULE is a provision of USPAP that applies whenever law or regulation of a jurisdiction is **contrary** to USPAP.
- B. Jurisdictional exception specifically applies to law or regulation that **takes away** from the force of part of USPAP. Therefore, assignment conditions that add to the obligations of USPAP are not an example of jurisdictional exception.



C. The JURISDICTIONAL EXCEPTION RULE includes obligations for an appraiser related to:

- Identification of the law or regulation that prevents full compliance with USPAP.
- Compliance with the particular law or regulation in performing the assignment.
- Disclosure requirements of the part of USPAP that is of no force due to the law or regulation.
- Citation of the law or regulation requiring jurisdictional exception in the report.

## **JURISDICTIONAL EXCEPTION RULE**

A. The JURISDICTIONAL EXCEPTION RULE (USPAP 2010-2011 Edition, p. U-15) states, in part:

*If any applicable law or regulation precludes compliance with any part of USPAP, only that part of USPAP becomes void for that assignment.*

B. When federal law or regulation requires compliance with USPAP, no part of USPAP can be voided by a state or local jurisdiction.

C. The Rule continues with the obligations of an appraiser in an assignment involving a jurisdictional exception:

*In an assignment involving a jurisdictional exception, an appraiser must:*

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 of USPAP that is voided by that law or regulation; and*
4. *cite in the report the law or regulation requiring this exception to USPAP compliance.*

D. The forces that could cause an appraiser to invoke the JURISDICTIONAL EXCEPTION RULE are clearly defined.

E. Law includes:

- Constitutions
- Legislative and court-made law
- Administrative rules and ordinances

F. Regulations include:

- Rules or orders having legal force and issued by an administrative agency

**Note:** Instructions from a client or attorney do not establish a jurisdictional exception!

G. The Comment to the rule clearly indicates that the remainder of USPAP is enforceable when one or more of its parts are precluded by law or regulation:

*Comment: The JURISDICTIONAL EXCEPTION RULE provides a saving or severability clause intended to preserve the balance of USPAP if compliance with one or more of its parts is precluded by the law or regulation of a jurisdiction. When an appraiser properly follows this Rule in disregarding a part of USPAP, there is no violation of USPAP.*

### **Case Example: Application of Jurisdictional Exception**

**SCENARIO:** A bank officer has informed a real property appraiser that since his bank is federally insured, he has the authority to invoke the JURISDICTIONAL EXCEPTION RULE and require the appraiser to limit his property inspection to “exterior only” in all assignments from that institution.

Is this a proper application of the JURISDICTIONAL EXCEPTION RULE?

# Module 7: STANDARD 1: Real Property Appraisal, Development

## Lesson 1: STANDARD 1 – Part I

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser that are addressed in Standards Rules 1-1 through 1-2.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Overview of STANDARD 1

- A. STANDARD 1 establishes a benchmark of criteria for measuring ethics and competency in the development process and contains six Standards Rules (1-1 through 1-6) that identify applicable requirements and guidance for developing an appraisal of real property.
- B. STANDARD 1, in addition to reciting general obligations, contains requirements that can be considered a checklist correlating with the development steps in the appraisal process (Steps 1-5), from identifying the problem to be solved through reconciliation. See *USPAP and the Appraisal Process Flowchart – Steps 1-5* under the Reference Materials link in the online course or in the Appendix of this manual.

## Introduction to STANDARD 1

- A. The introduction to STANDARD 1 provides an overview of an appraiser's general obligations:

*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. (USPAP 2010-2011 Edition, p. U-16)*

## Standards Rule 1-1 – Appraiser Obligations

- A. Standards Rule 1-1 elaborates on requirements found in the COMPETENCY RULE and places obligation on the appraiser to:
- Be aware of, understand, and correctly employ recognized methods and techniques necessary to produce credible results.
  - Not commit a substantial error of omission or commission that significantly affects an appraisal.
  - Not render appraisal services in a careless or negligent manner.

## Standards Rule 1-1(a) – Methods and Techniques

- A. Standards Rule 1-1(a) addresses the obligation of the appraiser to keep current with methods and techniques:

*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. (USPAP 2010-2011 Edition, p. U-16)*

- B. The Comment to this portion of the Standards Rule reminds appraisers that changes and developments in the real estate industry have a significant impact on the appraisal profession.
- C. Appraisers have an obligation to keep abreast with changes in the cost and manner of construction as well as marketing commercial, industrial, and residential real estate.
- D. Appraisers need to realize that change occurring in the legal framework in which real property rights and interests are created, conveyed, and mortgaged have resulted in corresponding changes in appraisal theory.
- E. Social changes have also affected appraisal theory and practice.
- F. The appraisal profession is constantly revisiting and revising appraisal methods and techniques and developing new methods and techniques to meet new circumstances.
- G. It is not sufficient for appraisers to simply maintain the skills and the knowledge they initially possessed. Each appraiser must continuously improve their skills to remain proficient in real property appraisal.

### **Standards Rule 1-1(b) – Errors of Omission or Commission**

- A. Standards Rule 1-1(b) describes the obligation for an appraiser to not commit errors:

*In developing a real property appraisal, an appraiser must:*

*not commit a substantial error of omission or commission that significantly affects an appraisal*

- B. The Comment to this phrase of the Standards Rule reminds appraisers that they must use sufficient care to avoid errors that would significantly affect their opinions and conclusions.
- C. 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 1-1(c) – Carelessness and Negligence**

- A. Standards Rule 1-1(c) describes the obligation for an appraiser to not be careless or negligent:

*In developing a real property appraisal, 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 affects the credibility of those results.*

- B. The Comment to this obligation of the Standards Rule recognizes that perfection is impossible to attain, and competence does not require perfection.
- C. Appraisers are warned to not render appraisal services in a careless or negligent manner and to use due diligence and due care.

## **Standards Rule 1-2 – Development Steps in the Appraisal Process**

- A. Standards Rule 1-2 commences the checklist of the appraiser's development steps in the appraisal process and specifically addresses Steps 1 and 2 of the process, defining the problem and determining the scope of work.
- B. Standards Rule 1-2(a)-1-2(g) elaborates on an appraiser's obligations regarding the elements of problem identification.

C. An appraiser must identify:

- The client and other intended users.
- The intended use.
- The type and definition of value.
- The effective date of the opinion.
- The relevant characteristics of the property.
- Assignment conditions (including extraordinary assumptions, hypothetical conditions, jurisdictional exceptions, assumptions, and limiting conditions.)

### **Standards Rule 1-2(a) and (b) – Client, Intended Users, and Intended Use**

A. Standards Rule 1-2(a) discusses identifying the client and intended users:

*In developing a real property appraisal, an appraiser must:*

*(a) identify the client and other intended users*

B. Standards Rule 1-2(b) discusses identifying the intended use:

*(b) identify the intended use of the appraiser's opinions and conclusions*

C. The Comment to 1-2(b) reiterates a prohibition found in the SCOPE OF WORK RULE that an appraiser must not allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.

## Case Example: Intended Use

**SCENARIO:** An appraiser has been contacted by a property owner who wishes to engage her services to perform an appraisal of the property owner's home. The appraiser has inquired as to the property owner's intended use of the appraisal. The property owner, who is slightly irritated by the appraiser's inquiry, has refused to provide any further information to the appraiser, stating that he just wants an appraisal and that it should not matter to the appraiser how he intends to use it.

Since the appraiser asked for the information and the property owner has refused, can the appraiser accept the assignment in be in compliance with STANDARD 1?

## Standards Rule 1-2(c) – Type and Definition of Value

A. Standards Rule 1-2(c) addresses value:

*In developing a real property appraisal, an appraiser must:*

*(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: (Bold added for emphasis)*

*(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 (USPAP 2010-2011 Edition, p. U-17)*



## Standards Rule 1-2(c) and STATEMENT 6

- A. The Comment to Standards Rule 1-2(c) specifies an additional requirement in a market value assignment regarding **exposure time**:

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

- B. Exposure time is discussed in STATEMENT 6 (USPAP 2010-2011 Edition, p. U-89), which states in part:

*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.*

*Exposure time is different for various types of property and under various market conditions.*

- C. Exposure time is always presumed to **precede the effective date** of the appraisal.
- D. The opinion (of exposure time) 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.*

## Standards Rule 1-2(d) – Effective Date

- A. Standards Rule 1-2(d) requires the appraiser to determine the date of the opinion:

*In developing a real property appraisal, an appraiser must:*

*(d) identify the effective date of the appraiser’s opinions and conclusions;*

- B. STATEMENT 3 and STATEMENT 4 (in part) provide further insight as to the term “effective date:”

*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. (USPAP 2010-2011 Edition, pp. U-84 and U-86)*

- C. Retrospective value opinions occur when the value opinion is expressed as a **date in the past** (e.g., What was the value of the property on the date of the owner’s death two months ago?)
- D. Prospective value opinions occur when the value opinion is expressed as a **date in the future** (e.g., What will the value of the property be when it is completed in one year?)

## Standards Rule 1-2(e) – Property Characteristics

- A. Standards Rule 1-2(e) addresses identification of the relevant property characteristics, which could encompass physical, legal, and/or economic characteristics:

*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; including:*

*(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 (USPAP 2010-2011 Edition, p. U-17)*

- B. The Comment to Standards Rule 1-2(e) (i)-(v) is lengthy, but contains several important obligations and items of guidance:

*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.*

*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. (USPAP 2010-2011 Edition, p. U-18)*

## Case Example: Due Diligence and Due Care

**SCENARIO:** Jennifer is appraising a vacant site in a subdivision. There are several private limitations on the particular parcel's use, which are recited in the subdivision plat located in the public records. The limitations severely affect the use of and the marketability of the subject parcel and are not common to other parcels in the subdivision. However, Jennifer did not reference the records and is not aware of the limitations; thus, she did not consider the effect of the provisions in her valuation analysis.

Since Jennifer was not aware of the limitations, has she violated Standard 1?

## Standards Rule 1-2(f) – Extraordinary Assumptions

- A. The final elements of problem identification, in Standards Rule 1-2(f) and 1-2(g), are included in assignment conditions. As a reminder, assignment conditions also include jurisdictional exceptions, assumptions, and limiting conditions.
- B. Let's look at Standards Rule 1-2(f):

*(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 using the extraordinary assumption;*
- *use of the extraordinary assumption results in a credible analysis; and*
- *the appraiser complies with disclosure requirements set forth in USPAP for extraordinary assumptions. (USPAP 2010-2011 Edition, p. U-18) (To be discussed later in STANDARD 2)*

## Standards Rule 1-2(g) – Hypothetical Conditions

- A. Standards Rule 1-2(g) has similar requirements regarding the use of a hypothetical condition in an assignment.

*(g) identify any hypothetical conditions necessary in the assignment*

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 disclosure requirements set forth in USPAP for hypothetical conditions. (To be discussed later in STANDARD 2)*

### Case Example: Information to Identify Relevant Characteristics

**SCENARIO:** Jessie has been contacted by a local lender, a national bank, to perform an appraisal of a proposed new construction of a residential dwelling. The bank has provided Jessie a complete set of blueprints for the proposed dwelling with detailed specifications regarding the construction. She has also been provided with the legal description of the building site, including a survey map. The bank, however, is unable to furnish a materials list that would detail the structure's interior and exterior finish materials, such as cabinetry, floor coverings, exterior surface and finishes, etc., as the borrower has not yet decided on these details.

Can Jessie accept and complete the assignment absent this information and be in compliance with STANDARD 1?

## **Standards Rule 1-2(h) – Scope of Work**

- A. The final requirement of Standards Rule 1-2, 1-2(h), sets forth the obligation of the appraiser for determining the scope of work that is necessary in the assignment.

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

## Lesson 2: STANDARD 1 – Part II

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser that are addressed in Standards Rules 1-3 through 1-6.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Standards Rule 1-3 – Data Collection and Analysis

- A. Standards Rule 1-3 coincides with Step 3 in the appraisal process, addressing data collection and analysis in an assignment where a **market value** opinion is being expressed.

*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*

*(b) develop an opinion of the highest and best use of the real estate. (USPAP 2010-2011 Edition, pp. U-18-U-19)*

- B. The Standards Rule includes two Comments containing obligations. Regarding 1-3(a):

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

And, regarding 1-3(b):

*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 – Approaches to Value

- A. Standards Rule 1-4 addresses the requirements for development of the **three approaches to value and other components of the analysis**, and it correlates with Step 4 of the appraisal process.
- B. A general requirement for development of the approaches to value is at the beginning of Standards Rule 1-4:

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

### Standards Rule 1-4(a) – Development of the Sales Comparison Approach

- A. Standard Rule 1-4(a) includes requirements for development of the **sales comparison approach** when it is applicable.

*(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. The requirement is rather broad, but when coupled with the Standards Rule's general requirement to collect, verify, and analyze all information necessary for credible results, the Standard places great responsibility on the appraiser for sound judgment and care in developing the sales comparison approach.

### Standards Rule 1-4(b) – Development of the Cost Approach

- A. Standards Rule 1-4(b) introduces requirements for development of the **cost approach** when it is applicable.

*(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). (USPAP 2010-2011 Edition, p. U-19)*

- B. Standards Rule 1-4(b) is not specific to a particular technique that must be used by the appraiser in a particular assignment as this is a matter of competency and is part of a scope of work decision.

### **Standards Rule 1-4(c) – Development of the Income Approach**

- A. Development of the **income approach**, when applicable, is the point of discussion of Standards Rule 1-4(c).

*(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.*

## Standards Rule 1-4(d) – Leased Fee or Leasehold Estate

- A. Standards Rule 1-4 continues with obligations of an appraiser when applying the approaches to value in more specific situations. Standards Rule 1-4(d) addresses requirements for the development of the value of a **leased fee or leasehold estate**.

*(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).*

## Standards Rule 1-4(e) – Various Estates or Component Parts of Property

- A. Standards Rule 1-4(e) contains obligations for an appraiser when analyzing the **various estates or component parts** of a property:

*(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.*

- B. The Comment following Standards Rule 1-4(e) provides further clarification and guidance, with its primary message being:

- It must be recognized by an appraiser that the value of the whole may be equal to, greater than, or less than the sum of the various estates or parts.
- The value of the whole must be analyzed and tested against appropriate data and supported by appropriate analysis.
- A similar procedure must be followed when the value of the whole has been determined and an appraiser is attempting to value only a part.

## Case Example: Subject is a Fractional Interest

**SCENARIO:** Carolyn is a real property appraiser who specializes in litigation work. She has been contacted by a regular client, a local attorney, who is seeking an appraisal to assist in a divorce case. The attorney has asked Carolyn to provide a value for the husband's undivided one-half interest in the couple's home and also a separate value for the wife's undivided one-half interest. The attorney has expressed that the value would be "market value" but that the value opinions expressed would be for a buyout of one party's interest by the other party. The couple may also, if an agreement cannot be reached for a buy-out, place the property on the market. If that's the case, they would like an opinion of what the property should sell for on the open market.

What are Carolyn's responsibilities in this assignment?

### Standards Rule 1-4(f) – On-site or Off-site Improvements

- A. Standards Rule 1-4(f) addresses circumstances when there are anticipated on-site or off-site improvements, either public or private, that could have an affect on value for the property that is the subject of an assignment.

*(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.*

- B. When this situation is present, the appraiser must analyze the effect on the value of the subject property based on market reaction to the anticipated improvements.

### Standards Rule 1-4(g) – Non-real Tangible Property or Intangible Items

- A. The final obligation of Standards Rule 1-4 discusses handling of non-real tangible property or intangible items that are included in the appraisal.

*(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.*

- B. The Comment to this obligation clarifies that competency on the part of the appraiser is required when performing an appraisal of non-real property items that are part of the appraisal assignment and that STANDARD 7 and/or STANDARD 9 may apply in those situations.

## **Standards Rule 1-5 – Agreements and Prior Sales**

- A. Standards Rule 1-5 elaborates on the diligence of the appraiser that must take place in an assignment regarding analysis of any current offering, contractual agreement, or prior transaction of the subject property.

*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, 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. (USPAP 2010-2011 Edition, p. U-20)*

- B. The Comment to Standards Rule 1-5 advises that similar reporting requirements are found in STANDARD 2.

## **Case Example: Deed in Lieu of Foreclosure**

**SCENARIO:** Given the recent economic climate, many properties owners have voluntarily deeded their property back to the lender to escape from the loan obligation. Jerry is performing an appraisal in which the subject property was exposed to such a voluntary transfer last year.

Since this wasn't an actual sale of the property, does Jerry consider this as a sale occurring within the three years prior to the effective date of the appraisal he is performing?

## Standards Rule 1-6 – Value Indications and Final Opinion of Value

- A. Standards Rule 1-6 corresponds with Step 5 of the appraisal process and provides detail for reconciliation. The Standards Rule amplifies that **reconciliation is a two step process**:

*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*

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

# Module 8: STANDARD 2: Real Property Appraisal, Reporting

## Lesson 1: STANDARD 2 – Part I

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser that are addressed in Standards Rules 2-1 through 2-2(a), (b), and(c)(vii).
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Overview of STANDARD 2

- A. STANDARD 2 addresses the obligations of an appraiser for **reporting a real property appraisal** and correlates with Step 6 in the appraisal process. See *USPAP and the Appraisal Process Flowchart – Step 6* under the Reference Materials link in the online course or in the Appendix of this manual.
- B. The term “report” refers to **written or oral communication** that is transmitted to the client by an appraiser upon completion of an assignment.
- C. STANDARD 2 contains four Standards Rules (2-1 through 2-4).

### Introduction to STANDARD 2

- A. The Introduction to STANDARD 2 reinforces the appraiser’s obligation to not report a real property appraisal in a manner that is misleading or fraudulent:

*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. (USPAP 2010-2011 Edition, p. U-21)*

B. The Comment accompanying the Introduction contains general clarifications regarding STANDARD 2 and real property appraisal reporting:

- The standard addresses the **content and level of information** required in a report and does not dictate the form, format, or style of the report.
- The form, format, and style of a report are **specific to the needs of intended users and appraisers**.
- The substantive content of a report determines **compliance with the reporting options** permitted by STANDARD 2.

