

# BPOs: Understanding Rules and Limitations

Appraisal Institute

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# The Context

# The Mortgage Meltdown

- The mortgage landscape has dramatically shifted since 2007, when the first wave of delinquencies in the subprime market began. Tens of millions of existing loans have gone delinquent. Millions of homes have been foreclosed in the last two years.
  - 3.9 million foreclosures in 2009; with another wave expected.
  - 7.9 million non-current loans and REO in 2009; although recent signs of stabilization.
- Some states especially hard hit; but no state unscathed.
  - Florida: 24% non-current (foreclosed and delinquent)
  - Nevada: 24% non-current.
  - New Mexico: 10% non-current.

# Demand for BPOs

- The mortgage meltdown is the context in which lenders ordered an estimated ten million BPOs in 2009. For example:
  - 1,875,000 in California (est.)
  - 317,000 in Nevada (est.)
- A BPO is an essential piece of information needed to assess what to do with a delinquent loan.
  - It is often just one piece of information, a snapshot in time.
  - Lenders and loan servicers assess multitudes of other data along with the BPO.
  - Multiple BPOs may be ordered as a loan grows more delinquent and the real estate market shifts, up or down.
- BPOs are performed by real estate professionals.
  - Familiar with local sales, listings and inventory counts.
  - Able to perform BPOs quickly so decisions can be made rapidly, assisting both homeowners and financial institutions.

# BPO Flow Chart

# General BPO Order Flow



# General BPO Order Flow (cont.)

Agent or broker visits subject property , pulls data from tax records and MLS, and assembles BPO.



BPO reviewed for quality assurance and validation of customer specific rules.

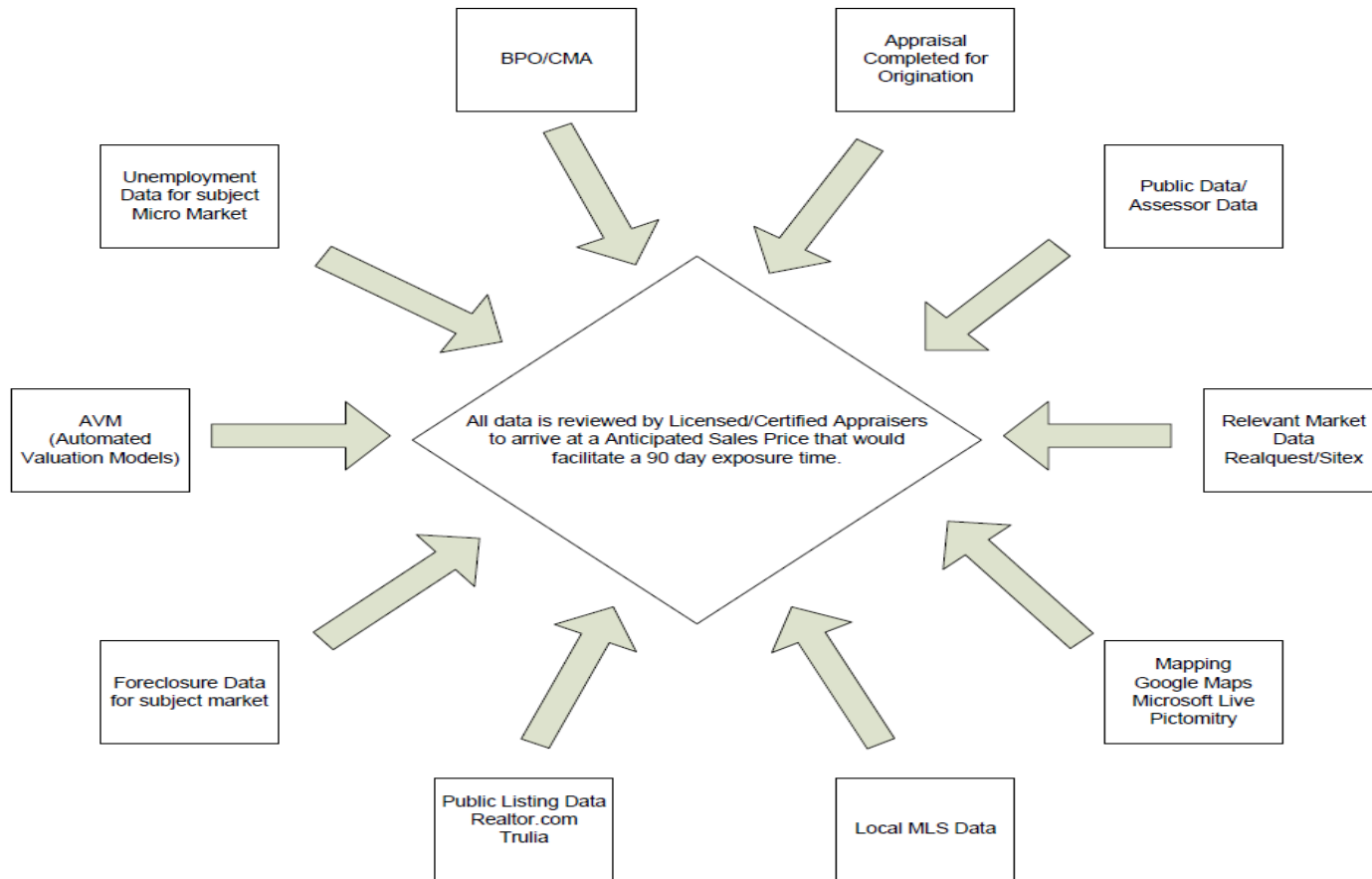


Approved BPO delivered to client.



