



CONSISTENCY IN STATE REGULATIONS

AMC Perspective



Presented by Jeff Dickstein | October 23, 2016





MINIMUM REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES



FEDERAL REGISTER
The Daily Journal of the United States Government

0 Sign in Sign up

Ⓜ Rule

Minimum Requirements for Appraisal Management Companies

A Rule by the [Comptroller of the Currency](#), the [Federal Reserve System](#), the [Federal Deposit Insurance Corporation](#), the [Consumer Financial Protection Bureau](#), and the [Federal Housing Finance Agency](#) on 06/09/2015

PUBLISHED DOCUMENT Start Printed Page 32658

AGENCIES:
Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Bureau of Consumer Financial Protection (Bureau); and Federal Housing Finance Agency (FHFA).

ACTION:
Final rule.

DOCUMENT DETAILS

Printed version:
[PDF](#)

Publication Date:
06/09/2015

Agencies:
[Office of the Comptroller of the Currency](#)
[Federal Reserve System](#)
[Federal Deposit Insurance Corporation](#)
[Bureau of Consumer Financial Protection](#)
[Federal Housing Finance Agency](#)



MINIMUM REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES

C. Section 34.213: Appraisal Management Company Registration

1. Section 34.213(a): Minimum Requirements for Participating States

Under proposed § 34.213(a), adopted without change in this final rule, participating States must have a licensing program in place within the State appraiser certifying and licensing agency that has the authority to: (1) review and approve or deny an AMC's application for initial registration; (2) review and renew or refuse to renew an AMC's registration periodically; (3) examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents to the State; (4) verify that the appraisers on the AMC's appraiser panel hold valid State certifications or licenses, as applicable; (5) conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders; (6) discipline, suspend, terminate, and refuse to renew the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and (7) report to the ASC an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations.



MINIMUM REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES

C. Section 34.213: Appraisal Management Company Registration

1. Section 34.213(a): Minimum Requirements for Participating States

Under proposed § 34.213(a), adopted without change in this final rule, **participating States must have a licensing program in place within the State appraiser certifying and licensing agency that has the authority to:** (1) review and approve or deny an AMC's application for initial registration; (2) review and renew or refuse to renew an AMC's registration periodically; (3) examine the books and records of an AMC operating in the State and require the AMC to submit reports, information, and documents to the State; (4) verify that the appraisers on the AMC's appraiser panel hold valid State certifications or licenses, as applicable; (5) conduct investigations of AMCs to assess potential violations of applicable appraisal-related laws, regulations, or orders; (6) discipline, suspend, terminate, and refuse to renew the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders; and (7) report to the ASC an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations.



MINIMUM REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES

128

In addition, the Bureau does not believe that in States that add this requirement there will be any significant new burden on the AMCs. The Bureau believes that the AMCs already keep their books and records in order as a standard course of business practice, and thus the occasional State examiner visits should not impose any significant burden. In addition, the final rule requires only that the State have the authority and mechanism to request records and information. The final rule does not require that the State exercise this authority and any burdensome exercise of this authority would therefore not be caused by the final rule. Finally, to the extent State supervision programs do increase burden, the Bureau believes this burden would be within the sensitivity tolerances described in the footnote at the end of this section.



MINIMUM REQUIREMENTS FOR APPRAISAL MANAGEMENT COMPANIES

128

In addition, the Bureau does not believe that in States that add this requirement there will be any significant new burden on the AMCs. The Bureau believes that the AMCs already keep their books and records in order as a standard course of business practice, and thus the occasional State examiner visits should not impose any significant burden.

In addition, the final rule requires only that the State have the authority and mechanism to request records and information. The final rule does not require that the State exercise this authority and any burdensome exercise of this authority would therefore not be caused by the final rule. Finally, to the extent State supervision programs do increase burden, the Bureau believes this burden would be within the sensitivity tolerances described in the footnote at the end of this section.



STATE BOARD AMC EXPECTATIONS/AUDITS

Many states have audit requirements for AMCs to verify USPAP compliance.

ALABAMA:

780-x-17-.10 appraisal review.