### **Standards Rule 2-1 – General Obligations**

A. Standards Rule 2-1 contains **general obligations** for all written and oral real property appraisal reports:

*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 – Advisory Opinion 11 – Content Requirements

- A. Standards Rule 2-2 is somewhat lengthy as it comprises three separate checklists of reporting obligations for each of the three **reporting options permitted** by STANDARD 2:
- Self-Contained Appraisal Report
  - Summary Appraisal Report
  - Restricted Use Appraisal Report
- B. A Report Comparison Chart detailing the content requirements for each reporting option is found in Advisory Opinion 11 (USPAP Advisory Opinions 2010-2011 Edition, p. A-23). For your convenience, this chart is included in the Reference Materials and in the Appendix of this manual under the title of *Advisory Opinion 11 Report Comparison Chart*. It is suggested that you have a printed copy of this handy as we go through this lesson.
- C. Advisory Opinion 11 and Advisory Opinion 12 contain important illustrations regarding reporting, which will be referenced within this lesson to assist with understanding; thus, you may want to review these Advisory Opinions.

## Standards Rule 2-2 – Reporting Options

- A. Throughout STANDARD 2 and other parts of USPAP and its addenda, each reporting option may be referenced by a Standards Rule number and subsection, rather than by title:
- 2-2(a) – Self-Contained Appraisal Report
  - 2-2(b) – Summary Appraisal Report
  - 2-2(c) – Restricted Use Appraisal Report
- B. It will be helpful for you to be familiar with these references as we go through this lesson. The three reporting options permitted by STANDARD 2 are also related to distinguishing terms that set each reporting option apart from the others; these terms are **describe**, **summarize**, and **state**.



C. These distinguishing terms reflect the level of information significant to the solution of the appraisal problem:

- A Self-Contained Appraisal Report “describes” this information.
- A Summary Appraisal Report “summarizes” this information.
- A Restricted Use Appraisal Report “states” this information.

## **Standards Rule 2-2 – Reporting Option Examples**

A. Advisory Opinion 11 provides examples of describing, summarizing, and stating information. These reporting option examples are not intended to imply that information on zoning is necessary in all appraisal reports; they are presented only as an illustration to recognize the depth of each level.

## **Standards Rule 2-2 – Example of “Describe”**

A. The following examples begin on page A-24 of the USPAP Advisory Opinions 2010-2011 Edition:

### **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**

<i>Minimum Requirements</i>	<i>Lot Area:</i>	<i>10,000 sq. ft.</i>
	<i>Lot Width:</i>	<i>100 feet</i>
	<i>Front Yard:</i>	<i>20 feet</i>
	<i>Side Yards:</i>	<i>10 feet (each)</i>
	<i>Rear Yard:</i>	<i>10 feet</i>
	<i>Off-Street Parking (Stores):</i>	<i>4 spaces per 1,000 sq. ft. of sales area</i>
<i>Maximum Requirements</i>	<i>Building Coverage:</i>	<i>50% of lot area</i>
	<i>Building Height:</i>	<i>2 stories or 20 feet</i>

**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.*

**Standards Rule 2-2 – Example of “Summarize” and “State”**

**EXAMPLE OF “SUMMARIZE”**

*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.*

## EXAMPLE OF "STATE"

### **Zoning**

*General Business, B-4; existing use and subject improvements conform.*

## **Standards Rule 2-2 – Choosing the Appropriate Reporting Option**

- A. Standards Rule 2-2 begins by emphasizing that the appraiser must report his conclusions and opinions of a real property appraisal by **using one of the three reporting options** just discussed.
- B. The Standards Rule also obligates the appraiser to **prominently state in the report** which reporting option is being used:

*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. (USPAP 2010-2011 Edition, p. U-21)*

- C. The Comment to the introduction of Standards Rule 2-2 contains important information and clarification. Let's review its important points:
  - The Restricted Use reporting option can be used only when the client is the only intended user.
  - The Self-Contained or Summary Appraisal reporting option must be used when there are intended users other than the client.
  - The essential difference among the three reporting options is the content and level of detail of the information reported.
- D. The level of information necessary in a report and the reporting option chosen by the appraiser depends on the **intended use and the intended users** in an assignment. Great care must be taken by an appraiser when characterizing the type of report and level of information that is contained in the report.
- E. An appraiser may use any other label (i.e., narrative format, form format) **in addition to but not in place of** the label of Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report.

## Case Example: Report Label and Content Level

**SCENARIO:** Stephanie, a real property appraiser, has completed her appraisal report for a multi-million dollar property. The appraisal will be used in a federally-related finance transaction. Based on the intended use and intended user in the assignment, Stephanie has decided that a Self-Contained Appraisal Report in narrative format is appropriate, which she has verbally communicated to the client. However, the appraisal report is labeled only as a “narrative” appraisal report.

In completing her report, Stephanie was very detailed in describing the real estate involved, scope of work, information that was analyzed, etc. However, her opinion of highest and best use was briefly stated with no discussion supporting the rationale for that decision.

Has Stephanie failed to comply with Standards Rule 2-2?

### Standards Rule 2-2 – Minimum Report Requirements

- A. STANDARD 2 sets forth the **minimum requirements** for the level and content for each report type.
- B. An appraiser must supplement a report form, if necessary, with other information, addenda, exhibits, etc., so that intended users are not misled and the report complies with the content requirements of Standard Rule 2-2.
- C. Receiving a copy of a report, regardless of the reporting option, does not make that party an intended user unless that party has been identified by the appraiser as an intended user as part of the assignment.

### Standards Rule 2-2 – Advisory Option 11 – Report Comparison Chart

- A. The next portion of Standards Rule 2-2 commences the reporting checklist for each report type. This lesson will be best understood by having the Report Comparison Chart from Advisory Opinion 11 at hand. USPAP Advisory Opinions are available under the Reference Tools link.

- B. Looking at the chart, you will note that it contains three columns—one for each reporting option. Each column contains a list of obligations represented by i – xi, which corresponds to the sub-categories found in Standards Rules 2-2(a) Self-Contained Appraisal Report, 2-2(b) Summary Appraisal Report, and 2-2(c) Restricted Use Appraisal Report.

## Standards Rule 2-2 – Identity of the Client and Other Intended Users

- A. Standards Rule 2-2(a)(i) and 2-2(b)(i) include the following obligation for Self-Contained or Summary Appraisal Reports regarding information about the client and any other intended users in the assignment.

*(i) state the identity of the client and any intended users, by name or type (USPAP 2010-2011 Edition, pp. U-22 and U-24)*

- B. Standards Rule 2-2(c)(i) is somewhat different in that it has been expanded to include reporting obligations specific to a Restricted Use Appraisal Report.

*(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 (USPAP 2010-2011 Edition, p. U-26)*

- C. The Comment to Standards Rule 2-2(a)(i) and 2-2(b)(i), in part, contains obligations of an appraiser and clarifications for a Self-Contained or Summary Appraisal Report:

*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.*

- D. The Comment to Standards Rule 2-2(c)(i) contains similar language to that previously discussed but continues with additional admonishments specific to a Restricted Use Appraisal Report. The Comment reminds appraisers that:

*The Restricted Use Appraisal Report is for the client's 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. (USPAP 2010-2011 Edition, p. U-26)*

## **Standards Rule 2-2 – Intended Use**

- A. Standards Rule 2-2(a), (b), and (c)(ii) refer to the appraiser's obligation to report the intended use of the appraisal and is the same with **ALL** reporting options.

*(ii) state the intended use of the appraisal*

- B. A Comment accompanies Standards Rule 2-2(c)(ii) which reminds an appraiser that the intended use of a Restricted Use Appraisal Report must be consistent with its limitations—the report is for the client's use only.

## **Standards Rule 2-2 – Information Regarding the Subject Property**

- A. Standards Rule 2-2(a) and (b)(iii) obligate appraisers (depending on the reporting option) to describe or summarize:

*(iii)...information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment*

- B. Standards Rule 2-2(c)(iii) is slightly different for a Restricted Use Appraisal Report where the appraiser must:

*(iii) state information sufficient to identify the real estate involved in the appraisal*

## Standards Rule 2-2 – Property Interest/Type of Value/Effective Date

- A. Standards Rule 2-2(a), (b), and (c)(iv-vi) require the reporting of the real property interest being appraised, the type and definition of value in the assignment, and the effective date of the appraisal and date of the report. These general obligations are the same for **ALL** reporting options:

*(iv) state the real property interest appraised*

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

*(vi) state the effective date of the appraisal and the date of the report*

- B. While the general obligations are the same for all reporting options to “state” these elements, Comments to the requirements for a Self-Contained Appraisal Report and a Summary Appraisal Report elaborate on **additional diligence that is required** on the part of an appraiser.

*(iv) 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) Comment: Stating the definition of value also requires any comments needed to clearly indicate to intended users how the definition is being applied.*

*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.*

**Note:** These are NOT requirements of a Restricted Use Appraisal Report; however, the appraiser must ensure that the resulting report will not be misleading.

## Standards Rule 2-2 – Scope of Work

- A. Standards Rule 2-2(a), (b), and (c)(vii) address an appraiser's obligation (depending on the reporting option) to describe, summarize, or state the scope of work used to develop the appraisal.
  
- B. Comments to this section provide further guidance for **ALL** reporting options:

*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.*

- C. Depending on the reporting option:

*When any portion of the work involves significant real property appraisal assistance, the appraiser must describe, summarize, or 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. (USPAP 2010-2011 Edition, pp. U-23, U-25, and U-27)*

## Case Example: Reporting Significant Assistance in the Report

**SCENARIO:** Jarrod Smith is a trainee with limited experience, and therefore, is not signing the certification in any assignment for which he provides significant assistance. In the most recent assignment for which he provided assistance, his supervisory appraiser permitted him to gather data for the subject property, choose comparable properties that were used in the sales comparison analysis, and reconcile the conclusions leading to the final opinion of value; an opinion with which his supervisory appraiser agreed.

The resulting Summary Appraisal Report included a statement where Jarrod had provided "significant professional assistance in various phases of the appraisal process." The certification only disclosed Jarrod's assistance.

Is the disclosure in the report and the certification sufficient for compliance with Standards Rule 2-2?



## Lesson 2: STANDARD 2 – Part II

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser that are addressed in Standards Rules 2-2(viii) through 2-4.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Standards Rule 2-2 – Information Analyzed and Methodology Used

- A. Standards Rule 2-2(a) and (b)(viii) obligate appraisers (depending on the reporting option) to describe or summarize:

*(viii)...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*

- B. Standards Rule 2-2(c)(viii) is slightly different in that the information is stated with less detail and reference is made to the appraiser's workfile.

*(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*

- C. There are several lines of Comments to sections (a) and (b)(viii) of Standards Rule 2-2. Here are some highlights of the obligations:
- Self-Contained and Summary Appraisal Reports must include sufficient information to indicate that the appraiser complied with the development requirements of STANDARD 1.
  - Self-Contained and Summary Appraisal Reports must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation.
  - In a market value assignment, **ALL** reporting options require a summary of the results of analyzing the subject sales, options, and listings in accordance with Standards Rule 1-5. If the information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If the information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.
- D. Portions of the Comment for 2-2(c)(viii) (Restricted Use Appraisal Report) are slightly different in some aspects regarding the appraiser's workfile requirements.
- E. An appraiser must maintain a specific, coherent workfile in support of a Restricted Use Appraisal Report.
- F. 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.

## **Standards Rule 2-2 – Use of the Property/Highest and Best Use**

- A. Under Standards Rule Standards Rule 2-2(a), (b), and (c)(ix), **ALL** reporting options require an appraiser to state the **use of the property** on the date of the value opinion and as reflected in the appraisal. Standards Rule 2-2(a), (b), and (c)(ix) state, in part:

*(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 (USPAP 2010-2011 Edition, pp. U-24, U-26, and U-28)*

- B. The remainder of Standards Rule 2-2 (a) and (b)(ix) places obligations on an appraiser, for a Self-Contained or Summary Appraisal Report, to describe or summarize (depending on the reporting option) the support and rationale for an appraiser's opinion of highest and best use when such an opinion has been developed by an appraiser in the assignment.

- C. Standards Rule 2-2 (c)(ix) requires that for a Restricted Use Appraisal Report, the appraiser's opinion of highest and best use, when it is developed in an assignment, must be stated.

### **Standards Rule 2-2 – Extraordinary Assumptions/Hypothetical Conditions**

- A. Standards Rule 2-2(a), (b), and (c)(x) address an appraiser's obligation for **ALL** reporting options to:

*(x) clearly and conspicuously:*

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

### **Standards Rule 2-2 – Signed Certification**

- A. The final obligation of Standards Rule 2-2 is the inclusion of a **signed certification** in compliance with Standard Rule 2-3.

- B. To comply with Standards Rule 2-2(a), (b), and (c)(xi), **ALL** reporting options require an appraiser to:

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

## Standards Rule 2-3 – Signed Certification Language

- A. Under Standards Rule 2-3 (USPAP 2010-2011 Edition, p. U-28), all written real property appraisal reports (for **ALL** reporting options) must contain a signed certification containing language similar to the following:

*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.)*

*— 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.)*

## Standards Rule 2-3 – Who Must Sign the Certification

- A. The Comment to Standards Rule 2-3 is fairly extensive and, in some cases, covers a variety of appraisal scenarios. It states, in part:

*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 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 report...*

## Standards Rule 2-3 – Non-real Property Assets

- A. The next portion of the Comment applies when the assignment additionally includes opinions or conclusions related to **non-real property assets**.
- B. Clarification is provided that when an assignment includes non-real property assets, the **real** property appraiser signing the certification is taking full responsibility only for the **real** property related elements.

*...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.*

## Standards Rule 2-3 – Work Done by Others

- A. The Comment to Standards Rule 2-3 continues with obligations of a real property appraiser when he has relied on **work done by others who do not sign the certification**. An example of such case might be (but not limited to) when a real property appraiser has relied on the opinions and conclusions of non-real property appraisers when their opinions and conclusions are incorporated into the real property appraiser's opinions and conclusions.

*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. (USPAP 2010-2011 Edition, p. U-29)*

## Standards Rule 2-3 – Other Appraisal Assistance

- A. The remainder of the Comment addresses disclosure in circumstances when **other individuals provide significant appraisal assistance** to the real property appraisers who are not signing the certification.

*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.*

## Standards Rule 2-3 – Advisory Opinion 31 – More than One Appraiser

- A. Advisory Opinion 31 provides further insight into circumstances when there is **more than one appraiser** involved in an assignment. Some excerpts from Advisory Opinion 31 offer advice from the ASB that are specific to certification issues. In part, Advisory Opinion 31 (USPAP Advisory Opinions 2010-2011 Edition, pp. A-108-A109) offers the following:

*...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.*

### Case Example: Certification - Physical Inspection

**SCENARIO:** Tony is a registered appraisal assistant with nearly enough experience hours to meet the experience requirements for his anticipated residential appraiser credential. Tony's supervisory appraiser has been allowing him to inspect properties on his own for almost a year. Recently, Tony has been given an assignment involving a proposed new construction project of a single-family residence. The lender/client in the assignment has specified that the supervisory appraiser must physically inspect the subject property. Tony personally visits the site for the proposed new construction and takes numerous photographs and notes about the site.

If the supervisory appraiser reviews the photographs taken by Tony, survey and topography maps, and aerial photos of the site maintained by the taxing authority, is this sufficient for Tony's supervisory appraiser to indicate in the certification that he physically inspected the property?

## Standards Rule 2-4 – Oral Real Property Appraisal Report

- A. The final Standards Rule of STANDARD 2 (2-4) addresses an appraiser's obligations for an **oral real property appraisal report** which must (if possible and appropriate) address the substantive matters of a Summary Appraisal Report.

*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). (USPAP 2010-2011 Edition, p. U-29)*

- B. The Comment to Standards Rule 2-4 reminds appraisers of the workfile obligations for an oral report found in the Record Keeping section of the ETHICS RULE which states, in part, that a workfile for an oral report must include summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification.



# Module 9: STANDARD 3: Appraisal Review, Development, and Reporting

## Lesson 1: STANDARD 3 – Part I

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser acting as a reviewer that are addressed in Standards Rules 3-1 through 3-3.

### Overview of STANDARD 3

- A. To help with your understanding of this module, you may want to have a printed copy of STANDARD 3 of USPAP at hand. In addition, a copy of Advisory Opinion 20 would be helpful, as portions of it will be discussed to assist with illustration of certain elements of an Appraisal Review Assignment. The USPAP document and the USPAP Advisory Opinions can be found under the Reference Materials link.
- B. STANDARD 3 is a dual purpose standard that addresses both the **development and reporting** of an appraisal review.
- C. The USPAP definition of appraisal review is:

**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.* (USPAP 2010-2011 Edition, p. U-1)

D. The subject of an appraisal review may be:

- An entire report.
- Portions of a report.
- A workfile.
- A combination of these.

### Introduction to STANDARD 3

A. The introduction to STANDARD 3 (USPAP 2010-2011 Edition, p. U-30) sets forth the general obligations of an appraiser performing an appraisal review respective to **development** and **reporting**:

*In **developing** an appraisal review assignment, an appraiser acting as a reviewer 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 review. In **reporting** the results of an appraisal review assignment, an appraiser acting as a reviewer must communicate each analysis, opinion, and conclusion in a manner that is not misleading. (Bold added for emphasis)*

B. The Comment in the introduction separates the two sections of development and reporting as well:

*Comment: STANDARD 3 is directed toward the substantive aspects of developing a credible opinion of the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or real property appraisal consulting assignment.*

*STANDARD 3 also addresses the content and level of information required in a report that communicates the results of an appraisal review assignment. STANDARD 3 does not dictate the form, format, or style of Appraisal Review Reports. The substantive content of a report determines its compliance.*

*In this Standard, the term "reviewer" is used to refer to an appraiser performing an appraisal review.*

## Standards Rule 3-1(a)

- A. Standards Rule 3-1(a) contains requirements consistent with the COMPETENCY RULE and it mirrors the **general competency obligations** for development that were discussed in Standards Rule 1-1, and similar to other corresponding development Standards (SR 1-1, 4-1, 6-1, 7-1, and 9-1).

