



Professional Practice and Law

A

Professional appraisal practice applies the scientific processes of economic analyses (i.e., the valuation process) to develop conclusions in an impartial, objective manner, without bias or any desire on the part of appraisers to accommodate their own interests or the interests of their clients. To form sound conclusions, appraisers avoid personal beliefs or biases and search for market evidence to support their appraisal opinions. It is this level of independence and freedom from either personal views or personal financial gain, and strict adherence to the scientific principles contained in the valuation process, that separate the profession of appraisal from other fields that also deal with real estate values.

A profession is distinguished from a trade or service industry by a combination of the following factors:

- High standards of competence in a specialized field
- A distinct body of knowledge that is continually augmented by the contributions of members and can be imparted to future generations
- A code of ethics and standards of practice and members who are willing to be subject to peer review
- Dedication to serve the public interest

The founders of the Appraisal Institute were guided by these principles. The organization was formed for three purposes:

1. To establish criteria for selecting and recognizing individuals with real estate valuation skills who were committed to competent and ethical practice
2. To develop a system of education to train new appraisers and sharpen the skills of practicing appraisers

Current standards-related material is presented in this appendix, but readers should be aware that standards of professional appraisal practice are revised regularly. Appraisers should consult the most recent editions of any publications referenced in this appendix.

3. To formulate a code of professional ethics and standards of professional practice to guide real estate appraisers and serve as a model for other practitioners

In 2007, the Board of Directors of the Appraisal Institute approved the inclusion of the International Valuation Standards and appropriate national standards as part of the organization's Standards of Professional Appraisal Practice. As a result, the Appraisal Institute's Standards of Professional Appraisal Practice are currently composed of

- Uniform Standards of Professional Appraisal Practice (USPAP) and the Certification Standard of the Appraisal Institute
- or
- International Valuation Standards (IVS), applicable national standards, and the Certification Standard of the Appraisal Institute

The set of standards that apply in a particular assignment depends on whether law, regulation, or agreement with the client requires compliance with USPAP, IVS, or other standards. Designated members, candidates for designation, and practicing affiliates of the Appraisal Institute in the United States who are licensed or certified by their state must comply with USPAP when their state board (i.e., law) requires compliance with USPAP. However, an individual may be in compliance with USPAP and IVS simultaneously.

The heart of the Appraisal Institute's commitment to professionalism is contained in the five canons of the Code of Professional Ethics and in the Standards of Professional Appraisal Practice.

Code of Professional Ethics of the Appraisal Institute

Canon 1

A Member, Candidate, Practicing Affiliate, or Affiliate must refrain from conduct that is detrimental to the Appraisal Institute, the profession, and the public.

Canon 2

A Member, Candidate, Practicing Affiliate, or Affiliate must assist the Appraisal Institute in fulfilling its role relating to qualifications and compliance with ethics and standards.

Canon 3

A Member, Candidate, Practicing Affiliate, or Affiliate must not develop or report biased analyses, opinions, and conclusions when providing services (appraisal, appraisal review, appraisal consulting, or real property consulting).

Canon 4

A Member, Candidate, Practicing Affiliate, or Affiliate must not disclose confidential information to unauthorized parties.

Canon 5

A Member, Candidate, Practicing Affiliate, or Affiliate must not advertise or solicit in a manner that is misleading or otherwise contrary to the public interest.

The full text of the Appraisal Institute's Code of Professional Ethics can be downloaded at www.appraisalinstitute.org.

Uniform Standards of Professional Appraisal Practice

The Uniform Standards of Professional Appraisal Practice—a set of standards of the appraisal profession—is developed, interpreted, and amended by the Appraisal Standards Board of The Appraisal Foundation. The standards are endorsed by professional appraisal organizations, and state and federal regulatory authorities enforce the content of the current or applicable editions of the standards.