Client integrates BPO with other data sources to determine appropriate price point.

# General BPO Order Flow (cont.)



# Dispelling Some Myths About BPOs

# BPO Myth #1: Alternative Valuations Are Taking Business Away From Appraisers

- Appraisals are still the primary product in the loan origination context. Appraisal services are also important in other contexts, such as value reconciliation.
- Appraisals have typically not been used for servicing, loan modification or loss mitigation purposes.
- Alternative valuations, including BPOs, have emerged as a widespread product for **non-origination** purposes due to their efficiency and reliability.

# BPO Myth #1: Alternative Valuations Are Taking Business Away From Appraisers

## DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

### **“SEC. 1126. BROKER PRICE OPINIONS.**

*“(a) GENERAL PROHIBITION.—In conjunction with the purchase of a consumer’s principal dwelling, broker price opinions may not be used as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property.*

*“(b) BROKER PRICE OPINION DEFINED.—For purposes of this section, the term ‘broker price opinion’ means an estimate prepared by a real estate broker, agent, or sales person that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property’s condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model, as defined in section 1125(c).”.*

# BPO Myth #2: The Feds Prohibit The Use of BPOs

- The Treasury recognizes the use of AVMs or BPOs to establish eligibility for HAMP and HAFA.
- The FDIC supported the use of BPOs in its loss sharing proposal for loan modifications (a precursor to HAMP).
- The Federal Reserve Board supports the use of BPOs, AVMs, and other data-driven products to assist lenders in making decisions related to HELOCs in their Regulation Z (Truth in Lending) proposal.
- FIRREA and the Interagency Appraisal and Evaluation Guidelines only require appraisals for residential loan originations in excess of \$250,000.

# BPO Myth #3: Even in Situations Where The Feds Allow BPOs, Their Use is Prohibited in a Majority of The States

- Many states have generalized or vague statutory language on what constitutes an appraisal and what exceptions are allowed.
- Our goal: to develop current statutes and regulations based on a full understanding of the wide array of valuation tools available to aid in sound decision making processes by lenders, loan servicers, investors and consumers.

# BPO Myth #4: BPOs Are Not Accurate And Without Standards

- BPO providers are currently being held accountable and ranked against each other for accuracy.
- BPOs are used by sophisticated parties (banks) who can weigh the data against many other pieces of data.
- BPOs are performed by real estate professionals who are experienced in the local market, including listings, sales, and inventory levels.
- *BPO Standards and Guidelines* (“BPOSG”) include suggested practices for the selection and utilization of comparable properties, pricing, and the use of photographs and prohibitions on conflicts of interest and ethical and competency considerations.

# BPO Myth #4: BPOs Are Not Accurate And Without Standards

## Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS®

Effective January 1, 2010

- **Standard of Practice 11-1**

When REALTORS® prepare opinions of real property value or price, other than in pursuit of a listing or to assist a potential purchaser in formulating a purchase offer, such opinions shall include the following unless the party requesting the opinion requires a specific type of report or different data set:

- 1) identification of the subject property
- 2) date prepared
- 3) defined value or price
- 4) limiting conditions, including statements of purpose(s) and intended user(s)
- 5) any present or contemplated interest, including the possibility of representing the seller/landlord or buyers/tenants
- 6) basis for the opinion, including applicable market data
- 7) if the opinion is not an appraisal, a statement to that effect  
*(Amended 1/10)*

# BPO Myth #5: Appraisers Could Replace BPOs with Short-form 2055's and Drive-by APOs

- 2055s are expensive and time-consuming - inappropriate for the turn times required in this context.
- Current demand for BPOs greatly exceeds the number of valuations that appraisers could realistically deliver.

# BPO Myth #6: BPOs Lead to “Flopping”

- This assumes that the real estate professional gets the listing after performing a BPO -- not typically the case.
- There’s no evidence that real estate professionals are more likely to engage in fraud than other kinds of valuation professionals, regardless of whether the agent actually lists the property.
  - According to a recent report by the Mortgage Asset Research Institute, the most noticeable increase in mortgage fraud during 2009 related to appraisal fraud (33% of all reported cases).
  - Additional data points like BPOs and AVMs actually help detect and prevent such fraud.

# Status of State Laws and Regulations

# Updating Old Statutes

- Many state appraiser licensing laws were enacted ten or more years ago, and are based on a different market for valuations (originations) and do not address or contemplate the current scenario.
- State lawmakers that have started to look at this issue have enacted statutes in line with the new reality: the market needs a full range of valuation products, including BPOs.

# Nevada and Nebraska Updates

## Nevada: amended in 2009

- BPOs may be used for an 'existing or potential lienholder', but cannot be used 'in lieu of an appraisal for the purpose of determining whether to approve a mortgage loan.'

## Nebraska: amended in 2010

- BPOs may be used for an 'existing or potential lienholder', but not as 'the sole basis' for loan origination.

# REVAA Model Legislation

- Notwithstanding any provisions to the contrary, a real estate broker or sales agent licensed by this state may prepare an opinion:
  - Regarding the value of real estate;
  - To a potential seller or third party recommending a listing price of real estate;
  - To a potential buyer or third party recommending a purchase price of real estate; or
  - To an existing or potential lienholder or other third party for any purpose other than as the sole basis to determine the value of a property for the purpose of a purchase money loan origination (provided that the transaction has not otherwise been designated by rule as appropriate by the relevant federal regulators).



REVA is an alliance of member companies that is dedicated to the improvement and advancement of the real property valuation industry.

Our association promotes high ethical standards, political awareness, and growth for the industry.