*In developing an appraisal review, the reviewer must:*

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

- B. The Comment to Standards Rule 3-1(a) expands on the issue of competency and diligence:

*Comment: Changes and developments in economics, finance, law, technology, and society can 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. Each appraiser must continuously improve his or her skills to remain proficient in appraisal review.*

*The reviewer must have the knowledge and experience needed to identify and perform the scope of work necessary to produce credible assignment results. Aspects of competency for an appraisal review, depending on the review assignment's scope of work, may include, without limitation, familiarity with the specific type of property or asset, market, geographic area, analytic method, and applicable laws, regulations and guidelines.*

## Standards Rule 3-1(b)-(c)

- A. Let's examine Standards Rule 3-1(b) and (c). In developing an appraisal review, the reviewer must:

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

*Comment: A reviewer 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 review 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 review, 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 review services in a careless or negligent manner. This Standards Rule requires a reviewer to use due diligence and due care. (USPAP 2010-2011 Edition, pp. U-30-U-31)*

## **Standards Rule 3-2**

- A. The focus of Standards Rule 3-2 is on the development steps necessary in an appraisal review: **Identify the problem to be solved and determine the appropriate scope of work.**
- B. The assignment elements that must be identified in problem identification for an appraisal review assignment are the:
- Client and other intended users.
  - Intended use of the reviewer's opinions and conclusions.
  - Purpose of the appraisal review.
  - Work under review and its relevant characteristics.
  - Effective date of the reviewer's opinions and conclusions.
  - Extraordinary assumptions and hypothetical conditions.

## Standards Rule 3-2(a)-(b)

- A. Standards Rule 3-2(a) and (b) (USPAP 2010-2011 Edition, p. U-31) is similar to Standards Rule 1-2(a) and (b), requiring the appraiser to **identify the client and other intended users and the intended use**.

*In developing an appraisal review, the reviewer must:*

*(a) identify the client and other intended users;*

*(b) identify the intended use of the reviewer's opinions and conclusions*

- B. The Comment to Standards Rule 3-2(a)-(b) is similar to those found for development of a real property appraisal in that a reviewer **must not**:
- Allow the intended use of an assignment or a client's objectives to cause the assignment results to be biased.
  - Advocate for a client's objectives.
- C. Intended use refers to the use of the reviewer's opinions and conclusions by the client and other intended users.
- D. Examples of intended use of an appraisal review assignment include, but are not limited to:
- Quality control
  - Audit
  - Qualification
  - Confirmation

## Standards Rule 3-2(c)

A. Standard Rule 3-2(c) establishes an appraiser's obligation in identifying the purpose of the appraisal review and elaborates on identifying if the appraisal review assignment includes the reviewer:

- Developing his own opinion of value, or
- Developing his own review opinion or appraisal consulting assignment conclusion related to the work being reviewed.

B. In developing an appraisal review, the reviewer must:

*(c) identify the purpose of the appraisal review, including whether the assignment includes the development of the reviewer's own opinion of value, review opinion or real property appraisal consulting conclusion related to the work under review*

*Comment: The purpose of an appraisal review assignment relates to the reviewer's objective; examples include, without limitation, to determine if the results of the work under review are credible for the intended user's intended use, or to evaluate compliance with relevant USPAP requirements, client requirements, or applicable regulations.*

*In the review of an appraisal assignment, the reviewer may provide an opinion of value for the property that is the subject of the work under review.*

*In the review of an appraisal review assignment, the reviewer may provide an opinion of quality for the work that is the subject of the appraisal review assignment.*

*In the review of an appraisal consulting assignment, the reviewer may provide an analysis, recommendation, or opinion for the consulting problem that is the subject of the real property appraisal consulting assignment.*

## Standards Rule 3-2(d)

- A. Standards Rule 3-2(d) puts forth the requirement to **identify the work under review and its relevant characteristics**. In developing an appraisal review, the reviewer must:

*(d) identify the work under review and the characteristics of that work which are relevant to the intended use and purpose of the appraisal review, including:*

*(i) any ownership interest in the property that is the subject of the work under review;*

*(ii) the date of the work under review and the effective date of the opinions or conclusions in the work under review;*

*(iii) the appraiser(s) who completed the work under review, unless the identity is withheld by the client; and*

*(iv) the physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the work under review.*

*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.*

## Advisory Opinion 20 – Scope of Work

- A. Advisory Opinion 20 offers illustration of circumstances in which a client may request a reviewer to develop and report an opinion as to the quality of another appraiser's work.
- B. Section B of the Advisory Opinion (USPAP Advisory Opinions 2010-2011 Edition, pp. A-57-A-58) provides examples for when the scope of work in an assignment does and for when it does not include the reviewer developing his own opinions and conclusions.

- C. The first three examples focus on an assignment in which the reviewer is only **expressing an opinion of the quality of another appraiser's work**.

*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*

*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...*

- D. The illustration continues with examples in which the reviewer is **performing a dual assignment** (both a review and an appraisal), and the **scope of work includes the reviewer developing his own opinions or conclusions**.

*As examples, a client may want the reviewer to develop and report an opinion as to the quality of another appraiser's work, and*

*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.*



## Standards Rule 3-2(e)-(f)

A. Let's now look at the reviewer's obligations under 3-2 (e)-(f) (USPAP 2010-2011 Edition, p. U-32).

B. Standards Rule 3-2(e) obligates the reviewer when developing an appraisal review to:

*(e) identify the effective date of the reviewer's opinions and conclusions;*

C. Standards Rule 3-2(f) requires the reviewer, in developing an appraisal review assignment, to:

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

Comment: *An extraordinary assumption may be used in a 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 USPAP for extraordinary assumptions.*

## Standards Rule 3-2(g)

A. Standards Rule 3-2(g) addresses an appraiser's obligation in an appraisal review assignment to:

*(g) identify any hypothetical conditions necessary in the review assignment*

Comment: *A hypothetical condition may be used in a review 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 reviewer complies with the disclosure requirements set forth in USPAP for hypothetical conditions.*

## Standards Rule 3-2(h)

A. Standards Rule 3-2(h) applies to the **SCOPE OF WORK RULE**.

B. In developing an appraisal review, the reviewer must:

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

- C. The Comment clarifies that the **reviewer can use information that the original reviewer should have used, or that was not available to the original appraiser in the normal course of business**. However, the original appraisal cannot be discredited if information that wasn't available at that time in the normal course of business was not used:

*Comment: Reviewers have broad flexibility and significant responsibility in determining the appropriate scope of work in an appraisal review assignment.*

*Information that should have been considered by the original appraiser can be used by the reviewer in developing an opinion as to the quality of the work under review.*

*Information that was not available to the original appraiser in the normal course of business may also be used by the reviewer; however, the reviewer must not use such information in the reviewer's development of an opinion as to the quality of the work under review.*

### **Standards Rule 3-3**

- A. Standards Rule 3-3 addresses an appraiser's obligation to **apply appraisal review methods and techniques that are applicable in order to produce credible results**.

*In developing an appraisal review, a reviewer must apply the appraisal review methods and techniques that are necessary for credible assignment results. (USPAP 2010-2011 Edition, p. U-32)*

- B. Standards Rule 3-3 clearly indicates that the review process can address the **adequacy of an analysis** or the **adequacy of a report of an analysis**; thus, acknowledging that development and communication are separate processes in USPAP.
- C. Additionally, appraisal review assignments may include **reviewing the data and analysis** provided in support of assignment results and/or **reviewing a report for conformity** with relevant reporting requirements.

## Standards Rule 3-3(a)

- A. Standards Rule 3-3(a) elaborates on **specific development requirements** when performing an appraisal review.

*(a) When necessary for credible assignment results in the review of analyses, opinions, and conclusions, the reviewer must:*

*(i) develop an opinion as to whether the analyses are appropriate within the context of the requirements applicable to that work;*

*(ii) develop an opinion as to whether the opinions and conclusions are credible within the context of the requirements applicable to that work; and*

*(iii) develop the reasons for any disagreement.*

- B. The Comment to Standards Rule 3-3(a) expands on the **specific elements of examination** for which a review appraiser could be developing an opinion regarding the work he is reviewing.

*Comment: Consistent with the reviewer's scope of work, the reviewer is required to develop an opinion as to the completeness, accuracy, adequacy, relevance, and reasonableness of the analysis in the work under review, given law, regulations, or intended user requirements applicable to the work under review.*

## Standards Rule 3-3(b)

- A. Standards Rule 3-3(b) describes **development requirements when reviewing a report**. When necessary for credible assignment results in the review of a report, the reviewer must:

*(i) develop an opinion as to whether the report is appropriate and not misleading within the context of the requirements applicable to that work; and*

*(ii) develop the reasons for any disagreement.*

Comment: Consistent with the reviewer's scope of work, the reviewer is required to develop an opinion as to the completeness, accuracy, adequacy, relevance, and reasonableness of the report, given law, regulations, or intended user requirements applicable to that work. (USPAP 2010-2011 Edition, p. U-33)

## Standards Rule 3-3(c)

- A. Standards Rule 3-3(c) discusses the **development requirements that apply when a reviewer provides his or her own opinion of value, review opinion, or consulting conclusion** that is the subject of the appraisal assignment:

*(c) When the scope of work includes the reviewer developing his or her own opinion of value, review opinion, or real property appraisal consulting conclusion, the reviewer must comply with the Standard applicable to the development of that opinion.*

*(i) The requirements of STANDARDS 1, 6, 7, and/or 9 apply to the reviewer's opinion of value for the property that is the subject of the appraisal review assignment.*

*(ii) The requirements of STANDARD 3 apply to the reviewer's opinion of quality for the work that is the subject of the appraisal review assignment.*

*(iii) The requirements of STANDARD 4 apply to the reviewer's analysis, recommendation, or opinion for the consulting problem that is the subject of the appraisal consulting assignment.*

- B. Advisory Opinion 20 (USPAP Advisory Opinions 2010-2011 Edition, p. A-62) includes a flowchart that illustrates the process of an appraisal review assignment that includes the reviewer's own opinion of value. See *Appraisal Review Assignment Diagram* under the Reference Materials link in the online course or in the Appendix of this manual.
- C. The Comment to 3-3(c) indicates what the requirements apply to.

Comment: *These requirements apply to:*

*The reviewer's own opinion of value when the subject of the review is the product of an appraisal assignment;*

*The reviewer's own opinion regarding the work reviewed by another when the subject of the review is the product of an appraisal review assignment; or*

*The reviewer's own appraisal consulting conclusion when the subject of the review is the product of an appraisal consulting assignment.*

*These requirements apply whether the reviewer's own opinion:*

- *concurs with the opinions and conclusions in the work under review; or*
- *differs from the opinion and conclusions in the work under review.*

*When the appraisal review scope of work includes the reviewer developing his or her own opinion of value, review opinion or real property appraisal consulting conclusion, the following apply:*

- *The reviewer's scope of work in developing his or her own opinion of value, review opinion, or real property appraisal consulting conclusion may be different from that of the work under review.*
- *The effective date of the appraisal, appraisal review, or appraisal consulting opinions and conclusions may be the same or different from the effective 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 can be extended to the reviewer's development process on the basis of an extraordinary assumption. Those items not deemed to be credible must be replaced with information or analysis developed in conformance with STANDARD 1, 3, 4, 6, 7, or 9, as applicable, to produce credible assignment results.*

## Lesson 2: STANDARD 3 – Part II

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser acting as a reviewer that are addressed in Standards Rules 3-4 through 3-7.
- Evaluate a case example and apply appropriate actions that are compliant with USPAP.

### Standards Rule 3-4

- A. Standards Rule 3-4 presents **general requirements for reporting** that apply to an appraisal review assignment.

*Each written or oral Appraisal Review Report must be separate from the work under review and must:*

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

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

*(c) clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment. (USPAP 2010-2011 Edition, p. U-34)*

- B. The Comment to Standards Rule 3-4 clarifies the purpose of an Appraisal Review Report and elaborates that the report level and content is specific to the needs of the client and intended users, the intended use, and other requirements applicable to the assignment:

*Comment: An Appraisal Review Report communicates the results of an appraisal review, which can have as its subject another appraiser's work in an appraisal, appraisal review, or appraisal consulting assignment.*

*The report content and level of information in the Appraisal Review Report is specific to the needs of the client, other intended users, the intended use, and requirements applicable to the assignment. The reporting requirements set forth in this Standard are the minimum for an Appraisal Review Report.*

### **Standards Rule 3-5(a)-(c)**

- A. Standards Rule 3-5 expands on the requirements of the **minimum report content**, which is similar to the reporting requirements of other Standards:

*The content of an Appraisal Review Report must be consistent with the intended use of the appraisal review and, at a minimum:*

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

*(b) state the intended use of the appraisal review;*

*(c) state the purpose of the appraisal review (USPAP 2010-2011 Edition, p. U-34)*



## Standards Rule 3-5(d)

- A. Now, let's review Standards Rule 3-5(d). *The content of an Appraisal Review Report must be consistent with the intended use of the appraisal review and, at a minimum:*

*(d) state information sufficient to identify:*

*(i) the work under review, including any ownership interest in the property that is the subject of the work under review;*

*(ii) the date of the work under review;*

*(iii) the effective date of the opinions or conclusions in the work under review; and*

*(iv) the appraiser(s) who completed the work under review, unless the identity is withheld by the client.*

*Comment:* *If the identity of the appraiser(s) in the work under review is withheld by the client, that fact must be stated in the appraisal review report.*

## Standards Rule 3-5(e)-(g)

- A. Next, let's look at 3-5(e)-(g). *The content of an Appraisal Review Report must be consistent with the intended use of the appraisal review and, at a minimum:*

*(e) state the effective date of the appraisal review;*

*(f) clearly and conspicuously:*

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

*(g) state the scope of work used to develop the appraisal review;*

*Comment: Because intended users' reliance on an appraisal review may be affected by the scope of work, the appraisal review 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 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 3-6.*

### **Standards Rule 3-5(h)**

A. Let's look at Standards Rule 3-5(h):

*(h) state the reviewer's opinions and conclusions about the work under review, including the reasons for any disagreement;*

*Comment: The report must provide sufficient information to enable the client and intended users to understand the rationale for the reviewer's opinions and conclusions. (USPAP 2010-2011 Edition, p. U-35)*

### **Standards Rule 3-5(i)**

A. Now, let's conclude our discussion on this Standards Rule by examining Standards Rule 3-5 (i), which is applicable whenever the scope of work in the review assignment includes reviewer's development of value opinion, review opinion, or appraisal consulting conclusion for the subject of the review assignment:

*(i) when the scope of work includes the reviewer's development of an opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review, the reviewer must:*

*(i) state which information, analyses, opinions, and conclusions in the work under review that the reviewer accepted as credible and used in developing the reviewer's opinion and conclusions;*

(ii) at a minimum, summarize any additional information relied on and the reasoning for the reviewer's opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review;

(iii) clearly and conspicuously:

- state all extraordinary assumptions and hypothetical conditions connected with the reviewer's opinion of value, review opinion, or real property appraisal consulting conclusion related to the work under review; and
- state that their use might have affected the assignment results.

Comment: The reviewer may include his or her own opinion of value, review opinion, or appraisal consulting conclusion related to the work under review within the appraisal review report itself without preparing a separate report. However, data and analyses provided by the reviewer to support a different opinion or conclusion must match, at a minimum, except for the certification requirements, the reporting requirements for a:

- Summary Appraisal Report for a real property appraisal (Standards Rule 2-2(b));
- Summary Appraisal Report for a personal property appraisal (Standards Rule 8-2(b));
- Appraisal Review Report for an appraisal review (Standards Rule 3-5);
- Appraisal Consulting Report for real property appraisal consulting (Standards Rule 5-2);
- Mass Appraisal Report for mass appraisal (Standards Rule 6-8); and
- Appraisal Report for business appraisal (Standards Rule 10-2(a)).

## Advisory Opinion 20 – Reporting

- A. Advisory Opinion 20, Section D (USPAP Advisory Opinions 2010-2011, p.A-59) provides significant illustration of **reporting obligations when the reviewer's scope of work includes developing his own opinions or conclusions**. It is suggested that you read Section D of Advisory Opinion 20 in its entirety.

B. The following represent key points found in the illustration:

- 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.*
- A reviewer must note 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.
- 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.

C. Advisory Opinion 20 (p. A-60) provides illustration of **sample language that may be used when the reviewer is only developing an opinion of another appraiser's work.** The particular language used should be consistent with the scope of work.

*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)."*

D. Advisory Opinion 20 (USPAP Advisory Opinions 2010-2011, p. A-61) also provides illustration of **sample language that may be used when the reviewer's scope of work includes developing their own opinions and conclusions.**

E. Again, the particular language used should be consistent with the scope of work,

*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 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)”*

## Standards Rule 3-6

- A. Standards Rule 3-6 (USPAP 2010-2011 Edition, pp. U-35-U-36) presents the **certification requirements** for an Appraisal Review Report, which is similar to the certification requirements found in STANDARD 2:

*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 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 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 compensation for completing this assignment is not contingent upon the development or reporting of predetermined assignment results or assignment results that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal review.*

*— 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 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 of the work under review.) (For reviews of a business or intangible asset appraisal assignment, the inspection portion of the certification is not applicable.)*

*— 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.)*

- B. The Comment to Standards Rule 3-6 is very also very similar to that found in Standards Rule 2-3, with the exception that the Comment to Standards Rule 3-6 specifically warns that **appraisal review is a completely different activity than cosigning a report**, such as when a supervisory appraiser cosigns with a trainee.

*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 the certification.*

*Any reviewer who signs a certification accepts responsibility for all elements of the certification, for the assignment results, and for the contents of the Appraisal Review Report.*

*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 responsibility as a cosigner of that work.*

*When a signing appraiser 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 is required to have a reasonable basis for believing that those individuals performing the work are competent. The signing appraiser 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 3-5(g).*

### **Standards Rule 3-7**

- A. Standards Rule 3-7 (USPAP 2010-2011 Edition, p. U-37) covers the **requirements for an oral Appraisal Review Report**:

*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 3-5.*

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

### **Case Example: STANDARD 3**

**SCENARIO:** Bradley has been asked to perform an appraisal review assignment of an appraisal that was completed by another real property appraiser. The subject property is located in Bradley's local market area. As part of the assignment, he has been asked by the client to state whether or not he agrees with the opinion of value found in the original report.

If Bradley disagrees with the value opinion the original appraiser expressed, what does he need to do in order to be compliant with STANDARD 3 in forming his opinions regarding value?