According to the preamble in the USPAP document, the standards do not establish who or which assignments must comply:

Neither The Appraisal Foundation nor its Appraisal Standards Board is a government entity with the power to make, judge, or enforce law. An appraiser must comply with USPAP when either the service or the appraiser is required by law, regulation, or agreement with the client or intended users. Individuals may also choose to comply with USPAP any time that individual is performing the service as an appraiser.¹

USPAP contains a section of definitions, followed by a section of rules, and then standards and standards rules. Additional guidance is provided in the form of advisory opinions and frequently asked questions.

Uniform Standards of Professional Appraisal Practice, 2020-2021 ed.

Preamble
Definitions
Ethics Rule
Record Keeping Rule
Competency Rule
Scope of Work Rule
Jurisdictional Exception Rule

Standards and Standards Rules

Standard 1: Real Property Appraisal, Development
Standard 2: Real Property Appraisal, Reporting
Standard 3: Appraisal Review, Development and Reporting
Standard 4: Appraisal Review, Reporting
Standard 5: Mass Appraisal, Development
Standard 6: Mass Appraisal, Reporting
Standard 7: Personal Property Appraisal, Development
Standard 8: Personal Property Appraisal, Reporting
Standard 9: Business Appraisal, Development
Standard 10: Business Appraisal, Reporting

International Valuation Standards

The first statement of valuation standards intended for application worldwide was issued by the International Assets Valuation Standards Committee (TIAVSC) in 1984, and these standards were recognized as world standards by the United Nations in 1985. International valuation standards have been developed by the TIAVSC and its successor organizations, the International Valuation Standards Committee and currently the International Valuation Standards Council (IVSC), after review of domestic standards for each country, recognition of the appraisal principles that are reflected in these standards, review of appraisal practices worldwide, and interaction with other standards bodies such as the International Accounting Standards Board and the International Federation of Accountants.

When initially formed, the IVSC concentrated on standards for valuations performed in support of financial reporting, which appeared to be more applicable to countries other than the United States. In the 1970s, the United States declined a move towards reporting current values in financial statements and until recently was slow to adopt standards applied throughout most of the world. The IVSC and many nations determined that

1. *Uniform Standards of Professional Appraisal Practice*, 2020-2021 ed. (Washington, D.C.: The Appraisal Foundation, 2020), 1.

International Valuation Standards (Effective 31 January 2020)

General Standards

| | |
|---------|----------------------------------|
| IVS 101 | Scope of Work |
| IVS 102 | Investigations and Compliance |
| IVS 103 | Reporting |
| IVS 104 | Bases of Value |
| IVS 105 | Valuation Approaches and Methods |

Asset Standards

| | |
|---------|---------------------------------|
| IVS 200 | Business and Business Interests |
| IVS 210 | Intangible Assets |
| IVS 300 | Plant and Equipment |
| IVS 400 | Real Property Interests |
| IVS 410 | Development Property |
| IVS 500 | Financial Instruments |

market value reporting of assets provided a basis for clear understanding in international commerce and for reasonable financial comparisons and decisions when accompanied by unequivocal international valuation standards. This view, also reflected in international accounting standards, has now been incorporated into new and developing standards of the US Financial Accounting Standards Board (FASB). FASB has elected to use its new term and concept of *fair value* in financial reporting and is continuing to harmonize US and international accounting standards and financial reporting requirements.

As is true of other international standards bodies, the IVSC does not establish standards for individual

countries, although a number of countries have adopted the international valuation standards as their domestic standards. By promulgating internationally accepted standards and by developing their standards only after public disclosure, debate among nations, and liaison with other international standards bodies, the IVSC offers objective, unbiased, and well-researched standards that are a source of agreement among nations and provide guidance for domestic appraisal standards. The objectives of the IVSC, as explained on the IVSC's website (www.ivsc.org), and within the current edition of the International Valuation Standards is to increase the confidence and trust of users of valuation services by establishing transparent and consistent valuation practices. According to the IVSC, a standard will do one or more of the following:

- Identify or develop globally accepted principles and definitions
- Identify and promulgate considerations for the undertaking of valuation assignments and the reporting of valuations
- Identify specific matters that require consideration and methods commonly used for valuing different types of assets or liabilities

Standards of Valuation Practice

In 2014, the Appraisal Institute issued a set of principles-based valuation standards that could be used as an alternative for valuation professionals in situations in which national standards or other standards are not required. The Standards of Valuation Practice (SVP) do not supplant national or international standards such as USPAP or other national standards or serve as an additional set of required standards

Standards of Valuation Practice (Effective January 1, 2015)

Definitions

Standard A: An appraisal must be credible.