(A) an appraisal management company shall annually certify to the board, on a form prescribed by the board, that the appraisal management company periodically reviews the work of all appraisers performing appraisals and appraisal reviews for the appraisal management company to verify that the appraisals are being conducted in accordance with uniform standards of professional appraisal practice (USPAP). An appraisal management company is not required to review all appraisals performed by each appraiser, but may choose a representative sample of each appraiser's reports. Record of the samples selected for compliance review shall be kept for a period of five (5) years from the date of the compliance review.



STATE BOARD AMC EXPECTATIONS/AUDITS

Many states have audit requirements for AMCs to verify USPAP compliance.

COLORADO:

18.1 An appraisal management company must have and follow a written policy in place regarding the annual audit of appraisals completed for Colorado assignments during the previous year. The policy must have an effective date and memorialize the dates any modifications are made. The policy must outline, at a minimum, the following:

A. Appraisal Selection. The audit sample must be randomly selected and consist of not less than two USPAP standard 3 reviews for each appraiser who completed Colorado appraisal assignments during the previous year. If an appraiser completed only one appraisal assignment in Colorado, the appraisal management company must complete a USPAP standard 3 review of the appraisal.

B. Risk-Based Reviews. If an appraisal management company maintains a risk-based review process, the appraisal management company is required to comply with subsection (a) only for those appraisers for whom a USPAP standard 3 review was not performed under the risk-based appraisal review process.

C. Review Criterion. The appraisals must be evaluated for compliance with state and federal regulations, including the Uniform Standards of Professional Appraisal Practice (USPAP).

D. Reviewer Qualifications. The individual(s) performing the audit of the appraisals must possess a certified credential in this state or any state and be competent to appraise residential real estate.

E. Appraisal Deficiencies. The appraisal management company must have procedures in place to address material deficiencies that affect the value conclusion or the credibility of the report with the appraiser. Material violations of USPAP or the license law must be reported to the Board.

The Board may evaluate an appraisal management company's compliance with its own audit policies during an investigation.



STATE BOARD AMC EXPECTATIONS/AUDITS

Many states have audit requirements for AMCs to verify USPAP compliance.

KANSAS:

117-20-7. Certification of annual review. The controlling person of each AMC applying for an initial registration or registration renewal shall certify that the AMC performed an appraisal review on at least five percent of all appraisal reports submitted by appraisers performing real estate appraisal services for the AMC within Kansas on an annual basis. (Authorized by L. 2012, ch. 93, sec. 25; implementing L. 2012, ch. 93, sec. 12; effective, T-117-7-3-12, July 3, 2012; effective Feb. 8, 2013.)(b) Any employee of, or independent contractor to, the AMC that performs an appraisal review for a property located in Kansas shall be an appraiser credentialed in good standing in the state of Kansas.

Same; appraisal review reporting. Each AMC seeking to be registered or to renew a registration in this state shall certify to the board on an annual basis on a form prescribed by the board that such AMC has a system in place to perform an appraisal review on a number or percentage of the appraisal reports submitted by each appraiser who is performing appraisals for such AMC on a periodic basis as specified in rules and regulations of the board to validate that the appraisals are being conducted in accordance with:

(a) The USPAP; and

(b) the state certified and licensed real property appraisers act and the regulations adopted thereunder.



STATE BOARD AMC EXPECTATIONS/AUDITS

Many states have audit requirements for AMCs to verify USPAP compliance.

NORTH CAROLINA:

57D .0306 Appraisal Review

An appraisal management company shall review the work of all independent appraisers that are performing real estate appraisal services for the appraisal management company to validate that the real estate appraisal services are being conducted in accordance with USPAP. An appraisal management company is not required to review all appraisals performed by each appraiser, but may chose a representative sample of each appraiser's reports. An appraisal management company must review each appraiser's work at least once a year, and shall keep records of such reviews for a period of five years from the date they are done.



STATE BOARD AMC EXPECTATIONS/AUDITS

Many states have audit requirements for AMCs to verify USPAP compliance.

