

October 6, 2016

Margaret Hambleton, Chair
Appraisal Standards Board
The Appraisal Foundation
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RE: USPAP Update Survey

Dear Ms. Hambleton:

On behalf of the Appraisal Institute, the Professional Standards and Guidance Committee ("PSGC") submits the following responses to the USPAP Update Survey. We hope that the ASB will be publishing the responses that it receives to this survey.

Question 1. Are the current reporting options sufficient? Why or why not?

Response: While it would be preferable to not have multiple reporting options (see Question 4, below), revisions to the current Restricted Appraisal Report option would benefit appraisers, clients and other stakeholders while still protecting the public trust. The restrictions in the Restricted Appraisal Report option should be related to reporting requirements and not to the number of intended users.

Question 2. How would permitting Restricted Appraisal Reports in assignments where there are additional intended users beyond the client affect the appraiser's responsibility to ensure the intended user(s) understand the report properly?

Response: USPAP SR 2-1(b) (and other reporting standards) already clearly establish that the report must contain sufficient information to be understood by the intended users, thus requiring the appraiser to be aware of the knowledge level of all intended users. Permitting Restricted Appraisal Reports in assignments where there are intended users beyond the client would not add any significant requirements to the appraiser's responsibility to ensure the intended users understand the report properly.

Question 3. Would the Restricted Appraisal Report option still be viable in your opinion? If so, in what way(s)?

Response: While we do not believe that more than one reporting option is necessary or helpful (see Question 4, below), if it is determined that the Restricted Appraisal Report option be maintained, it should only be maintained if the "client only" restriction is removed (See Question 2, above), USPAP FAQ 266 notes that the reason Restricted Appraisal Reports are limited to the client is that "the client is assumed to have a sufficient level of knowledge to enable him or her to understand a report of this type. If other intended users were to be given such an abbreviated report, they could easily misunderstand it and potentially be misled."

This restriction fails to recognize that many users of appraisal services other than clients would have a sufficient level of knowledge that would enable them to understand a restricted report. Further, as noted above, SR 2-1(b) requires each report to contain “sufficient information to enable the intended users of the appraisal to understand the report properly;” compliance with this requirement should ensure that the intended users would not easily misunderstand it and potentially be misled.”

Question 4. Would a better alternative be having just one reporting option with the minimum requirements for all assignments? Why or why not?

Response: Yes; it would be better to not have multiple reporting options. Appraisers should be able exercise their professional judgment as to the best way to communicate their findings, opinions and conclusions.

Advisory Opinion 11 states:

Under Standards Rules 2-2, 8-2, and 10-2, the main differences between the two options are in three areas; 1) An Appraisal Report may have the client as the only intended user but may also have other intended users while a Restricted Appraisal Report must have the client as the only intended user. 2) In an Appraisal Report, specified parts of the research and development must be summarized; in a Restricted Appraisal Report, those same parts need only be stated. 3) An Appraisal Report requires the appraiser to summarize the information analyzed and the reasoning that supports the analyses, opinions, and conclusions while a Restricted Appraisal Report does not have this requirement.

As noted above, a restriction related to the number of intended users is problematic and unnecessary. The issue of whether research, development and information should be summarized or stated should be left to the appraiser’s professional judgment based on communication with the client.

As long as the reporting Standards

- require that a report clearly and accurately set forth the appraisal in a manner that will not be misleading; contain sufficient information to enable the intended users of the appraisal to understand the report properly; and clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment; and
- set minimum reporting requirements;

clients and other intended users will receive the reports that they need and the public trust will be protected.

In addition, the requirement to include a prominent “disclaimer” for a Restricted Appraisal Report (SR 2-2(b)(i)) creates the inaccurate impression that the report is inherently flawed.

Question 5: Is the SCOPE OF WORK RULE relevant as currently written? If not, what suggestions do you have?

Response: Problem Identification is Step 1 of the Valuation Process and Scope of Work is Step 2. The Scope of Work Rule includes a great deal of discussion about Problem Identification, and as

a result many think that by completing Step 1 they have done Step 2. Also, much of the Scope of Work Rule is not prescriptive; it's descriptive and should be handled in an Advisory Opinion.

We recommend that the Scope of Work Rule be revised so that it pertains only to Scope of Work. Requirements for Problem Identification are already contained within Standards 1, 3, 7 and 9; guidance about Problem Identification should be moved to an Advisory Opinion.