# Module 10: STANDARDS 4-10

## Lesson 1: STANDARDS 4-5

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser in a real property consulting assignment that are addressed in STANDARDS 4 and 5.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### Overview of STANDARDS 4-10

- A. In this module, we will primarily concentrate on the key similarities and differences between STANDARDS 1 and 2 and each of the remaining standards.
- B. As with STANDARDS 1 and 2, each STANDARD can be considered a checklist of overall obligations and steps for developing or communicating a particular appraisal discipline, except for STANDARD 6, which is a dual standard addressing an appraiser's obligations in a mass appraisal assignment.
- C. Keep in mind:
  - STANDARDS 4 and 5 establish requirements for the development and reporting of a real property appraisal consulting assignment.
  - STANDARD 6 establishes requirements for the development and reporting of a mass appraisal.
  - STANDARDS 7 and 8 establish requirements for the development and reporting of a personal property appraisal.
  - STANDARDS 9 and 10 establish requirements for the development and reporting of a business or intangible asset appraisal.

## STANDARD 4

- A. STANDARD 4 presents an appraiser's obligation for **development in a real property appraisal consulting assignment**.
- B. The USPAP definition of appraisal consulting is:

***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. (USPAP 2010-2011 Edition, p. U-1)*

## STANDARD 4 – Introduction

- A. Overall, the introduction of STANDARD 4 mirrors the requirements found in STANDARD 1 for an appraiser to:
- Identify the problem to be solved.
  - Determine the scope of work necessary to solve the problem.
  - Correctly complete research and analysis necessary to produce credible results.
- B. STANDARD 4 contains two Standards Rules.

- C. The Comment in the introduction to STANDARD 4 provides specific elaboration of a real property appraisal consulting assignment. Let's look at the key points:
- The purpose of an assignment under STANDARD 4 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.
  - 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—those assignments are, respectively, an appraisal or an appraisal review.
  - Misrepresenting the purpose of an assignment performed under STANDARD 4 is a violation of the ETHICS RULE.
- D. Sometimes, when first being introduced to real property appraisal consulting, its meaning and application can be somewhat confusing.
- E. Appraisers must take great care not to misrepresent the purpose of a real property appraisal consulting assignment.
- F. In a real property appraisal consulting assignment, an appraiser is performing an analysis or making a recommendation that requires examination of at least one opinion of value; however, the opinion or recommendation expressed is **not a value opinion**.
- G. The opinion or opinions of value being used as a component of the analysis leading to the appraisal consulting assignment conclusions **could be developed by the real property consulting appraiser as a step in the analysis or could come from a source other than the real property consulting appraiser**.
- H. Common applications of a real property appraisal consulting assignment include an opinion or recommendation related to a highest and best use concern or feasibility study.

- I. Some other points from the Comment in the introduction to STANDARD 4 include:
- The ETHICS and COMPETENCY RULES apply to the appraiser performing a real property appraisal consulting assignment.
  - Appraisers performing a real property appraisal consulting assignment must perform the assignment with impartiality, objectivity, independence, and without accommodation of personal interests.
  - Except when required by law, regulation, agreement, or choice, STANDARD 4 does not apply to services provided by an appraiser acting under the standards of other professions or business activities.
- J. Example: When an appraiser who is also an investment consultant provides a service that does not require an opinion of value, that appraiser, acting in the role of an investment consultant, is not performing an assignment addressed by STANDARD 4.

### **Case Example: Highest and Best Use**

**SCENARIO:** Reggie has accepted an assignment, for use by the property owner, to recommend the ideal improvement for a currently unimproved vacant parcel. The zoning of the parcel would allow for a variety of uses for the subject site—including use for construction of an apartment building, office building, or a light retail strip mall. The property owner has asked Reggie to provide a value opinion as improved for each proposed use and, in his conclusions, indicate which improvement should be built.

May the request be considered a real property appraisal consulting assignment? To fulfill the client's request, what must Reggie do?

## **Standards Rule 4-1**

- A. Standards Rule 4-1 contains requirements very similar to Standards Rule 1-1 in that an appraiser must:
- Be aware of, understand, and correctly employ recognized methods and techniques necessary to produce credible results.
  - Not commit a substantial error of omission or commission.
  - Not render real property appraisal consulting services in a careless or negligent manner.

## **Standards Rule 4-2(a)-(b)**

- A. Standards Rule 4-2 (USPAP 2010-2011 Edition, p. U-39) is similar to Standards Rule 1-2. The Standards Rule elaborates on the development requirements in a real property appraisal consulting assignment.
- B. Like Standards Rule 1-2(a) and (b), an appraiser must:

*(a) identify the client and other intended users;*

*(b) identify the intended use of the appraisal consulting assignment results*

## **Standards Rule 4-2(c)**

- A. Standards Rule 4-2(c) is somewhat different than that found in Standards Rule 1-2(c), requiring an appraiser to 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*

- B. The Comment language for Standards Rule 4-2(c) is similar to 1-2(c)—obligating an appraiser, if the type and definition of value used as a component in the consulting assignment is market value, to determine if that value is to be the most probable price in terms of cash, financial arrangements equivalent to cash, or other precisely defined terms.
- C. 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 any affect on value must be developed by analysis.

### **Standards Rule 4-2(d)-(e)**

- A. Standards Rule 4-2(d) mirrors Standards Rule 1-2(d), requiring an appraiser to identify the effective date of the appraisal consulting assignment results.
- B. Standards Rule 4-2(e), similar to Standards Rule 1-2(e), addresses identification of the relevant characteristics of the property that is the subject of the consulting assignment.

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

### **Standards Rule 4-2(f)-(g)**

- A. Standards Rule 4-2(f) and Standards Rule 4-2(g) also mirror the obligations found in 1-2(f) and 1-2(g)—obligating the appraiser to identify extraordinary assumptions or hypothetical conditions necessary in the appraisal consulting assignment and in developing the opinion(s) of value necessary to support the appraisal consulting assignment results.

## Standards Rule 4-2(h)

- A. Standards Rule 4-2(h) is similar to 1-2(h) inasmuch as the appraiser must determine the scope of work necessary to produce credible assignment results, which in a real property appraisal consulting assignment includes:

*(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*

- B. The Comment to Standards Rule 4-2(h) (USPAP 2010-2011 Edition, p. U-40) is different from that found in 1-2(h) and contains vital and specific obligations required in the development of a real property appraisal assignment related to the value opinion that is a component of the appraiser's consulting assignment results.

- *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, 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**.*

**Note:** The information contained in the Comment has been illustrated using bullet-points for clarity and bold for emphasis.

## STANDARD 5

- A. STANDARD 5 addresses the **reporting of a real property appraisal consulting assignment**. In many cases, the reporting standard is very similar to STANDARD 2. The discussion that follows will concentrate on the key differences between STANDARD 5 and STANDARD 2.

### STANDARD 5 – Introduction

- A. STANDARD 5 elaborates on the level and detail of information required in communicating real property appraisal consulting assignment results. The general reporting requirements under STANDARD 5 (USPAP 2010-2011 Edition, p. U-41) are very similar to those found in STANDARD 2.

*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.*

- B. The Comment to the introduction of STANDARD 5 contains obligations that are, in several instances, specific to a real property appraisal consulting assignment. Here are some key elements of the Comment to the introduction of STANDARD 5.

- *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*

**Note:** The information contained in the Comment has been illustrated using bullet-points for clarity and emphasis.



## Standards Rule 5-1

- A. Standards Rule 5-1 is similar to Standards Rule 2-1—both stating that the report should not be misleading, be consistent with the intended use of the assignment results, and disclose any assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

*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.*

- B. The Comment to Standards Rule 5-1 provides specific guidance that the appraiser must comply with in a real property appraisal consulting assignment.
- *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.*

**Note:** The information contained in the Comment has been illustrated using bullet-points for clarity and emphasis.

## Standards Rule 5-2

- A. Standards Rule 5-2 is very similar to 2-2 in that the Standards Rule provides a checklist of content that must be included in a real property appraisal consulting report. While there are not defined reporting options as found in Standards Rule 2-2, Standards Rule 5-2 instead combines minimum levels of stating and summarizing information in a real property consulting report.

## **Standards Rule 5-2(a)-(f)**

- A. Standards Rule 5-2(a)-(f) is somewhat similar to that found in STANDARD 2 and requires an appraiser in a real property appraisal consulting report, at a minimum to:

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

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

*(c) state the intended use of the appraisal consulting assignment;*

*(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;*

*(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;*

*(f) state the scope of work used to develop the assignment results*

## **Standards Rule 5-2(g)**

- A. Standards Rule 5-2(g) is specific to a real property appraisal consulting report. This portion of the Standards Rule addresses the reporting of information relative to the information used in the analysis, the techniques and methods employed, and the reasoning supporting the analysis, opinions, and conclusions.

*(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*

- B. The Comment to Standards Rule 5-2(g) places obligation on an appraiser to report certain information regarding any value opinion used in the real property appraisal consulting assignment.

- C. If the opinion of value used in the real property appraisal consulting assignment came from another source other than the consulting appraiser, the report must include:
- *the information required in Standards Rule 3-5, 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.*
- D. In other words, if the consulting appraiser has reviewed the value opinion from another source, the report must include information regarding the review process (Standards Rule 3-5), include a statement regarding the review results in the report, and reference the appraisal review documentation in the workfile.
- E. If the consulting appraiser has used an extraordinary assumption regarding the value opinion from another source in the development of the real property appraisal consulting assignment, the report must include a statement supporting the use of the extraordinary assumption.
- F. If the consulting appraiser developed the value opinion used in the real property appraisal consulting assignment, the information must be reported in compliance with:
- Standards Rule 2-2(a)(ii-x), Self-contained Appraisal Report;
  - Standards Rule 2-2(b)(ii-x), Summary Appraisal Report; or
  - Standards Rule 2-2(c)(ii-x), Restricted Use Appraisal Report (if the client is the only intended user)

## Standards Rule 5-2(h)-(j)

- A. The remainder of Standards Rule 5-2, subsections (h)-(j), is also similar to that of STANDARD 2 and requires a real property appraisal consulting report to:

*(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 and 5-4

- A. Standards Rule 5-3 sets forth the obligation for an appraiser to include a signed certification and presents content requirements similar to Standards Rule 2-3.
- B. Standards Rule 5-4 addresses an oral real property appraisal consulting report, and for the most part, mirrors the obligations found in Standards Rule 2-4.

## Case Example: Applicable Development and Reporting Standards

**SCENARIO:** A property owner who is considering development of a vacant parcel of land he currently owns has engaged an appraiser to perform a real property consulting assignment. The property owner is interested in constructing a building containing office condominiums on the property and has asked the appraiser to develop a recommendation as to the ideal unit mix that would be absorbed most quickly. In addition, the property owner wants the appraiser to develop an opinion of market value for three different size units.

Which Standards apply in this assignment?

## Lesson 2: STANDARD 6

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser in the development and reporting of a mass appraisal, which are addressed in STANDARD 6.
- Evaluate a case example and apply appropriate actions that are compliant with USPAP.

### STANDARD 6

A. STANDARD 6 is a dual purpose standard contained in USPAP and addresses an appraiser's obligation for **development and reporting in a mass appraisal assignment**.

B. The USPAP definition of mass appraisal is:

**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.* (USPAP 2010-2011 Edition, p. U-4)

C. A single property is never the subject of a mass appraisal—the assignment always consists of more than one property.

D. Mass appraisal can be applied to real or personal property.

E. The most common application of a mass appraisal is for ad valorem taxation related to real property, but it is not the only use.

F. STANDARD 6 contains nine Standards Rules with Standards Rule 6-1 through 6-7 addressing development of a mass appraisal, while Standards Rule 6-8 and 6-9 address reporting of mass appraisal results.

## STANDARD 6 – Introduction

A. The Introduction to STANDARD 6 requires an appraiser to:

*...be aware of, understand, and correctly employ those recognized methods and techniques necessary to produce and communicate credible mass appraisals.*

B. The Comment language of the introduction is more specific to mass appraisal.

Comment: *STANDARD 6 applies to all mass appraisals of real or personal property regardless of the purpose or use of such appraisals.*

- *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*

**Note:** The information contained in the Comment has been illustrated using bullet-points for clarity and emphasis.

C. The Comment goes on to state that 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.

D. References are made in the Comment to a mass appraisal model.

E. The USPAP definition for mass appraisal model is:

**MASS APPRAISAL MODEL:** *a mathematical expression of how supply and demand factors interact in a market.* (USPAP 2010-2011 Edition, p. U-4)

F. The Comment concludes with recognition of a potential use of the JURISDICTIONAL EXCEPTION RULE, which may apply in a mass appraisal when used for ad valorem purposes but may not be applicable for a mass appraisal performed for other purposes.

*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

A. Standards Rule 6-1 and its integral Comments (USPAP 2010-2011 Edition, pp. U-45 and U-46) are similar to Standards Rule 1-1.

*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;*

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

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

## **Standards Rule 6-2(a)-(d)**

- A. Standards Rule 6-2 (a)-(d) are similar to Standards Rule 1-2 and elaborate on the elements of problem identification for a mass appraisal assignment.

*In developing a mass appraisal, an appraiser must:*

*(a) identify the client and other intended users;*

*(b) identify the intended use of the appraisal;*

*(c) identify the type and definition of value;*

- B. The Comment to 6-2(c) states: *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*

## **Standards Rule 6-2(e)**

- A. Standards Rule 6-2(e) (USPAP 2010-2011 Edition, p. U-47) is specific to mass appraisal assignments.

*(e) identify the characteristics of the properties that are relevant to the type and definition of value and intended use, 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*



- B. The Comment to Standards Rule 6-2(e) is, in some cases, specific to mass appraisal assignments and, in part, states:

*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.*

- C. The remainder of the Comment addresses more specific circumstances related to proposed improvements and mass appraisal of condominium and planned unit developments.

### **Standards Rule 6-2(f)**

- A. Standards Rule 6-2(f) requires an appraiser to:

*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;*

### **Standards Rule 6-2(g)**

- A. Standards Rule 6-2(g) (USPAP 2010-2011 Edition, pp. U-47-U-48) obligates an appraiser to:

*(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*

*(v) 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)-(j)**

A. Standards Rule 6-2(h)-(j) obligate an appraiser in a mass appraisal assignment to:

*(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*

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

## Standards Rule 6-3

A. Now, let's review Standards Rule 6-3(a) and (b) (USPAP 2010-2011 Edition, pp. U-48-U-49).

B. Standards Rule 6-3(a) is similar to Standards Rule 1-3 with respect to mass appraisal of real property:

*(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.*

C. Standards Rule 6-3(b) is unique to mass appraisal of personal property:

*(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.*

D. The Comment to Standards Rule 6-3(b) provides specific caution to an appraiser regarding recognition that there are distinct levels of trade, and each may generate its own data.

*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(a)

- A. Standards Rule 6-4 addresses the appropriate procedures and market information that are required in the analysis, as well as techniques for specifying property valuation models and for calibrating mass appraisal models.

*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.*

## Standards Rule 6-4(b)

- A. Next, we'll look at Standards Rule 6-4(b). *In developing a mass appraisal, an appraiser must:*

*(b) employ recognized techniques for specifying property valuation models*

*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.*

## Standards Rule 6-4(c)

A. Now, let's review Standards Rule 6-4(c). *In developing a mass appraisal, an appraiser must:*

*(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(a)

A. Standards Rule 6-5 and 6-6 address the approaches to value that, when necessary for credible assignment results, may be developed in a mass appraisal assignment, and are similar to Standards Rule 1-4. Let's first look at 6-5(a).

*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;*

*(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*

## **Standards Rule 6-5(b)-(d)**

A. Next, we'll review Standards Rule 6-5(b)-(d).

*(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;*

*(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.*

## **Standards Rule 6-6**

A. Now, we'll examine 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;*

*(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*

*(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**

- A. Standards Rule 6-7 is similar to Standards Rule 1-6, which addresses the process of reconciliation.

*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.*

## **Standards Rule 6-8(a)-(c)**

- A. Standards Rule 6-8 addresses reporting in a mass appraisal assignment. Standards Rule 6-8(a)-(c) have similar intentions as Standards Rule 2-1.

*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;*

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

## **Standards Rule 6-8(d)-(h)**

- A. The remainder of Standards Rule 6-8, (d)-(q), most closely corresponds with the topics found in Standards Rule 2-2, except that there are no specific reporting options (Self-Contained, Summary, Restricted Use).

*Each written report of a mass appraisal must:*

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

*(e) state the intended use of the appraisal;*

*(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;*

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

## **Standards Rule 6-8(i)-(m)**

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

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

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

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



*(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;*

### **Standards Rule 6-8(n)-(q)**

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

*(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.*

### **Standards Rule 6-9**

- A. Standards Rule 6-9 is similar to Standards Rule 2-3 in that it addresses the certification required for all mass appraisal assignments.
- B. The required certification content is similar to that illustrated in Standards Rule 2-3.
- C. The Comment to Standards Rule 6-9, in part, points out that the *certification is not intended to disturb an elected or appointed assessor's work plans or oaths of office.*

## Case Example: Appraisal of a Single-Property for Ad Valorem Use

**SCENARIO:** A real property appraiser who specializes in ad valorem taxation issues has been engaged in an assignment by the county tax assessor's office. A large manufacturing firm has announced plans to build a multi-million dollar industrial plant that will significantly affect tax revenues once completed. The appraiser has been asked to develop an opinion of market value for the facility, once completed, so that the tax assessor may project the tax revenues for future budgeting.

Since the assignment is being completed for ad valorem purposes, is the assignment considered a mass appraisal assignment under STANDARD 6?

## Lesson 3: STANDARDS 7-10

### Learning Objectives

After completing this lesson, you will be able to:

- Describe the obligations of an appraiser in the development and reporting of a personal property appraisal as stated in STANDARDS 7 and 8.
- Describe the obligations of an appraiser in the development and reporting of an appraisal of an interest in a business enterprise or intangible asset, which are addressed in STANDARDS 9 and 10.
- Evaluate case examples and apply appropriate actions that are compliant with USPAP.