Standard B: A review must be credible.

Standard C: A report must be clear and not misleading.

on top of national standards or other standards. Rather, the SVP can be used when other, rules-based standards are not required and the SVP standards are appropriate.

Federal Statutes Affecting the Appraisal Profession

| | |
|--------------------------|---|
| 15 US 1639 | Customary and Reasonable; Appraisals in Rural Areas |
| 12 USC 331 | A bank must engage at least three appraisers on the bank's approved appraiser list, in the local market area, and in compliance with existing appraiser independence requirements. It also establishes a reasonable timeliness standard. If a fee appraiser voluntarily donates appraisal services to an organization eligible to receive tax-deductible charitable contributions, those voluntary donation shall be considered customary and reasonable. |
| 25 USC 488 | Farm Bill: Removal of Duplicative Appraisals Members of Indian tribes or tribal corporations shall only be required to obtain one appraisal under an appraisal standard recognized as of the date of enactment. |
| 25 USC 3501 | Indian Tribal Energy Development and Self-Determination Act Amendments Requires that any appraisal relating to fair market value of those resources required to be prepared under applicable law be prepared by a certified, third-party appraiser pursuant to a contract with the Indian tribe. |
| 25 USC 4042, 4043 | Appraisals and Valuations Requires appraisals and valuations of Indian trust property to be administered by a single administrative entity within the US Department of the Interior, which will establish minimum qualifications for individuals to prepare appraisals and valuations of Indian trust property and allow an appraisal or valuation by a qualified person to be considered final without being reviewed or approved by the DOI. |
| 38 USC 3731 | Hybrid Appraisals for VA Authorizes the Department of Veterans Affairs to permit VA fee appraisers to make appraisals based solely on information gathered by someone with whom the appraiser has entered into an agreement for those services. The law authorizes the VA to release guidance on the matter prior to issuing any regulations, which should explain when, where, and how the provision might work in real-world applications. |
| 43 US 1716 | Appraisals for Land Exchanges For land exchanges, requires an independent appraisal conducted in accordance with the Uniform Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice. |

Agriculture

| | |
|-------------------|--|
| 7 CFR 1468 | Natural Resources Conservation Service, Farm Service Agency: Agricultural Conservation Easement Program Appraisals must be performed and signed by an appraiser who is a state-certified general appraiser. The NRCS approved the use of USPAP, the Uniform Appraisal Standards for Federal Land Acquisitions, and area-wide market analysis procedures. USPAP may serve as an industry standard for area-wide market analysis. Determining the fair market value of the agricultural land easement, the federal share will not exceed 50% of the fair market value of the agricultural land easement, as determined using (i) an appraisal using the Uniform Standards of Professional Appraisal Practices or the Uniform Appraisal Standards for Federal Land Acquisitions, (ii) an area-wide market analysis or survey, or (iii) another industry-approved method approved by NRCS. |
|-------------------|--|

Federal Statutes Affecting the Appraisal Profession (continued)