Question 6: Should the SCOPE OF WORK include an expanded reporting section?

Response: No. The following is from our comment letter to you dated July 13, 2010 in regard to the exposed "Proposed changes Related to Reporting – Revisions to the SCOPE OF WORK RULE to Include Reporting Elements" and we continue to believe that it is accurate:

If the ASB adopts the proposed changes, the effects on the basic structure of USPAP would be dramatic. One of the fundamental concepts in USPAP is that the appraiser bears the ultimate responsibility for the Scope of Work decision. If reporting is added to Scope of Work, then that fundamental concept would no longer be true.

Reporting is driven by clients and other intended users, not by appraisers. Appraisers' knowledge, skill, training and experience should lead to credible assignment results. The needs of the clients drive report content. In fact, clients often mandate reports in a certain format (e.g. Fannie Mae forms).

If reporting is added to the definition of Scope of Work, then the Scope of Work decision is no longer within the purview of the appraiser and will be driven, at least in part, by the client. That is a fundamental shift that would require significant editing to USPAP, Advisory Opinions, and other communications.

The requirement to identify the appropriate scope of work is found in the development standards. If reporting is added to the definition of Scope of Work, development standards would then address reporting issues. Such fundamental conflicts in the structure of USPAP would be confusing and no longer in the best interest of public trust.

Question 7: Would the flexibility reflected in some of the Standards Rules be better addressed in this section, allowing the RULES to remain simply the RULES?

Response: No, we do not believe this would be a beneficial change.

Question 8: What drawbacks or unintended consequences, if any, do you see?

Response: It is difficult to comment on potential drawbacks or unintended consequences without considering specific proposed revisions. The Appraisal Institute will carefully consider any revisions proposed by the ASB.

Question 9: What benefits would be gained by increasing the flexibility in this RULE rather than in the Standards themselves?

Response: As stated above, we perceive no benefits to this proposed change; however, we will carefully consider any revisions proposed by the ASB.

Question 10: Should the Standards Rules remain as they are currently structured, giving appraisers latitude in these areas?

Question 11: Some stakeholders have suggested that all Standards Rules should be absolute. They suggest that the SCOPE OF WORK RULE (or another section of USPAP) be revised to include both rules that apply only "when necessary for credible assignment results" and also rules that are conditional in other ways. It has been expressed by some stakeholders that although there are exceptions to USPAP within the Rules, they may fit better in another place. What do you think? Should they be part of the SCOPE OF WORK RULE? Do you see any unintended consequences?

Response to Questions 10 & 11. The appraisal profession has long held that having a single set of appraisal standards is in the best interest of practitioners as well as the public. But after nearly three decades in which USPAP has been generally accepted as the standards for appraisal practice in the United States, it is evident that having a single set of standards applicable to all valuation work has created unintended consequences. Although USPAP contains flexibility mechanisms such as scope of work and prefaces some standards rules with phrases such as "when necessary for credible assignment results," USPAP includes a number of standards rules that must be followed for all assignments, regardless of the intended use. For some assignments, such requirements may be needed, while for other assignments, they are unnecessary.

When unnecessary for an assignment, hard-and-fast requirements can make the appraisal process unnecessarily cumbersome, result in unnecessary cost to the client, and cause an appraisal report to be less understandable. Such consequences must be avoided if the appraisal profession is to remain relevant going forward.

Any set of standards that is to be applicable to all valuations should be principles-based and should exclude requirements that are not necessary for all intended uses. Requirements that are specific to certain intended uses should be presented separately.

To accomplish this, USPAP itself should be pared down to include only those requirements that truly are applicable to all valuation assignments, and requirements that are applicable only for certain intended uses should be moved to other standards documents.

USPAP currently contemplates the use of requirements in addition to USPAP. In fact, its Competency Rule requires "recognition of, **and compliance with**, laws and regulations that apply to the appraiser or to the assignment" (emphasis added), thereby making compliance requirements in addition to USPAP a USPAP requirement in all valuation assignments. This could be amended to include "specific standards" for further clarification, if deemed useful.

Examples

Standards Rule 1-5 is an example of an existing USPAP requirement that is not necessary in every appraisal assignment. In fact, it may be an impediment in some assignments. This Standards Rule requires the appraiser to analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal, and all sales of the subject property that occurred within the three (3) years prior to the effective date of the appraisal when appraising market value.