### STANDARD 7

- A. STANDARD 7 addresses an appraiser's obligations in **developing an appraisal of personal property**.
- B. Although there are a few differences, most of STANDARD 7 is very similar to STANDARD 1 regarding the topics covered, the progression of addressing the topics, and specific development requirements.
- C. USPAP defines personal property as:

**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. (USPAP 2010-2011 Edition, p. U-4)*

- D. Like STANDARD 1, STANDARD 7 contains six Standards Rules.

## **STANDARD 7 – Introduction**

- A. The Introduction to STANDARD 7 is very similar to that found in STANDARD 1 and requires an appraiser in a personal property appraisal to:
- Identify the problem to be solved.
  - Determine the scope of work necessary to solve the problem.
  - Complete research and analysis necessary to produce a credible appraisal.

### **Standards Rule 7-1**

- A. Standards Rule 7-1 mirrors Standards Rule 1-1, obligating an appraiser to:

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

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

*(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.*

### **Standards Rule 7-2(a)-(c)**

- A. Standards Rule 7-2 is mostly similar to Standards Rule 1-2, identifying the elements of problem identification.
- B. Standards Rule 7-2(a) and (b) requires an appraiser to identify the client and other intended users and the intended use.
- C. Standards Rule 7-2(c) presents obligations to identify the type and definition of value in the assignment.

- D. The Comment to 7-2(c) focuses on opinions of value in a specified market or at a specified market level rather than the term highest and best use. Also, the concept of market value is not as commonly associated with personal property in the same context as in real property. Let's look at the Comment to Standards Rule 7-2(c):

*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.*

## **Standards Rule 7-2(d)-(e)**

- A. Standards Rule 7-2(d) requires an appraiser to:

*(d) identify the effective date of the appraiser's opinions and conclusions;*

- B. Standards Rule 7-2(e) addresses **identification of the characteristics** of the property and does vary somewhat from the language found in Standards Rule 1-2(e).

*(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) 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;*

- C. The Comment to Standards Rule 7-2(e)(iii) describes examples of the physical and economic characteristics of personal property, which could include condition, style, size, quality, manufacturer, author, materials, origin, age, provenance, alterations, restorations, and obsolescence.

- D. Standards Rule 7-2(e) (iv)-(vi) are also similar to corresponding portions of Standards Rule 1-2(e) requiring identification of:

*(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*

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

### **Standards Rule 7-2(f)-(h)**

- A. Standards Rule 7-2 (f)-(h) are consistent with Standards Rule 1-2(f)-(h), requiring, in a personal property appraisal, an appraiser to:

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

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

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

## Standards Rule 7-3(a)

- A. While Standards Rule 7-3 addresses data collection and analysis similar to Standards Rule 1-3, Standards Rule 7-3 has some distinct differences due to the nuances of the particular discipline.

*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.*

## Standards Rule 7-3(b)-(c)

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

*(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

- A. Standards Rule 7-4 mirrors the requirements of Standards Rule 1-4.
- B. Topics addressed in Standards Rule 7-4 include development of a sales comparison approach, a cost approach, and an income approach.
- C. Also, consistent with Standards Rule 1-4, Standards Rule 7-4 requires analysis of any leases encumbering the property, affect on value of the assemblage of various component parts, modifications to the property, and any real or intangible items included in the appraisal.

## Standards Rule 7-5

- A. Standards Rule 7-5, as found in 1-5, addresses the analysis of agreements of offerings of the subject property and prior sales of the subject property. However, there are some distinct differences, especially the requirement to analyze prior sales that occurred within **a reasonable and applicable time period**, rather than the minimum 3-year requirement prior to the effective date as found in 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:*

*(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. (Bold added for emphasis)*



## Standards Rule 7-6

- A. Standards Rule 7-6 mirrors the reconciliation process that is found in Standards Rule 1-6.

*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).*

## STANDARD 8

- A. STANDARD 8 addresses the **content and level of information required in a personal property appraisal report**.
- B. Most of STANDARD 8 is consistent with an appraiser's obligations for reporting in STANDARD 2. Topics of the standard are ordered similarly and presented in the same manner.
- C. As in STANDARD 2, STANDARD 8 contains four Standards Rules.

## STANDARD 8 – Introduction

- A. The introduction to STANDARD 8 is very similar to that found in STANDARD 2, requiring the report and its contents to not be misleading.
- B. The Comment found in the introduction elaborates (in part) that *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; and that the substantive content of a report determines its compliance.*

## Standards Rule 8-1

- A. No significant differences are found in Standards Rule 8-1, when compared with Standards Rule 2-1.

*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

- A. Standards Rule 8-2 addresses the level and content of the three reporting options, similar to Standards Rule 2-2, which are:

- 8-2(a) Self-Contained Appraisal Report
- 8-2(b) Summary Appraisal Report
- 8-2(c) Restricted-use Appraisal Report

- B. The only difference between personal property appraisal reports under STANDARD 8 and real property appraisal reports under STANDARD 2 is the focus on market value issues, which in STANDARD 8 is the **discussion of marketplaces rather than market value** as found in STANDARD 2.

## Standards Rules 8-3 and 8-4

- A. Standards Rule 8-3 illustrates the certification language required in all **written** personal property appraisal reports and is consistent with that found in Standards Rule 2-3.
- B. Standards Rule 8-4 addresses an **oral** personal property appraisal report and is similar to Standards Rule 2-4.

*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). (Summary Appraisal Report)*

## Case Example: Market Value and Personal Property

**SCENARIO:** A real property appraiser occasionally accepts personal property appraisal assignments for vintage automobiles. He has recently been engaged to perform an appraisal for an automobile type with which he is quite familiar. Since the appraiser is an avid collector and has extensive buying and selling experience with this particular automobile, he feels he is competent to perform the assignment. In developing his value opinion in the assignment, the appraiser researches sales of similar autos in his particular market and states the value conclusions simply as a market value without any further discussion.

Has the appraiser complied with STANDARDS 7 and 8?

## STANDARD 9

- A. STANDARD 9 addresses the **development of a business enterprise or intangible asset appraisal**.

- B. Three USPAP definitions (USPAP 2010-2011 Edition, pp. U-2 and U-3) are important for your review:

***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).*

***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.*

- C. STANDARD 9 contains five Standards Rules.

## **STANDARD 9 – Introduction and Standards Rule 9-1**

- A. The introduction of STANDARD 9 is consistent with STANDARD 1 inasmuch as it requires the appraiser to correctly identify the problem, determine the scope of work necessary to produce credible results, and correctly complete the research and analysis necessary to produce a credible appraisal.
- B. Standards Rule 9-1 also mirrors that found in Standards Rule 1-1—requiring competence, diligence and due care.

## **Standards Rule 9-2**

- A. Standards Rule 9-2 is similar to Standards Rule 1-2 in that it follows the process of problem identification through determining the scope of work. However, there are some differences that we will focus on.
- B. Standards Rule 9-2(c) requires an appraiser to:

*(c) identify the standard (type) and definition of value and the premise of value*

- C. The term “standard” of value is used rather than “type” of value as found in Standards Rule 1-2(c).

## Standards Rule 9-2(e)

- A. Standards Rule 9-2(e) also has different elements than those found in Standards Rule 1-2(e) regarding identification of the subject property characteristics.

*(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;*

*(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;*

*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.*

*(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.*

- B. The remainder of Standards Rule 9-2 is similar to corresponding portions of Standards Rule 1-2.

## Standards Rule 9-3

- A. Standards Rule 9-3 contains language that is unique to the development of a business or intangible asset appraisal and should be carefully reviewed.

*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.*

- B. The Comment to Standards Rule 9-3 offers valuable clarification. For emphasis and clarity, it is in bulleted form:

- *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

- A. Standards Rule 9-4 addresses the development, when necessary for credible assignment results, of an appraiser's **opinions and conclusions in a business or intangible asset appraisal**.
- B. One of the fundamental differences that should be noted here is that past sales of capital stock or other ownership interests must be analyzed, when necessary, for credible assignment results.
- C. There is **no specific time period** given for the analysis of prior sales, as found in Standards Rule 1-5.

## **Standards Rule 9-4(a)**

- A. 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.*

## **Standards Rule 9-4(b)**

*(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.*

## Standards Rule 9-4(c)-(d)

*(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

- A. For the most part, Standards Rule 9-5 is very similar to Standards Rule 1-6 in how it addresses reconciliation.

*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.*



## STANDARD 10

- A. STANDARD 10 addresses the **level of information and content required for communicating the results of a business enterprise or intangible asset appraisal.**
- B. STANDARD 10 is very similar to STANDARD 2 with regard to the topics addressed and the order of the topics.
- C. As with STANDARD 2, STANDARD 10 also contains four Standards Rules.

### STANDARD 10 – Introduction

- A. The introduction to STANDARD 10 mirrors that of other reporting standards.

*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.*

### Standards Rule 10-1

- A. Standards Rule 10-1 is also similar in content to that found in STANDARD 2 and other reporting standards by establishing the general requirements for reporting an interest in a business enterprise or intangible asset appraisal.

*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

- A. Standards Rule 10-2 is similar to Standards Rule 2-2 in that it addresses the topics and order of addressing topics of a report for a business enterprise or intangible asset.
- B. A distinctive difference of Standards Rule 10-2 is that there are **only two reporting options**: Appraisal Report and Restricted Use Appraisal Report. There is no reporting option equivalent to a Self-Contained Appraisal Report.
- C. The client must be the only intended user in a Restricted Use Appraisal Report.
- D. Standards Rule 10-2(vi) discusses “standard” of value rather than “type” of value.
- E. There is **no discussion of highest and best use**, as the concept typically does not apply to a business enterprise or intangible asset appraisal.

## Standards Rule 10-3

- A. The appraiser’s signed certification is the topic of Standards Rule 10-3, which is similar to the certification content requirements illustrated in Standards Rule 2-3.
- B. There is one significant difference in the certification language for a business enterprise or intangible asset appraisal—there is **no reference to a personal inspection**, as it is not possible to inspect intangible assets.

## Standards Rule 10-4

- A. Standards Rule 10-4 sets forth requirements for an oral appraisal report for a business enterprise or intangible asset.

*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).*

- B. An oral appraisal report for a business enterprise or intangible asset, to the extent both possible and appropriate, must address the substantive matters set forth in the requirements for an Appraisal Report (10-2(a)).

### **Case Example: Analysis and Reporting of Liquidity**

**SCENARIO:** Joseph has recently completed an appraisal of a minority stockholder's interest in a business enterprise. The interest that is the subject of this particular assignment is a non-controlling interest and not in a position to cause liquidation. Joseph has analyzed the business enterprise and determined that it should liquidate, and therefore, bases his value opinion of the stockholder's interest on liquidation of the business enterprise. There was no discussion of liquidation of the business enterprise included in Joseph's report.

Did Joseph's actions comply with STANDARDS 9 and 10?

# Module 11: USPAP Statements and Advisory Opinions

## Lesson 1: USPAP Statements and Advisory Opinions AO-1 – AO-12

### Learning Objectives

After completing this lesson, you will be able to:

- Recall the purpose of specific USPAP Statements.
- Recall guidance and advice presented in specific USPAP Advisory Opinions.

### Overview of Statements and Advisory Opinions

- A. Throughout this course, several Statements and Advisory Opinions have been referenced. While it would be time prohibitive to examine each in an in-depth manner, this module will provide an overview of the topic areas of the USPAP Statements and Advisory Opinions and present a summary of their content.
- B. The intent of this module is for you to become familiar with the topics covered and to give you a broad understanding of how the topic matter is addressed, so that the material can be referenced when needed.
- C. It is suggested that you review each Statement and Advisory Opinion in its entirety as we go through this module. The Statements can be found in the *Uniform Standards of Professional Appraisal Practice, 2010-2011 Edition*, and the Advisory Opinions can be found in *USPAP Advisory Opinions, 2010-2011 Edition*. You may access both of these documents under the Reference Materials link.

### USPAP Statements

- A. Ten Statements have been adopted by the Appraisal Standards Board, of which five are now retired.
- B. Statements have the **same force and compliance obligations as other parts of USPAP**.

C. Statements are adopted in the same manner as other parts of USPAP.

D. The following USPAP explanation of a Statement that was presented earlier in the course:

*Statements on Appraisal Standards 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. (USPAP 2010-2011 Edition, p. U-viii)*

## Retired Statements

A. The following Statements (SMT) have been retired and are no longer in effect, although their subject and corresponding numbers still appear in USPAP:

SMT 1: Appraisal Review—Clarification of Comment on Standards Rule 3-1(g)

SMT 5: Confidentiality Section of the ETHICS RULE

SMT 7: Permitted Departure from Specific Requirements in Real Property and Personal Property Appraisal Assignments

SMT 8: Electronic Transmission of Reports

SMT 10: Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction

## Statement 2 – Discounted Cash Flow Analysis

A. Now, let's look at the Statements that are still active.

B. Statement 2 (SMT-2) applies to real property and addresses **discounted cash flow (DCF) analysis**.

- C. SMT-2 answers the question *“What steps can the appraiser take to avoid misuse of DCF analysis?”* (USPAP 2010-2011 Edition, p. U-81)
- D. A DCF is an additional tool available to appraisers that must be used with great care.
- E. SMT-2 presents obligations for the analysis process as well as certain disclosure obligations when a DCF analysis has been developed by an appraiser.
- F. SMT-2 presents both additional requirements and reinforcements of several parts of STANDARD 1.

### Statement 3 – Retrospective Value Opinions

- A. Statement 3 (SMT-3) details the appraiser’s responsibility when a **retrospective value opinion** is being expressed in an assignment.
- B. SMT-3 answers the question *“When a retrospective effective date is used, how can the appraisal be prepared and presented in a manner that is not misleading?”* (USPAP 2010-2011 Edition, p. U-84)
- C. Retrospective dates were discussed in an earlier module of this course, but as a reminder, **retrospective appraisals occur when the effective date of the appraisal is prior to the date of the report.**
- D. SMT-3 provides guidance and specific cautions to an appraiser who is developing a real or a personal property appraisal in which the effective date is retrospective.

### Statement 4 – Prospective Value Opinions

- A. Also discussed in an earlier module of this course was Statement 4 (SMT-4), which deals with the appraiser’s responsibility when a **prospective value opinion** is being expressed in an assignment.
- B. Very similar to SMT-3, SMT-4 answers the question *“When a prospective effective date is used, how can the appraisal be prepared and presented in a manner that is not misleading?”* (USPAP 2010-2011 Edition, p. U-86)
- C. Also like SMT-3, SMT-4 applies to both real and personal property.

- D. **Prospective appraisals occur when the effective date of the appraisal is subsequent to the date of the report.**
- E. Likewise, SMT-4 provides guidance and specific cautions to an appraiser who is developing opinions and conclusions in an assignment for which the effective date is prospective.

## **Statement 6 – Reasonable Exposure Time in Market Value Opinions**

- A. Statement 6 (SMT-6) addresses a **reasonable exposure time in real property and personal property market value opinions.**
- B. Statement 6 and a discussion of reasonable exposure time were presented in an earlier module of this course.
- C. Within the Statement, exposure time is 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.* (USPAP 2010-2011 Edition, p. U-89)
- D. SMT-6 answers the questions *“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?”*
- E. The statement (in part) provides the following important guidance in its 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.*

## **Statement 9 – Identification of Intended Use and Intended Users**

- A. The final active Statement is Statement 9 (SMT-9).

- B. SMT-9 addresses **identification of intended use and intended users** and applies to all property types.
- C. SMT-9 was also introduced in an earlier module and answers the question “*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?*” (USPAP 2010-2011 Edition, p. U-93)
- D. SMT-9 offers the following 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.*
  - *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.*



## USPAP Advisory Opinions

- A. Advisory Opinions are not part of USPAP, but rather bound in the same publication to offer advice and to illustrate the applicability of USPAP in specific situations.
- B. Each Advisory Opinion offers advice and illustrations for a specific concern or question regarding each topic.
- C. Advisory Opinions can relate to only some property types and disciplines or to all.
- D. There are thirty-two Advisory Opinions (AO) that have been issued by the Appraisal Standards Board, five which have been retired (AO-5, AO-6, AO-8, AO-10, and AO-15).
- E. Retired Advisory Opinions are still referenced by number and topic in the Table of Contents section of the Advisory Opinions and at their respective locations throughout the Advisory Opinion section.
- F. The FOREWORD section of the Advisory Opinions explains (in part) how Advisory Opinions are issued and their purpose:

*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 2010-2011 Edition of USPAP. (USPAP Advisory Opinions 2010-2011 Edition, p. A-i)*

## AO-1 – Sales History

- A. Advisory Opinion 1 (AO-1) addresses **sales history requirements** and how they apply to **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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-1)*

- B. The ASB responds in AO-1 with advice, including:

- Relevant USPAP & Advisory References
- Analysis and Reporting Requirements
- Sample Sales Histories
- Sample Comments

- C. Illustrations are provided within the Advisory Opinion as to how the obligation can be handled.

## AO-2 – Inspection of Subject Property

- A. Advisory Opinion 2 (AO-2) addresses inspection of the subject property. This Advisory Opinion applies to real and 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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-4)*

- B. The ASB responds in AO-2 with advice including:

- Minimum Level of Inspection
- Disclosure Requirements
- Illustrations

- C. AO-2 points out that USPAP **does not require an inspection** and the necessity of such is a determination made in the scope of work.

- D. The Advisory Opinion offers illustration of **when an inspection is warranted** along with the obligations of an appraiser that apply when it is necessary.

## AO-3 – Update of a Prior Appraisal

- A. Advisory Opinion 3 (AO-3) addresses the **update of a prior appraisal**. This Advisory Opinion applies to **real property, personal property, and 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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-7)*

B. The ASB responds in AO-3 with advice regarding:

- Clarification of Terminology
- A New Assignment of a Prior Assignment
- Development Requirements
- Reporting Requirements
- Confidentiality
- Record Keeping

C. Included in AO-3 is a clarification that 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.*

D. An updated appraisal (appraisal update) is simply a **new appraisal assignment** and must be treated as such.

E. An updated appraisal is **not an extension** of a prior assignment. However, an appraiser is not required to “start from scratch,” and the process of the options of updating a prior assignment is discussed in AO-3.