OKLAHOMA:

Each AMC seeking to be registered or to renew a registration in this state shall certify to the Oklahoma Real Estate Appraiser Board on a form prescribed by the Board on an annual basis that it has a system in place to perform an appraisal review of the work product of a statistically significant number of appraisal reports submitted by each appraiser who is performing appraisals for the AMC on a periodic basis to validate that the appraisals are being conducted in accordance with the USPAP and the Oklahoma Certified Real Estate Appraisers Act and the rules promulgated thereunder. An AMC shall report to the Board the results of any appraisal reviews in which an appraisal is found to be substantially noncompliant with USPAP.



STATE BOARD AMC EXPECTATIONS/AUDITS

Many states have audit requirements for AMCs to verify USPAP compliance.

TEXAS:

§159.155. Periodic Review of Appraisals

(a)A registrant shall review the work of appraisers performing appraisal services on 1-4 family unit properties collateralizing mortgage obligations by performing a review in accordance with Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) of:

(1)one of the first five appraisals performed for the registrant by each appraiser, prior to making a sixth assignment; and

(2)a total of five percent, randomly selected, of the appraisals performed for the AMC for each twelve-month period following the date of the AMC's registration.

(b)Appraisals performed pursuant to subsection (a)(1) of this section shall be counted toward the calculation of five percent for the purposes of subsection (a)(2) of this section.

(c)A review pursuant to subsection (a)(1) of this section is not required if the first five appraisals by an appraiser were completed before the AMC was required by Chapter 1104 of the Texas Occupations Code, to be registered with the Board.

(d)In addition to satisfying the requirements of §1104.153 of the Act, the review appraiser must have access to appropriate data sources for the appraisal being reviewed.

(e)A certified residential appraiser may perform a review of a residential real estate appraisal completed by a certified general appraiser if the review appraiser is otherwise permitted by the Texas Appraiser Licensing and Certification Act to perform the assignment.

(f)An appraiser conducting a review under §1104.155 of the Act and this rule must ensure compliance with the USPAP and with §1104.154 of the Act.

(g)In order to satisfy the requirements of §1104.155 of the Act, this rule and USPAP, a registrant performing a review must adhere to the following minimum scope of work:

(1)research and consult the appropriate data sources for the appraisal being reviewed to, at a minimum, validate the significant characteristics of the comparables and the essential elements of the transactions including:

(A)the multiple listing service(s) or other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a sales comparison approach;

(B)published cost data sources and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a cost approach;

(C)the comparable rental data, income and expense data, and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included an income approach; and

(D)the sales or listing history of the property which is the subject of the appraisal under review, if that property was sold within the three years prior to the effective date of the appraisal under review or listed for sale as of the effective date of the appraisal under review, the scope of review must include research and consultation of that;

(2)state the reviewer's opinions and conclusions about the work under review for each of the approaches to value utilized in the appraisal under review, including the reason for any disagreements;

(3)identify if the appraisal under review omitted an approach to value, a particular piece of information, or an analysis of either that was necessary for credible assignment results, identify what was omitted and explain why it was necessary for credible assignment results;

(4)identify the client, any intended users and the effective date of the appraisal review;

(5)state that the appraisal review's intended use and purpose is to satisfy the requirements of §1104.155 of the Act and this rule, including ensuring that the appraisal under review complies with the edition of USPAP in effect at the time of the appraisal;

(6)state that the scope of work for the appraisal review is commensurate with the requirements of §11



MOST COMMON USPAP FINDINGS

Prior Service

Ethics rule

If known prior to accepting an assignment, and/or if discovered at any time during the assignment, an appraiser must disclose to the client, and in each subsequent report certification:

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

Standards Rule 2-3 (Certification)

- I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.



MOST COMMON USPAP FINDINGS

Exposure time

Standards Rule 1-2

(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:

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

- Comment: when reasonable exposure time is a component of the definition for the value opinion being developed, the appraiser must also develop an opinion of reasonable exposure time linked to that value opinion.

Standards rule 2-2

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

When an opinion of reasonable exposure time has been developed in compliance with standards rule 1-2(c), the opinion must be stated in the report.