This requirement clearly is important when the intended use is for mortgage lending because it provides the intended user information needed to properly assess loan collateral risk. If an appraisal report presents an opinion of value of \$500,000, and the property has been listed for sale with an asking price of \$400,000, or the property sold recently for \$400,000, there is cause for concern.

However, another intended user may receive no benefit from the Standards Rule 1-5 requirements and even be hindered by the cost and time related to a requirement which provides no meaningful benefit to the user. Consider a Department of Transportation budget setting process. Every year Departments of Transportation plan projects for possible ranking in their work flow and a part of that process is setting an acquisition budget for each alternative being considered. Having the budgeted acquisition cost as part of the proposal assists the decision makers with rankings to decide which project best fits available funds. This intended user has no need, interest, or willingness to pay for the appraiser to research the past sale history on all 100 of the acquisition properties in the budgeting process. But they do have a need for a professional appraiser to assist them to set their budget.

An example of a requirement which is not in USPAP but is specific to solving the problem of another intended use is the *Uniform Appraisal Standards for Federal Land Acquisitions* requirement that the property owner be offered the ability to be present during the property inspection. This is a specific requirement exclusive to eminent domain and is important for that intended use. But it is not important for other intended uses and would even create an unneeded burden if it were a part of USPAP. Therefore, it is appropriately not included in USPAP and should remain a specific requirement to that intended use.

Question 12: Are additional definitions needed? If so, please list those that you think are relevant.

Response: The Appraisal Institute has no recommendations as to additional definitions at this time.

Question 13: Are comments needed with definitions? What comments can be eliminated or merged with the definitions?

Response: This question will require additional study. The Appraisal Institute will carefully consider any revisions to definitions and/or comments proposed by the ASB.

Question 14: Are there definitions in USPAP that you believe should be reviewed for relevancy? If so, please list them.

Response: In its comments on the Third Exposure Draft of Proposed Changes for the 2018-19 Edition of the *Uniform Standards of Professional Appraisal Practice* the Appraisal Institute noted issues with the definitions of:

- Report
- Intended Use
- Intended User
- Extraordinary Assumption

Another term that should be reviewed is “workfile”. This term is widely misunderstood to mean a physical file folder containing the required items. The term “workfile” should be dropped and Standards should instead focus on the items the appraiser must retain.

Other Potential Topics

Lack of clarity about function of workfile.

The phrase “retrievable by the appraiser” is at line 329 in the Record Keeping Rule. It is an important concept and should be more prominent. The workfile is the appraiser’s notes. There should be no implication that it should be understandable to other parties. (It could be written in the appraiser’s own shorthand, as long as he or she can retrieve it during the required record retention period.) Enforcement entities currently are overly-focused on the contents of the workfile, when their real concern should be the contents of the report. We recommend the ASB considers issuing guidance in the form of an Advisory Opinion to clarify.

Requirement to report scope of work as well as requirement to explain exclusion of approaches to value - see SR 2-2(a)(vii) and lines 729-730.

This is a redundancy. Scope of work includes the valuation approaches used. Many appraisers think that they must include a discussion of approaches used in two places in their report because USPAP has the requirement in two places. We recommend deleting “exclusion of the sales comparison approach, cost approach, or income approach must be explained” at lines 729-730, and add another paragraph after line 742 stating “The scope of work discussion must address exclusion of the sales comparison approach, cost approach, or income approach.”

Requirement to state use of real estate (lines 807-808) and highest and best use conclusion (809-810) in the case of a Restricted Appraisal Report.

This is more information than needed or desired for certain intended uses, including ADR, VFR, private party and portfolio appraisals. The use of the real estate and its highest and best use must be considered in the appraisal development process. A Restricted Appraisal Report is not required to include the detail of the development process (e.g., data and analyses, including approaches to value), so the requirement to report these is disproportionate. These should not be absolute requirements.

Certification statements

If USPAP has been complied with, only one statement is needed (i.e., “I complied with USPAP.”) rather than all the statements indicating compliance now required. For some intended uses, what typically amounts to a full page of certification statements stating that various USPAP requirements have been complied with is viewed as excessive.

“Rules” within Comments.

For example, the Comment to SR 2-2(a) and (b)(viii) sets out the requirement to report on the information obtained and analyzed as a result of SR 1-5(a) and (b). We recommend a review of USPAP to identify requirements that are contained within Comments; consider their elimination or move so that they are part of the standards rules.

We trust that you will find our responses to this survey helpful. Please do not hesitate to contact me if you have any questions regarding these responses.

Sincerely,



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