## **AO-4 – Standards Rule 1-5(b)**

A. Advisory Opinion 4 (AO-4) addresses the application of **Standards Rule 1-5(b)** in specific instances. This Advisory Opinion applies to **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?*

- B. The AQB responds with the following advice:

*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. (USPAP Advisory Opinions 2010-2011 Edition, p. A-10)*

## **AO-7 – Marketing Time Opinions**

- A. Advisory Opinion (AO-7) clarifies and illustrates a reasonable **market time for real and 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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-13)*

- B. The AQB responds with the following advice:

- Rationale and Method for Developing a Marketing Time Opinion
- Discussion of Marketing Time in the Appraisal Report
- Applications to Client Uses of an Appraisal

- C. AO-7 provides, in part, the **distinction between reasonable marketing time and exposure time**.

- D. 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, while exposure time is always presumed to **precede the effective date** of an appraisal.

## **AO-9 – Real Property That May Be Impacted by Environmental Contamination**

- A. Advisory Opinion 9 (AO-9) applies to **real property that is or suspected to be contaminated**.

### ***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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-16)*

- B. The AQB responds with extensive reference, guidance, and advice:

- Relevant USPAP & Advisory References
- Competency and Related Issues
- Specialized Terms and Definitions
- Relevant Property Characteristics
- Valuation Issues – As If Unimpaired
- Valuation Issues – As Impaired

## **AO-11 – Content of the Appraisal Report Options of Standards Rules 2-2 and 8-2**

- A. Advisory Opinion 11 (AO-11) addresses **content requirements and reporting options** for appraisal reports of **real and personal property**. AO-11 was deeply explored during our discussion of Standards Rule 2-2.

### ***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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-21)*

- B. Advice from the ASB includes:

- Relevant USPAP & Advisory References
- Content of the Self-Contained Appraisal Report
- Content of the Summary Appraisal Report
- Content of the Restricted Use Appraisal Report
- Differences in the Appraisal Report Options
- Report Comparison Chart
- Examples of the application of the terms “describe,” “summarize,” and “state”

## **AO-12 – Use of the Appraisal Report Options of Standards Rules 2-2 and 8-2**

- A. Advisory Opinion 12 (AO-12) discusses the **use of the appraisal report options of Standards Rules 2-2 and 8-2**. This Advisory Opinion applies to **real property and personal property**.



- B. AO-12 cautions that it should be read in conjunction with AO-11.

***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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-26)*

- C. The ASB responses include:

- Relevant USPAP & Advisory References
- Deciding Which Report Option to Use

- D. AO-12 focuses on the decision process of an appraiser in determining the appropriate reporting option.

## Lesson 2: USPAP Advisory Opinions AO-13 – AO-32

### Learning Objectives

After completing this lesson, you will be able to:

- Recall guidance and advice presented in specific USPAP Advisory Opinions.

### AO-13 – Performing Evaluations of Real Property Collateral to Conform with USPAP

- A. Advisory Opinion 13 (AO-13), **performing evaluations of real property collateral to conform with USPAP**, deals with distinctions in “appraisals” versus “evaluations” by some federal regulatory agencies. This Advisory Opinion applies to an appraiser’s obligations in an assignment involving **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)? (USPAP Advisory Opinions 2010-2011 Edition, p. A-28)*

- B. Advice from the ASB includes:

- Relevant USPAP Advisory References
- Background
- ASB Opinion on Evaluations of Real Property Collateral
- Illustrations
- Reporting the Results of an Evaluation

## AO-14 – Appraisals for Subsidized Housing

- A. Advisory Opinion (AO-14) addresses many issues for **appraising subsidized housing**.
- B. AO-14 addresses only **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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-32)*

- C. The ASB has extensively addressed the issue and includes the following guidance and advice:

- Relevant USPAP & Advisory References
- Identification of Subsidized Housing
- Competency Issues
- Property Rights Issues
- Value Definition Issues
- Market Analysis Issues

## AO-16 – Fair Housing Laws and Appraisal Report Content

- A. Due to the nature of the subject matter, Advisory Opinion 16 (AO-16), **fair housing laws and appraisal report content**. This Advisory Opinion applies only to **real property** and expands on fair housing issues through guidance and several illustrations.

### ***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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-36)*

B. The ASB responses include:

- Relevant USPAP & Advisory References
- Appraisal Report Content
- Competency
- Illustrations

## **AO-17 – Appraisals of Real Property with Proposed Improvements**

A. Addressing **appraisals of real property**, Advisory Opinion 17 (AO-17) provides illustration and guidance in assignments that **include current or prospective value opinions for proposed improvements**.

### ***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)? (USPAP Advisory Opinions 2010-2011 Edition, p. A-39)*

B. The ASB has expanded on the issue with relevant guidance and illustrations including:

- Relevant USPAP & Advisory References
- General Comments
- Assignment Considerations
- Illustrations

## **AO-18 – Use of an Automated Valuation Module (AVM)**

A. Advisory Opinion 18 (AO-18) addresses the **use of an Automated Valuation Module (AVM)**.

- B. An AVM is a computer software program that analyzes data using an automated process. This Advisory Opinion could be applied to **real property, personal property, or 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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-44)*

- C. The ASB provides extensive responses that include:

- Relevant USPAP & Advisory References
- Competency
- Under What Conditions May AVMs Be Used?
- Database
- Understanding and Control of the AVM
- Communicating the AVM Output
- Analyzing an AVM's Effectiveness
- Review of the Output of an AVM
- Review of an Appraisal Report Containing Output of an AVM
- Use of an AVM in an Appraisal Review Assignment
- Illustrations

## **AO-19 – Unacceptable Assignment Conditions in Real Property Appraisal Assignments**

- A. Discussion of **unacceptable assignment conditions** and reference to Advisory Opinion 19 (AO-19) was covered in the ETHICS RULE. The Advisory Opinion applies to **real property** and illustrates several types of assignment requests.

### ***THE 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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-51)*

- B. The ASB's response includes:
- Relevant USPAP & Advisory References
  - Unacceptable Conditions
  - Accepting Assignment Conditions
  - Illustrations
- C. The Advisory Opinion reminds appraisers that the Conduct and Management sections of the ETHICS RULE prohibit an appraiser from accepting an assignment that includes unacceptable assignment conditions.

## **AO-20 – Review Assignment That Includes the Reviewer's Own Opinion of Value**

- A. The Advisory Opinion addresses an appraiser's obligations in an **appraisal review assignment that includes the reviewer's own opinion of value**. This Advisory Opinion applies to **real property, personal property, and intangible property**.

- B. Advisory Opinion (AO-20) was introduced during our discussion of STANDARD 3.

**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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-56)*

- C. The ASB offers significant guidance on the topic including:

- Relevant USPAP & Advisory References
- An Appraisal Assignment WITHOUT an Opinion of Value
- An Appraisal Assignment WITH an Opinion of Value
- Illustrations

- D. Appraisers performing appraisal review should be very familiar with the content of AO-20.

## **AO-21 – USPAP Compliance**

- A. Advisory Opinion 21 (AO-21), **USPAP compliance**, was introduced during an earlier module of this course. This Advisory Opinion applies to **real property, personal property, and intangible property**.

- B. AO-21 provides additional guidance for the distinction of valuation services and appraisal practice and expands the discussion of an appraiser's obligations.

**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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-63)*

- C. The ASB responds with:

- Specific Discussion Addressing Each Question
- Relationships and Application
- Illustrations



## AO-22 – Scope of Work in Market Value Appraisal Assignments, Real Property

- A. As the subject implies, Advisory Opinion 22 (AO-22) applies to the **scope of work in market value appraisal assignments of real property**.

### ***THE ISSUE:***

*How does “market value” affect the scope of work in a real property appraisal assignment? (USPAP Advisory Opinions 2010-2011 Edition, p. A-73)*

- B. The ASB expands on the topic with the following references and responses:

- Relevant USPAP & Advisory References
- Scope of Work in a Market Value Appraisal
- Sequence and Relationship of Action Steps Required by Standards Rule 1-2 in a Real Property Appraisal
- General Comment on Market Value Definitions
- How the “Conditions” in a Market Value Definition Affect the Scope of Work Decision
- Subject’s Marketing and Sale History and Reconciliation

## AO-23 – Characteristics of the Subject Property of a Real Property Appraisal Assignment

- A. Advisory Opinion 23 (AO-23), **identifying the relevant characteristics of the subject property of a real property appraisal assignment**. This Advisory Opinion applies to **real property** and provides significant clarification and guidance on how the relevant property characteristics are identified.

### ***THE ISSUE:***

*How does an appraiser determine which characteristics of a real property are relevant to its appraisal? (USPAP Advisory Opinions 2010-2011 Edition, p. A-80)*

B. The ASB responds by offering:

- Relevant USPAP & Advisory References
- The Subject of a Real Property Appraisal Assignment
- How the Characteristics of the Subject Affect the Scope of Work Decision

C. Several illustrations by the ASB are included to assist with understanding the matter.

### **AO-24 – Normal Course of Business**

A. Advisory Opinion 24 (AO-24) and the concept of the **normal course of business** were introduced and discussed in an earlier module of this course.

B. The Advisory Opinion applies to **real property and 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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-84)*

C. The ASB provides the following references and advice:

- Relevant USPAP & Advisory References
- General Comments
- Illustrations

### **AO-25 – Clarification of the Client in a Federally Related Transaction**

A. Many appraisals of real property will be performed for a federally regulated financial institution for use in a federally regulated loan transaction.

- B. Advisory Opinion 25 (AO-25), **clarification of the client in a federally related transaction**, explains the issue of the appraiser's engagement in such an assignment. This Advisory Opinion applies only to **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....."*

*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?" (USPAP Advisory Opinions 2010-2011 Edition, p. A-87)*

- C. AO-25 offers guidance and advice for appraisers from the ASB that apply in a federally related transaction, including:
- Relevant USPAP & Advisory References
  - Comments
  - Illustrations

**AO-26 – Readdressing (Transferring) a Report to Another Party**

- A. Advisory Opinion 26 (AO-26) and the topic of **readdressing or transferring a report to another party** were covered with the SCOPE OF WORK RULE discussed in an earlier module of this course.

- B. AO-26 applies to **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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-89)*

- C. The ASB addresses the issue within the Advisory Opinion with USPAP and Advisory References, Comments, and Illustrations and states, in part, “*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.*”

## **AO-27 – Appraising the Same Property for a New Client**

- A. Advisory Opinion 27 (AO-27) applies to **real property, personal property, and intangible property** and illustrates USPAP application when an appraiser is asked to perform an **appraisal for a new client of a property that he previously appraised**.

**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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-91)*

B. References and topics addressed by the ASB in responding to the subject include:

- Relevant USPAP & Advisory References
- Comments
- Obtaining a Release
- Confidential Information
- Client Expectations
- Illustrations

## **AO-28 – Scope of Work Decision, Performance, and Disclosure**

A. The SCOPE OF WORK RULE was explored in detail earlier in this course.

B. Advisory Opinion 28 (AO-28), **scope of work decision, performance, and disclosure**, provides practical application of an appraiser's obligations in compliance with the Rule. This Advisory Opinion applies to **real property, personal property, and 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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-95)*

C. Within AO-28, the ASB provides advice, guidance, and illustrations using application examples.

## **AO-29 – An Acceptable Scope of Work**

A. Advisory Opinion 29 (AO-29) presents guidance and illustration for an appraiser in determining when the **scope of work in an assignment is acceptable**. This Advisory Opinion applies to **real property, personal property, and 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. (USPAP Advisory Opinions 2010-2011 Edition, p. A-99)*

*What makes an assignment similar?*

*Who are an appraiser's peers?*

*Must an acceptable scope of work satisfy both benchmarks?*

B. Throughout AO-29, the ASB defines these issues and presents several illustrations.

## **AO-30 – Appraisals for Use by a Federally Regulated Financial Institution**

A. Advisory Opinion 30 (AO-30) deals with the clients' obligations in an assignment for **use by a federally regulated financial institution**.

- B. There are specific obligations for an appraiser, applying to **real property** in these circumstances in order to comply with FIRREA.

***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”) 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? (USPAP Advisory Opinions 2010-2011 Edition, p. A-102)*

- C. The ASB offers advice in AO-30 in addressing the issue that includes:

- Recognition of Assignment Conditions
- USPAP Applicability
- Failure to Adhere to Assignment Conditions
- Obligations for Appraisers Performing Appraisals for Use by a Federally Regulated Financial Institution
- Commonly Asked Questions

- D. For most residential appraisers, this Advisory Opinion applies to many appraisals performed for use in mortgage lending purposes. Therefore, appraisers should be familiar with the advice in its content.

## **AO-31 – Assignments Involving More than One Appraiser**

- A. Advisory Opinion 31 (AO-31), **assignments involving more than one appraiser**, was introduced during the discussion of STANDARD 2 in an earlier module.

- B. This Advisory Opinion applies to **real property, personal property, and intangible property**.

***THE ISSUE:***

*What are the specific USPAP obligations when an appraisal, appraisal review or appraisal consulting assignment involves more than one appraiser? (USPAP Advisory Opinions 2010-2011 Edition, p. A-107)*

- C. AO-31 addresses the issue with clarification and guidance in the form of:

- Relevant USPAP References
- Record Keeping Requirements
- Certifications/Signatures
- Illustrations

## **AO-32 – Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments**

- A. Advisory Opinion 32 (AO-32) is specific to **ad valorem property tax appraisal and mass appraisal assignments** involving **real property, or 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. (USPAP Advisory Opinions 2010-2011 Edition, p. A-102)*



B. Issues addressed by the ASB in this Advisory Opinion include:

- Application of Standards
- Identification of Intended Users
- Scope of Work
- Reporting
- Workfile Requirements
- JURISDICTIONAL EXCEPTION RULE
- Illustrations

# Appendix

## Module 3: USPAP Definitions – Case Examples

### Case Example: Who is the Client? #1

**SCENARIO:** An appraiser has received and accepted an assignment from a lender to appraise a residential dwelling that is being refinanced. As part of the arrangement, the appraiser receives payment for his services from the homeowner.

Who is the client in this situation?

**ANALYSIS:** The lender is the client as they engaged the appraiser. The DEFINITIONS of USPAP define the client, in part, as *the party or parties who engage an appraiser (by employment or contract) in a specific assignment*. Payment by the homeowner does not make the homeowner the client or part of the appraiser-client relationship.

### Case Example: Who is the Client? #2

**SCENARIO:** Frequently, appraisers receive assignments for lenders through appraisal management companies. An appraisal management company (AMC) informs the appraiser that, for the assignment being offered, the lender is the client and that they have the lender's authorization to engage the appraiser's services.

Can the appraiser consider the lender the client since he has had no communication with, or been directly engaged by them?

**ANALYSIS:** Yes. As long as the appraisal management company is acting as the lender's authorized representative, the appraiser may consider the lender as the client. The DEFINITIONS of USPAP define the client, in part, as *the party or parties who engage an appraiser (by employment or contract) in a specific assignment*. In this case, the appraisal management company was acting as the lender's authorized representative.

## Case Example: Intended Use and Intended User

**SCENARIO:** A lender, who was the client in a recently completed assignment performed by an appraiser for a purchase transaction, has provided a copy of the appraisal report to the homeowner's accountant for accounting purposes.

Does receiving a copy of the report from the client allow the accountant to be considered an intended user and the accounting purpose an intended use?

**ANALYSIS:** No. The intended use and the intended user are identified by the appraiser at the time of the assignment during problem identification. Once the assignment has been completed, intended users and intended uses cannot be added or changed.

## Case Example: Extraordinary Assumption vs. Hypothetical Condition #1

**SCENARIO:** At the time of an appraiser's inspection of a residential property, the utilities servicing the home are shut off. However, all visible mechanical components in the two-year-old home appear to be in good condition.

Should the appraiser base his conclusions on an extraordinary assumption or a hypothetical condition?

**ANALYSIS:** In this situation, the appraiser could base his conclusion by using an extraordinary assumption. An extraordinary assumption is used in a specific assignment when the appraiser has a reasonable basis for his belief that the systems are in good operating condition, but it is not certain. In this case, the systems are in place and they outwardly appear to be in good condition and not very old, but the operating condition is something about which the appraiser is not certain.

The appraiser is basing his conclusions on the extraordinary assumption that the systems are in satisfactory operating condition. The use of extraordinary assumptions in the assignment must be stated in the appraisal report in connection with the appraiser's opinion of value with further disclosure that their use may have affected the assignment results.

## Case Example: Extraordinary Assumption vs. Hypothetical Condition #2

**SCENARIO:** At the time of an appraiser's inspection of a residential property, the heating and cooling system and water heater had been removed from the house. However, the client in the transaction has specified that the value opinion by the appraiser be considered as if the components had been replaced and currently in satisfactory working order.

Should the appraiser base his conclusions on an extraordinary assumption or a hypothetical condition?

**ANALYSIS:** Since the appraiser knows the circumstances of the heating and cooling system and the water heater are not currently as they are being considered on the effective date of the appraisal, he is basing his conclusions on a hypothetical condition.

A hypothetical condition is something that the appraiser knows to be false, but he is considering it as being true on the effective date of the appraisal for the purpose of obtaining credible results.

## Case Example: Valuation Services vs. Appraisal Practice

**SCENARIO:** John is both a real property appraiser and an attorney. He has been offered an estate settlement case that will include completion and filing of legal documents with the courts as well as an appraisal of the real property owned by the decedents. The executor of the estate hired John due to his expertise as an appraiser as well as an attorney.

Since John is functioning in two roles, is he providing a valuation service or appraisal practice?

**ANALYSIS:** Since the expectation by the executor of the estate was that John will act as an appraiser, it is a valuation service for which the Standards requirements for a real property appraisal would be applicable. In appraisal practice, John must be cautious not to be biased in his conclusions and not to advocate in performing the appraisal. If his role as an appraiser would require advocacy, he cannot accept the assignment.

## Module 4: PREAMBLE and When USPAP Applies – Case Examples

### Case Example: Providing a Valuation Service as an Appraiser

**SCENARIO:** Marty, a real property appraiser, is performing a valuation service for a client by supplying factual data in order to assist an attorney with certain information necessary for a court proceeding. The service does not include advocacy and he is being paid a flat fee for his services regardless of the outcome of the proceeding.

Does Marty need to follow USPAP?