MOST COMMON USPAP FINDINGS

Appraisal Assistance

Standards Rule 2-2

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

When any portion of the work involves significant real property appraisal assistance, the appraiser must summarize the extent of that assistance. The name(s) of those providing the significant real property appraisal assistance must be stated in the certification, in accordance with standards Rule 2-3.



MOST COMMON USPAP FINDINGS

Comment on Appraisal Methods and Techniques, State reasons for use and exclusion.

Standards Rule 2-2

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



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”) .

Appraiser Independence Requirements (“AIR”) means the collective requirements set forth in (i) Title XIV, Subtitle F of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, together with any regulations promulgated pursuant thereto (collectively, “Dodd-Frank”), and (ii) the Appraiser Independence Requirements issued by Fannie Mae or Freddie Mac;



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”) .

1. Each Appraisal delivered to client on or after the Schedule Effective Date shall be prepared in compliance with the Appraisal Independence Requirements and the fee paid to the appraiser for such Appraisal shall be customary and reasonable in the geographic market where the property is located taking into account the type of property, scope of work, and the appraiser’s qualifications, experience, professional record, and work quality.



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”) .

2. Supplier has adopted written policies and procedures implementing the appraisal Independence Requirements, including adequate training programs and disciplinary rules to ensure appraiser independence, and has established mechanisms to report and take appropriate action for violations of its Appraisal Independence requirements policies and procedures.



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”)

3. Supplier's panel of appraisers is selected and maintained without influence or recommendation of client or any employee of the client, however, this shall not prohibit Supplier from excluding Ineligible Providers as defined under the applicable Schedule for Services and/or Deliverables. Without limiting the foregoing, Supplier covenants that it will not allow the removal of any appraiser from its list of qualified appraisers, or the addition of an appraiser to an exclusionary list of disapproved appraisers, without prompt written notice to such appraiser or as otherwise provided by law.



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”) .

4. Supplier will promptly report to client any attempt by any person to influence the development, report, result, or review of an Appraisal for client or any attempt by any client employee to influence the selection or removal of an appraiser for a particular client Appraisal Assignment or for inclusion on or removal from Supplier's approved appraiser list or panel.



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”) .

5. Supplier has in place procedures to ensure that each appraiser is paid a fee that is reasonable and customary in the geographic market where the property is located taking into account the type of property, scope of work, and the appraiser’s qualifications, experience, professional record, and work quality.



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”) .

6. Supplier has in place procedures to ensure that each appraiser is paid a fee that is determined by the appraiser or, if not unilaterally determined by the appraiser, freely negotiated between the appraiser and Supplier, as of the date of the Appraisal Assignment for which the fee is paid.



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”) .

7. Supplier shall not engage in any unfair or anticompetitive actions that affect the fee paid to an appraiser.



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”)

8. Supplier will promptly report to client any allegation or complaint in connection with a client Appraisal Assignment that Supplier has failed to pay an appraiser a fee that complies with (5) and (6) above or that Supplier has engaged in unfair or anticompetitive actions that affect the fee paid to an appraiser. In addition, Supplier will promptly report to client any litigation filed, regulatory agency inquiry, or any adverse, negative or irregular findings of audits or examinations that indicate Supplier’s noncompliance with any provision of AIR in connection with an Appraisal Assignment for the client.



THIRD PARTY AUDITS FOR AIR

APPRAISAL INDEPENDENCE REQUIREMENTS (“AIR”) .

9. Supplier will maintain complete and accurate records of its performance of the above AIR assurances, including but not limited to documentation of its training program for employees and appraisers regarding the Appraisal Independence Requirements, its records regarding additions to and removals from its approved appraiser list or panel, its records regarding fees paid to appraisers and its process for negotiating such fees, and all documentation of written complaints of non-compliance with the Appraisal Independence Requirements including, but limited to, its appraiser fee negotiation practices. Supplier shall retain such records for three (3) years after any expiration or termination of the Agreement.



QUESTIONS OR COMMENTS

Thank You

Jeff Dickstein

Chief Compliance Officer

T 781.314.1658 jdickstein@protk.com