**ANALYSIS:** Yes. The service described is considered a valuation service that is appraisal practice, since the appraiser is being recognized in that role. The particular service that Marty is providing would not have record keeping or workfile requirements; however, he would be obligated to comply with the Conduct, Management, and Confidentiality sections of the ETHICS RULE. In addition, Marty must comply with the DEFINITIONS, Preamble, COMPETENCY RULE, and JURISDICTIONAL EXCEPTION RULE. The case scenario specifies that Marty is providing factual data, and therefore, is not performing an appraisal, appraisal review, or appraisal consulting assignment, so no performance STANDARDS (1-10) would apply.

### Case Example: Which Hat is Being Worn?

**SCENARIO:** Bob provides real estate brokerage and appraisal services. He has been contacted by a former real estate client to list a property that the broker sold to him several years ago. The former real estate client is not aware that Bob also provides appraisal services. The property owner would like him to provide a market analysis to assist with determining what price he might list his property.

Can Bob provide this service as a real estate broker? Can the service be considered a valuation service, or must it be considered appraisal practice?

**ANALYSIS:** As long as Bob does not misrepresent his role, he can provide a market analysis to assist with the listing price of the property as a valuation service outside of appraisal practice, since the property owner was not aware that Bob also provides services as an appraiser. In this case, there is no expectation on the part of the property owner for Bob to perform in the role of an appraiser. Bob should make certain to identify the capacity in which he is performing.

## Case Example: Advocating for the Client

**SCENARIO:** A real property appraiser has been engaged to provide his services in a litigation matter. The appraiser's role is not to provide a value opinion but rather to assist the client's attorney in strategizing cross examination questions, which will produce results that will favor the cause of the client.

Can the appraiser provide this service and still comply with USPAP?

**ANALYSIS:** No. The service described in this scenario would be considered a valuation service that is appraisal practice, since the appraiser is being recognized in that role. When performing a service such as this, which has no particular development or reporting standards, portions of USPAP still apply. Applicable are the DEFINITIONS, PREAMBLE, ETHICS RULE (except the Record Keeping section), COMPETENCY RULE, and JURISDICTIONAL EXCEPTION RULE. In this scenario, the appraiser is expected to advocate, since the service being performed is intended to produce results that will favor the cause of the client. This practice would not be compliant with the Conduct section of the ETHICS RULE. A party acting in the role of an appraiser can never advocate.

## Case Example: Preliminary Appraisals and/or Comp Checks

**SCENARIO:** A phone call has just been received by a real property appraiser from an out-of-town lender who is in the process of taking a loan application for a property in the appraiser's local service area. The lender provides the appraiser with the property address, a brief description of the property, and a value estimate that must be met in order to facilitate the loan. The lender then asks the appraiser if data is available to support the value estimate.

Since the lender is only asking about data and is not pressing the appraiser for a specific value opinion, must this request be considered a request for an appraisal?

**ANALYSIS:** Yes. The appraiser is choosing data influenced by the property's characteristics and/or the predetermined value of the property that is being sought. The appraiser's expression of where the subject property's value is positioned in relation to the data chosen by the appraiser would constitute a value opinion, which is an appraisal. In this case, the appraiser's response that the value estimate could or could not be supported is a value opinion expressed as a relationship to a monetary benchmark, which would be an appraisal. However, if the lender was only asking for the appraiser to provide factual comp data from the subject's neighborhood without the appraiser "filtering" the data and using his judgment as to how the comp data relates to the subject property resulting in a value opinion by the appraiser, the appraiser could consider this service appraisal practice where no specific performance standards apply.

In appraisal practice where no applicable performance (development or reporting) standards apply, there is also no record keeping/workfile or scope of work required.

## Module 5: ETHICS RULE and COMPETENCY RULE – Case Examples

### Case Example: Assignment Conditions

**SCENARIO:** A real property appraiser has been asked by a local lender to perform an appraisal of a vacant land parcel for the purpose of determining a market value. The intended use of the appraisal is for mortgage finance purposes in a sales transaction. The land parcel is being sold by a parent to one of her children. The lender has been provided with a previous appraisal of the property performed by an appraiser who was engaged by the property owner. The lender tells the appraiser that the present transaction price, between parent and child, is for an amount that is about one-half of the value indication concluded by the appraiser in that assignment.

The lender informs the appraiser that although his analysis may indicate a value opinion greater than the contract sale price, the lender's policies prohibit the appraised value in this assignment being more than 5% higher than the contract sale price as this tends to signal red flags to underwriters. The appraiser accepts and completes the assignment with this condition.

Has the appraiser failed to comply with USPAP?

**ANALYSIS:** Yes. In this case, the appraiser has accepted an assignment with unacceptable assignment conditions. The limitations placed on the appraiser have compromised the appraiser's independence and may not allow for the appraiser to develop an unbiased value opinion. Staying within "5% of the contract sale price" simply to satisfy the lender's underwriting criteria when the appraiser's unbiased value opinion is actually greater than that would be a violation of the ETHICS RULE, which requires (in part) an appraiser to perform assignments ethically and competently, and to not produce a misleading or fraudulent report. In addition, the appraiser's signed certification required by Standards Rule 2-3 acknowledges that the conclusions within the report are his personal unbiased opinions and conclusions.

### Case Example: Reporting Neighborhood Property Value

**SCENARIO:** Many, if not most, of a residential appraiser's assignments are for use in a mortgage finance transaction. Nearly all of the appraisals for use in facilitating these transactions require the use of specific forms that are provided in most appraisal software programs. One of the questions common to these forms regards neighborhood property values and asks the appraiser to indicate if values are increasing, stable, or declining. Many appraisers report they have been admonished by clients in such work to never check "declining," even when this is the case, and that unless "stable" or "increasing" is checked, the appraisal is of no use to them.

Since this is at the direction of the client and could result in loss of their future business, is this a violation of USPAP?

**ANALYSIS:** Yes. There are several issues here. If the appraiser is being directed by the client as an assignment condition to specifically instruct that conclusions be reported in a particular manner, even if it results in a false statement by the appraiser, this precludes the appraiser's independence, is an unacceptable assignment condition, and is a violation of the Conduct section of the ETHICS RULE. As well, the appraiser's false statement, whether intentional or due to negligence, is also a violation of the ETHICS RULE.

Further, when the state of property values within a neighborhood (or any other element for that matter) are represented differently from that which actually exists, a misleading report results, which is in violation of Standards Rule 2-1(a).

### **Case Example: Requirement to Disclose Prior Service**

**SCENARIO:** John, a real property appraiser, appraised a high-end residential property two years ago. He was engaged in the assignment by the property's owner, a high profile individual. At the time of the assignment, the property owner required John to sign a confidentiality agreement with several prohibitions, including disclosure of the fact that John had appraised the property, for a period of five years. John is offered an appraisal assignment of the property by a national bank.

Can John accept the assignment for a different client?

**ANALYSIS:** If the confidentiality agreement entered into with the property owner would preclude John from including a statement in his certification stating that he had previously appraised the subject property in the prior three years, John cannot accept the assignment. Client agreements can differ, and depending on the wording of a specific agreement and the elements that are agreed to be kept confidential, the ability to appraise a property within the three-year period may be different.

### **Case Example: Disclosure of Payments by the Appraiser**

**SCENARIO:** As a condition of receiving an assignment from a client, Helen gave the client two tickets to the opera. The client attended the opera, and the following week Helen completed her assignment for the client, but she didn't discuss the tickets in the certification.

Was this acceptable under USPAP?

**ANALYSIS:** No. The Management section of the ETHICS RULE obligates an appraiser to disclose any fees, commissions, or things of value paid in the procurement of an assignment in the certification and any letter of transmittal in which conclusions are stated. The opera tickets are a thing of value paid to the client in connection with the procurement of an assignment. The value of the tickets, however, does not require disclosure.



## Case Example: Assignment Conditions in a Real Property Appraisal

**SCENARIO:** A real property appraiser has just received an appraisal request that includes the direction to call the lender immediately after inspecting the property if the value indicated on the request cannot be met. The appraiser recognizes that the instruction is unacceptable. He accepts the assignment with the intention of ignoring the instruction and completing the assignment.

Is this in compliance with USPAP?

**ANALYSIS:** No. An appraiser may not accept an assignment with unacceptable assignment conditions. The client is asking for an opinion of value that can only be expressed by the appraiser after the requirements of the applicable development Standard, in this case STANDARD 1, have been met. Expressing an opinion about the value of the property prematurely, or that the property can be appraised for an indicated value, would not be in compliance.

Both the Conduct section and the Management section of the ETHICS RULE prohibit appraisers from accepting an assignment with unacceptable assignment conditions.

The SCOPE OF WORK RULE requires appraisers, in part, to *determine and perform the scope of work necessary to develop credible assignment results*. (USPAP 2010-2011 Edition, p. U-13)

ADVISORY OPINION 19 offers significant advice from the Appraisal Standards Board and provides illustration.

## Case Example: Confidentiality About Property Condition

**SCENARIO:** In the course of inspecting a subject property for an appraisal being performed for a lender-client, the homeowner has asked the appraiser to keep confidential certain information about the condition of the property in the appraisal report to the lender.

Can the appraiser treat this information as confidential?

**ANALYSIS:** No. The homeowner in this case is not part of the appraiser-client relationship. In fact, failing to disclose certain, pertinent information to the lender-client would not be in compliance and would produce a misleading report.

## Case Example: Confidentiality in Subsequent Assignments

**SCENARIO:** An appraisal report of a residential property has just been completed by a real property appraiser for the Apex Bank. The next day, after submitting the appraisal report to Apex Bank, the appraiser receives an appraisal request for the same property from Sunbridge Bank. The appraiser informs Sunbridge that he has recently performed an appraisal of the property for Apex Bank, and that he would need a release from them or he cannot accept the assignment.

Can the appraiser accept the assignment?

**ANALYSIS:** The appraiser could accept the assignment (as a new assignment) as long as proper disclosure is made regarding the prior assignment as required by the Conduct section of the ETHICS RULE and any confidential information is handled appropriately. If the appraiser had agreed with the client in the prior assignment to not disclose that he had performed the appraisal, the appraiser could not accept this assignment. Given no such agreement was made, accepting an assignment to appraise a property that has already been appraised for another party is not prohibited by USPAP. In addition, USPAP does not require a release nor consent from the party for which the property was originally appraised (in some cases, informing the first client that the property is being appraised for another client or that the property has been previously appraised for another client could be in violation of the Confidentiality section of the ETHICS RULE).

ADVISORY OPINION 27 states, in part: *Accepting the assignment from the subsequent prospective client is not prohibited by USPAP, assuming appropriate disclosure is made to the client before being engaged and any existing confidential information is handled properly.* (USPAP 2010-2011 Edition, p. A-91)

AO-27 also states: *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.* (USPAP 2010-2011 Edition, p. A-92)

## Case Example: Who May Have Access to Information

**SCENARIO:** Barry, an appraiser, has applied for a professional designation of a major appraisal organization. As part of the approval process, Barry must submit sample appraisals reports for review by the designation committee of the organization. The committee is comprised of appraisers.

Can Barry comply with USPAP and supply the sample reports?

**ANALYSIS:** Yes. The Confidentiality section of the ETHICS RULE specifies (in part) that confidential information may be disclosed to professional peer review committees, unless if it would violate law or regulation. Since the committee in this case consists of other appraisers who are functioning on behalf of a professional appraisal organization, the sample reports could be submitted. However, the committee members must not disclose confidential information that has been submitted to the committee.

## Case Example: Geographic and Market Trends

**SCENARIO:** A Certified General Appraiser has been asked by one of his regular lender-clients to perform an appraisal of the real property interests for a chain of five auto parts stores. The stores are all owned by the same borrower. The appraisal is to be performed to establish a current opinion of market value for use in facilitating a mortgage finance transaction being secured by all five real properties.

Four of the stores are located within the appraiser's standard market service area for which he has had significant experience and stored data. The fifth store, however, is located approximately 100 miles away. The appraiser has never worked in this area, nor does he have any knowledge of the market in this particular section of the state. The prospective lender-client, having been advised by the appraiser of his lack of knowledge and experience, expresses his confidence in the appraiser's ability to acquire market intelligence and complete the assignment. According to the lender-client, this property couldn't be much different from the other near-identical stores in the appraiser's market area.

Prior to the appraiser's site visit, he obtains traffic counts for the busy primary thoroughfare on which the subject is located, as well as the property's legal description, and zoning and use information. In addition, the appraiser obtains demographic and economic data from local, regional, and national sources. Comparable sales and income data were compiled through local real estate brokers, although most of the data is between two to four years old.

As the demographics and physical characteristics of the market appear to be very similar to the appraiser's local market, he applies a market condition adjustment, derived from his local market, to the sales data from the subject market. However, the appraiser fails to recognize that a planned bypass thoroughfare of the city, which will open in the coming months, is expected to reduce traffic by 75% on the current highly exposed and traveled street. Further, the appraiser does not take note of, and thus, does not analyze the current high level of vacancies and listed commercial properties on the street, due to the anticipated traffic reduction, which should be considered in the market analysis, particularly as it applies to the income approach.

Has the appraiser complied with the requirements of the COMPETENCY RULE of USPAP?

**ANALYSIS:** No. While the appraiser did disclose the lack of competency prior to accepting the assignment, he failed to take all steps necessary to gain full market competency. Market competency could have been gained through time commitment, seeking knowledge on all aspects of the market, or affiliation with another appraiser who is competent in the market. This example does not expound on the various reporting obligations; however, the lack of competency must be described in the report along with the steps taken to gain competency to complete the assignment. In the end, the lack of diligence caused the appraiser to overlook the significant forthcoming change in characteristics of the subject area and the vacancy and supply/demand issues.

The scenario does not indicate the scope of work in the assignment, nor specify the steps the appraiser took during analysis to determine a market condition adjustment warranted by the local sales data. But, deriving a market condition adjustment from the appraiser's local market, rather than the subject market as a shortcut using subjectivity, would not be compliant. As well, the changing market conditions of the subject's market must be addressed and the decision as whether to make or not make an adjustment should be fully supported.

**Note:** It should be specifically noted that the scenario could have other issues related to USPAP compliance that cannot be determined from the information provided.

In addition, the Conduct section of the ETHICS RULE requires (in part) the appraiser to perform assignments ethically and competently and to not communicate assignment results in a manner that is misleading.

## **Case Example: COMPETENCY RULE**

**SCENARIO:** Jane, a real property appraiser, has been offered the opportunity for an appraisal assignment for which the date of the report is retrospective to an effective date prior to her becoming an appraiser.

In compliance with the COMPETENCY RULE, can Jane accept the assignment since she wasn't an appraiser on the effective date specified in the assignment?

**ANALYSIS:** As long as Jane complies with the COMPETENCY RULE at the time of development of the appraisal, the retrospective effective date is of no consequence. Competency is required **at the time of the assignment**. Therefore, Jane may accept the assignment as long as she is competent in developing her opinions and conclusions (i.e. analysis of market conditions and market data) in the retrospective scenario.

## Module 6: SCOPE OF WORK RULE and JURISDICTIONAL EXCEPTION RULE – Case Examples

### Case Example: Appraiser's Peers

**SCENARIO:** Julie has accepted an assignment for an appraisal of real property that is located within her market area. Due to its high cost, Julie does not subscribe to a regional database containing real estate listings and transfer information used by other appraisers in her market. Julie's scope of work in this assignment includes only gathering data provided by a source that is free of charge, which is what she does in all other assignments. The service offers only limited real estate transfer information, which is known to be substantially less detailed and accurate.

Is Julie's scope of work in this assignment acceptable?

**ANALYSIS:** Assuming that the other appraisers in her market had expertise and competency to perform this assignment, Julie's planned scope of work is not acceptable. Not using or having access to a data source regularly used by other appraiser's who would be considered the appraiser's peers in the same or similar type of assignment is not acceptable. The appraiser must be able to support the decision to exclude any information, method, or technique that would appear to be relevant to the appraiser's peers. The affordability of the information source would not support its exclusion. As well, those who are regularly intended users in a similar assignment likely have an expectation that data will be gathered from the regional database.

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.

### Case Example: Information Discovered During the Assignment

**SCENARIO:** Chris has accepted an assignment from a local lender to appraise a single-family home located in a rural area of his market. The lender has requested a drive-by appraisal and has further indicated that the appraisal must meet the appraisal guidelines of Fannie Mae. Upon obtaining the county's assessment records for the property, Chris realizes that the subject is actually a manufactured dwelling, which is obvious upon Chris's drive-by of the property.

Does this fact change the scope of work in the assignment?

**ANALYSIS:** Yes, the scope of work has changed. Appraisers, as indicated by the COMPETENCY RULE, must recognize and comply with all laws and regulations applicable to an assignment. In this case, Fannie Mae requires the scope of work for manufactured dwellings to include both an interior and exterior inspection. As well, analysis of specified data and employment of specified methods must follow. Therefore, the scope of work originally planned has changed due to the relevant property characteristics realized within the course of the assignment. An appraiser must withdraw from the assignment unless the scope of work can be changed, which in this case would include inspecting the interior of the property in order to be in compliance with Fannie Mae's regulations and guidelines. An extraordinary assumption could not be used in this assignment since a full interior and exterior inspection is required by Fannie Mae.

### **Case Example: Assignment Conditions Affecting the Scope of Work**

**SCENARIO:** A lender-client has engaged a real property appraiser to perform an appraisal assignment with the direction to only perform an exterior inspection. The appraiser agrees.

Does the assignment condition of requiring the appraiser to only inspect the exterior of the subject property affect the scope of work in the assignment?

**ANALYSIS:** Yes. Assignment conditions are part of the elements of problem identification, which lead to the appraiser's scope of work decision. When the appraiser forms the scope of work decision, he must be confident of credible assignment results for the intended use and the intended user(s) of the appraisal. If the lender's specified inspection would not produce credible results, then the appraiser must not accept the assignment with that condition.

If the appraiser has reasonable confidence that credible assignment results can be obtained by complying with the lender's request but later finds circumstances, such as the relevant property characteristics, that would limit the appraiser's ability to produce credible results, the appraiser must withdraw from the assignment unless the scope of work can be changed. In this case, that might be extending the inspection to include the interior of the property. Another option for the appraiser, as an alternative to an interior inspection, would be to use an extraordinary assumption, if its use would be reasonable and credible results could still be obtained.

## Case Example: Application of Jurisdictional Exception

**SCENARIO:** A bank officer has informed a real property appraiser that since his bank is federally insured, he has the authority to invoke the JURISDICTIONAL EXCEPTION RULE and require the appraiser to limit his property inspection to “exterior only” in all assignments from that institution.

Is this a proper application of the JURISDICTIONAL EXCEPTION RULE?

**ANALYSIS:** No. The JURISDICTIONAL EXCEPTION RULE is used when one or more parts of USPAP, but not USPAP as a whole, conflict with law or public policy in a particular jurisdiction. In other words, the JURISDICTIONAL EXCEPTION RULE allows part or parts of USPAP to be diminished while preserving the remainder. The bank officer is not in a position to invoke the Rule as neither he nor the bank can establish law or public policy.

When the JURISDICTIONAL EXCEPTION RULE is invoked, it is the sole responsibility of the appraiser to determine if the use of the Rule is appropriate. The appraiser must disclose the legal authority justifying the exemption and identify the part or parts of USPAP that are conflicting with the law. The level of inspection of a property is a scope of work decision determined by the elements in problem identification.

## Module 7: STANDARD 1: Real Property Appraisal, Development – Case Examples

### Case Example: Intended Use

**SCENARIO:** An appraiser has been contacted by a property owner who wishes to engage her services to perform an appraisal of the property owner's home. The appraiser has inquired as to the property owner's intended use of the appraisal. The property owner, who is slightly irritated by the appraiser's inquiry, has refused to provide any further information to the appraiser, stating that he just wants an appraisal and that it should not matter to the appraiser how he intends to use it.

Since the appraiser asked for the information and the property owner has refused, can the appraiser accept the assignment in be in compliance with STANDARD 1?

**ANALYSIS:** No. Standards Rule 1-2(b) requires the appraiser to identify the intended use of the appraiser's opinions and conclusions. As well, the SCOPE OF WORK RULE requires this information as part of the problem identification. The intended use determined in problem identification plays a key role in determining the scope of work to be performed.

Intended use is also a primary indicator of the reporting option chosen by the appraiser and will be discussed later in STANDARD 2.

### Case Example: Due Diligence and Due Care

**SCENARIO:** Jennifer is appraising a vacant site in a subdivision. There are several private limitations on the particular parcel's use, which are recited in the subdivision plat located in the public records. The limitations severely affect the use of and the marketability of the subject parcel and are not common to other parcels in the subdivision. However, Jennifer did not reference the records and is not aware of the limitations; thus, she did not consider the effect of the provisions in her valuation analysis.

Since Jennifer was not aware of the limitations, has she violated Standard 1?



**ANALYSIS:** Standard 1 obligates appraisers to not render appraisal services in a careless or negligent manner and to use diligence and due care in providing their services. Jennifer has made an error of omission. While unintentional, Standards Rule 1-2(e) requires identification of the relevant property characteristics, which include the legal attributes of the property. The fact that the information was available to her and she failed to reference the information demonstrates a lack of diligence and due care.

As well, portions of the Conduct section of the ETHICS RULE requiring competent performance and prohibiting communication that is misleading or in a fraudulent manner are relevant in this scenario. Jennifer's omission of this important information, even though unintentional, would lead to a misleading report. Portions of the COMPETENCY RULE and the SCOPE OF WORK RULE are also at issue.

### **Case Example: Information to Identify Relevant Characteristics**

**SCENARIO:** Jessie has been contacted by a local lender, a national bank, to perform an appraisal of a proposed new construction of a residential dwelling. The bank has provided Jessie a complete set of blueprints for the proposed dwelling with detailed specifications regarding the construction. She has also been provided with the legal description of the building site, including a survey map. The bank, however, is unable to furnish a materials list that would detail the structure's interior and exterior finish materials, such as cabinetry, floor coverings, exterior surface and finishes, etc., as the borrower has not yet decided on these details.

Can Jessie accept and complete the assignment absent this information and be in compliance with STANDARD 1?

**ANALYSIS:** Standards Rule 1-2(e)(i) requires an appraiser to identify the physical attributes of the property. The Comment to Standards Rule 1-2(e) elaborates that when the subject in the assignment is a proposed construction, *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.*

In most all cases, details regarding the interior and exterior finishes to the extent of cabinetry, floor coverings, and exterior finishes play a significant role in the quality of the completed improvements and ultimately, the appraiser's value opinion. Without this vital information, it is likely that credible assignment results could not be achieved and that the resulting report would be misleading.

In some cases, an extraordinary assumption might be used regarding the finish information if its use would lead to credible results. However, finish materials could lead to broad differences in the appraiser's value conclusion and the appraiser must determine if there is a reasonable basis for using an extraordinary assumption in a situation such as this.

## Case Example: Subject is a Fractional Interest

**SCENARIO:** Carolyn is a real property appraiser who specializes in litigation work. She has been contacted by a regular client, a local attorney, who is seeking an appraisal to assist in a divorce case. The attorney has asked Carolyn to provide a value for the husband's undivided one-half interest in the couple's home and also a separate value for the wife's undivided one-half interest. The attorney has expressed that the value would be "market value" but that the value opinions expressed would be for a buyout of one party's interest by the other party. The couple may also, if an agreement cannot be reached for a buy-out, place the property on the market. If that's the case, they would like an opinion of what the property should sell for on the open market.

What are Carolyn's responsibilities in this assignment?

**ANALYSIS:** Carolyn is being asked to appraise a fractional interest. What the husband would pay the wife to buy out her interest or what the wife would pay the husband to buy out his interest cannot necessarily be added together to determine what the property should sell for on the open market. It appears that the attorney's use of "market value" may be custom in nature—the market for the fractional interest being the other co-owner. On the other hand, what a buyer would pay for the whole property on the open market is a different definition of market value. The Comment to Standards Rule 1-2(e) states that *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.*

Standards Rule 1-4(e) further elaborates that *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.*

The Comment to Standards Rule 1-4(e) expands on the topic by stating:

*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.*

Therefore, Carolyn must not simply divide the market value of the whole in order to conclude a value opinion for either of the party's undivided one-half interest or add the sum of the value of each undivided one-half interest to conclude the value of the whole without testing each value to the market for relevance.

## Case Example: Deed in Lieu of Foreclosure

**SCENARIO:** Given the recent economic climate, many properties owners have voluntarily deeded their property back to the lender to escape from the loan obligation. Jerry is performing an appraisal in which the subject property was exposed to such a voluntary transfer last year.

Since this wasn't an actual sale of the property, does Jerry consider this as a sale occurring within the three years prior to the effective date of the appraisal he is performing?

**ANALYSIS:** Standards Rule 1-5(b) requires the appraiser to: *analyze all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.*

Advisory Opinion 4 offers further illustration of the issue when it states (in part): *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.* (USPAP Advisory Opinions 2010-2011, p. A-10)

Therefore, Jerry must analyze the transfer. His conclusion will most likely indicate that the transfer does not reflect typical market actions and is irrelevant.

## Module 8: STANDARD 2: Real Property Appraisal, Reporting – Case Examples

### Case Example: Report Label and Content Level

**SCENARIO:** Stephanie, a real property appraiser, has completed her appraisal report for a multi-million dollar property. The appraisal will be used in a federally-related finance transaction. Based on the intended use and intended user in the assignment, Stephanie has decided that a Self-Contained Appraisal Report in narrative format is appropriate, which she has verbally communicated to the client. However, the appraisal report is labeled only as a “narrative” appraisal report.

In completing her report, Stephanie was very detailed in describing the real estate involved, scope of work, information that was analyzed, etc. However, her opinion of highest and best use was briefly stated with no discussion supporting the rationale for that decision.

Has Stephanie failed to comply with Standards Rule 2-2?

**ANALYSIS:** Yes. Standards Rule 2-2 requires an appraiser to prominently state in the report which reporting option is being used. An appraiser may use any other label in addition to, but not in place of, the label of Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report. Stephanie failed to comply with this requirement when she used only the label of “narrative” report. If it was her intention to provide a Self-Contained appraisal report, the report could have been labeled Self-Contained Appraisal Report in Narrative Format, or something similar, to have complied with the Standards Rule.

However, even though the level of detail of most of the elements of reporting were consistent with the level of a Self-Contained Appraisal Report, the level of stating her opinion of highest and best use, with no discussion supporting the rationale for the opinion, was consistent with the level of a Restricted Use Appraisal Report. Thus, the level of content for the entire report is reduced to that expected in a Restricted Use Appraisal Report, and therefore, would have conflicted with the necessary level determined appropriate for the intended use and the intended user.

## Case Example: Reporting Significant Assistance in the Report

**SCENARIO:** Jarrod Smith is a trainee with limited experience, and therefore, is not signing the certification in any assignment for which he provides significant assistance. In the most recent assignment for which he provided assistance, his supervisory appraiser permitted him to gather data for the subject property, choose comparable properties that were used in the sales comparison analysis, and reconcile the conclusions leading to the final opinion of value; an opinion with which his supervisory appraiser agreed.

The resulting Summary Appraisal Report included a statement where Jarrod had provided “significant professional assistance in various phases of the appraisal process.” The certification only disclosed Jarrod’s assistance.

Is the disclosure in the report and the certification sufficient for compliance with Standards Rule 2-2?

**ANALYSIS:** No. While the disclosure in the certification was sufficient to fulfill the requirements of Standards Rule 2-2 and 2-3, merely including a broad statement of “significant professional assistance in various phases of the appraisal process” did not meet the disclosure requirements for a Summary Appraisal Report. Standards Rule 2-2(b)(vii) requires that a Summary Appraisal Report summarize the extent of the assistance, and therefore, the disclosure did not maintain the level of detail that should have been included.

An example of a more appropriate statement might be: **Jarrod Smith provided significant professional appraisal assistance in this appraisal assignment which included gathering data for the subject property, choosing comparable properties that were used in the sales comparison analysis, and reconciliation of the conclusions.**

## Case Example: Certification - Physical Inspection

**SCENARIO:** Tony is a registered appraisal assistant with nearly enough experience hours to meet the experience requirements for his anticipated residential appraiser credential. Tony’s supervisory appraiser has been allowing him to inspect properties on his own for almost a year. Recently, Tony has been given an assignment involving a proposed new construction project of a single-family residence. The lender/client in the assignment has specified that the supervisory appraiser must physically inspect the subject property. Tony personally visits the site for the proposed new construction and takes numerous photographs and notes about the site.

If the supervisory appraiser reviews the photographs taken by Tony, survey and topography maps, and aerial photos of the site maintained by the taxing authority, is this sufficient for Tony’s supervisory appraiser to indicate in the certification that he physically inspected the property?

**ANALYSIS:** No. If the supervisory appraiser indicated in the statement in the certification that he made a personal inspection of the property but instead only viewed photographs and other documents, his statement would be fraudulent and misleading, as inspecting photographs and other documents is not the same as a physical inspection of the property.

The Conduct section of the ETHICS RULE states, in part, that an appraiser *must not communicate assignment results with the intent to mislead or to defraud; must not use or communicate a report that is known by the appraiser to be misleading or fraudulent; must not knowingly permit an employee or other person to communicate a misleading or fraudulent report...* (USPAP 2010-2011 Edition, p. U-7)

Misrepresenting that the supervisory appraiser had physically inspected the property when, in actuality, he had only inspected photographs taken by others and documents to assist in identifying the characteristics of the property would be a violation of this portion of the ETHICS RULE. USPAP allows for many different sources to be used to identify property. However, if an appraiser states in the certification or any other part of a report that he or she has physically inspected the property when, in fact, the inspection was limited to physical inspection of photographs and documents, the report is misleading.

Frequently Asked Question 146 illustrates a similar scenario.

## **Module 9: STANDARD 3: Appraisal Review, Development, and Reporting – Case Examples**

### **Case Example: STANDARD 3**

**SCENARIO:** Bradley has been asked to perform an appraisal review assignment of an appraisal that was completed by another real property appraiser. The subject property is located in Bradley's local market area. As part of the assignment, he has been asked by the client to state whether or not he agrees with the opinion of value found in the original report.

If Bradley disagrees with the value opinion the original appraiser expressed, what does he need to do in order to be compliant with STANDARD 3 in forming his opinions regarding value?

**ANALYSIS:** Any opinions expressed by the review appraiser regarding the opinion of value stated in the appraisal being reviewed must be in compliance with the applicable development Standard. Since Bradley is performing a real property appraisal review, the applicable development Standard that must be followed in this case is STANDARD 1.

## Module 10: STANDARDS 4-10 – Case Examples

### Case Example: Highest and Best Use

**SCENARIO:** Reggie has accepted an assignment, for use by the property owner, to recommend the ideal improvement for a currently unimproved vacant parcel. The zoning of the parcel would allow for a variety of uses for the subject site—including use for construction of an apartment building, office building, or a light retail strip mall. The property owner has asked Reggie to provide a value opinion as improved for each proposed use and, in his conclusions, indicate which improvement should be built.

May the request be considered a real property appraisal consulting assignment? To fulfill the client's request, what must Reggie do?

**ANALYSIS:** This is a classic example of a real property appraisal consulting assignment. Before providing a recommendation of the ideal improvement that should be built, and based on the scope of work in this assignment, Reggie must develop value opinions (appraisals) for each use in order to make the recommendation (this is called the result in the appraisal consulting assignment).

The purpose of this assignment (the result) is to express a recommendation of which improvement should be built based on the value opinions that were a component of the analysis.

Specific compliance requirements for development in a real property appraisal consulting assignment will be discussed later in this module.

### Case Example: Applicable Development and Reporting Standards

**SCENARIO:** A property owner who is considering development of a vacant parcel of land he currently owns has engaged an appraiser to perform a real property consulting assignment. The property owner is interested in constructing a building containing office condominiums on the property and has asked the appraiser to develop a recommendation as to the ideal unit mix that would be absorbed most quickly. In addition, the property owner wants the appraiser to develop an opinion of market value for three different size units.

Which Standards apply in this assignment?



**ANALYSIS:** The appraiser must develop his opinion of value for the three different size units in accordance with STANDARD 1, and communicate the opinions in compliance with Standards Rule 5-2(g). The portion of the assignment for which the appraiser is expressing a recommended unit mix is a real property appraisal consulting assignment that must be developed according to STANDARD 4 and reported in compliance with STANDARD 5.

### **Case Example: Appraisal of a Single-Property for Ad Valorem Use**

**SCENARIO:** A real property appraiser who specializes in ad valorem taxation issues has been engaged in an assignment by the county tax assessor's office. A large manufacturing firm has announced plans to build a multi-million dollar industrial plant that will significantly affect tax revenues once completed. The appraiser has been asked to develop an opinion of market value for the facility, once completed, so that the tax assessor may project the tax revenues for future budgeting.

Since the assignment is being completed for ad valorem purposes, is the assignment considered a mass appraisal assignment under STANDARD 6?

**ANALYSIS:** No. A mass appraisal always has as its subject more than one property. In this example, since the subject of the assignment is a single property, STANDARD 1 would apply in the development of the appraiser's opinions and conclusions, and STANDARD 2 would apply for communicating the assignment results.

### **Case Example: Market Value and Personal Property**

**SCENARIO:** A real property appraiser occasionally accepts personal property appraisal assignments for vintage automobiles. He has recently been engaged to perform an appraisal for an automobile type with which he is quite familiar. Since the appraiser is an avid collector and has extensive buying and selling experience with this particular automobile, he feels he is competent to perform the assignment.

In developing his value opinion in the assignment, the appraiser researches sales of similar autos in his particular market and states the value conclusions simply as a market value without any further discussion.

Has the appraiser complied with STANDARDS 7 and 8?

**ANALYSIS:** From the information given in the scenario, it cannot be determined whether or not a market value within the appraiser's local market was identified in problem identification and deemed appropriate in the scope of work. Standards Rule 7-1(c) requires identification of the type and definition of value in the assignment. Standards Rule 7-3(b) obligates the appraiser to define and analyze the appropriate market consistent with the type and definition of value. The Comment to Standards Rule 7-3 requires the appraiser to recognize that there are distinct levels of trade and each may generate its own data. Therefore, the appraiser must analyze the subject property within the correct market context. If the appraiser's local market was specified in problem identification, then the appraiser's action in development of his opinions was likely appropriate. However, if the vintage automobile could have a different value in different markets or locations, the appraiser may not have been in compliance with the development Standard and an opinion of the specified market or market level where the automobile would generate this particular market value should have been developed.

Likewise, STANDARD 8 must describe, summarize, or state (depending on the reporting option) the support and rationale for the appraiser's opinion of appropriate market or market level that was developed in the assignment.

### **Case Example: Analysis and Reporting of Liquidity**

**SCENARIO:** Joseph has recently completed an appraisal of a minority stockholder's interest in a business enterprise. The interest that is the subject of this particular assignment is a non-controlling interest and not in a position to cause liquidation. Joseph has analyzed the business enterprise and determined that it should liquidate, and therefore, bases his value opinion of the stockholder's interest on liquidation of the business enterprise. There was no discussion of liquidation of the business enterprise included in Joseph's report.

Did Joseph's actions comply with STANDARDS 9 and 10?

**ANALYSIS:** No. Joseph has not complied with Standards Rule 9-2, which requires an appraiser to identify the characteristics of the property, which in this case is a non-controlling interest. Since the non-controlling interest could not cause liquidation, the appraiser may not be in compliance with certain portions of Standards Rules 9-3 and 9-4.

Standards Rule 10-2(a) and (b)(iv) require an appraiser to state the extent to which the interest appraised contains elements of ownership control, including the basis for that determination. As well, Standards Rule 10-2(a) and (b)(v) obligate an appraiser to state the extent to which the interest appraised lacks elements of marketability and/or liquidity, including the basis for that determination. Joseph's report did not include either discussion.

## Reference Material Examples

These reference material examples are provided on the following pages of this manual:

1. *Appraisal Foundation and Relationships*
2. *The Appraisal Foundation and FIRREA*
3. *USPAP and the Appraisal Process Diagram*
4. *Relationships Between Valuation Services and Appraisal Practice*
5. *Valuation Services Table*
6. *USPAP and the Appraisal Process Flowchart – Steps 1-5*
7. *USPAP and the Appraisal Process Flowchart – Step 6*
8. *Advisory Opinion 11 Report Comparison Chart*
9. *Advisory Opinion 20 Appraisal Review Assignment Diagram*