| | |
|---------------------------|--|
| 7 CFR 3550-3555 | Rural Housing Service: Single-Family Housing and Direct and Guaranteed Loans Programs Revises the definition of rural area to cite the statute that defines rural area and with a technical correction to the suspension or debarment requirement. |
| 7 CFR 3555 | Rural Housing Service: Single-Family Housing Guaranteed Loan Program The fair market value as determined by a licensed or certified appraiser in accordance with regulation 3555.107(d) will be used to establish the maximum loan amount. Cost approach or market value approach will be accepted. |
| Banking | |
| 12 CFR 3, 217, 324 | OCC, Federal Reserve, CFPB: Regulatory Capital Treatment for High Volatility Commercial Real Estate Exposures Permits the use of an "as is" appraisal in instances where an "as completed" value appraisal was not available. |
| 12 CFR 22, 172, 208 | OCC, CFPB, Federal Reserve, Farm Credit, NCUA: Loans in Areas with Flood Hazard Requirement to purchase flood insurance where available, emphasizing that federal flood insurance does not apply to land. |
| 12 CFR 34, 164, 226, 1222 | OCC, CFPB, Federal Reserve, FHFA, NCUA: Regulation Z Requires creditors to obtain an appraisal meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisal report. |
| 12 CFR 34, 225, 323 | OCC, Federal Reserve, FDIC: Real Estate Appraisals The final rule increases the threshold level at or below which appraisals are not required for residential real estate transactions from \$250,000 to \$400,000. The final rule defines a residential real estate transaction as a real estate-related financial transaction that is secured by a single 1- to 4-family residential property. Defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. |
| 12 CFR 225, 323, 34 | OCC, Federal Reserve, FDIC: Real Estate Appraisals Increases the threshold level at or below which appraisals are not required for commercial real estate transactions from \$250,000 to \$500,000. |
| 12 CFR 701,722 | NCUA: Transactions Involving Existing Lines of Credit A copy of an appraisal must be made available to the borrower. Credit unions will be permitted to refinance or modify a real estate-related loan held by FICU without having to obtain another appraisal, if there is no advancement of new monies or if there is adequate collateral protection even with the advancement of new monies. |
| 12 CFR 722 | NCUA: Real Estate Appraisals Defers the requirement to obtain an appraisal or written estimate of market value for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. |
| 12 CFR 1002 | CFPB: Regulation B Requires creditors to provide to applicants free copies of all appraisals and valuations developed in connection with an application for a loan to be secured by a first lien on a dwelling, and requires creditors to notify applicants in writing that copies of appraisals will be provided to them promptly. |

Federal Statutes Affecting the Appraisal Profession (*continued*)

| | |
|-----------------------------|---|
| 12 CFR 1024 | CFPB: Compliance Bulletin and Policy Guideline-Handling of Information and Documents During Mortgage Servicing Transfers Provides guidance to residential mortgage servicers regarding the transfer of mortgage loans, including examples of practices that the bureau may consider as contributing to policies and procedures that are reasonably designed to achieve the objectives of the regulatory requirements. |
| 12 CFR 1024,1026 | CFPB: RESPA, and TILA Amendments CFPB decided not to address the separation of appraisal and appraisal management company (AMC) fees. |
| 12 CFR 1026 | NCUA: Real Estate Appraisals The final rule accomplishes four objectives: (1) increasing the threshold below which appraisals are not required for nonresidential real estate transactions from \$250,000 to \$1 million, (2) restructuring the rule to enhance clarity, (3) exempting from the rule certain federally related transactions involving real estate in a rural area, and (4) making conforming amendments to the definitions section. |
| 12 CFR 1026 | CFPB: Amendments to Federal Mortgage Disclosure Requirements under TILA The appraisal fee must be based on the best information reasonably available at the time the disclosure is provided to the consumer, and is subject to zero tolerance. Based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers as of June 1, 2017, the exemption threshold increased from \$54,600 to \$55,800 effective January 1, 2018. |
| 12 CFR 1026,208 | OCC, CFPB, Federal Reserve, FHFA, NCUA: AMC Minimum Requirements Implements the minimum requirements in the Dodd-Frank Act for AMCs that are subsidiaries owned and controlled by an insured depository institution and regulated by a federal financial institution. Under the final rule, these federally regulated AMCs do not need to register with a state but are subject to the same minimum requirements as state-regulated AMCs. Also implements the requirement for states to report to the ASC the information required by the ASC to administer the new national registry of AMCs. |
| 12 CFR 1026, 226, 34 | OCC, Federal Reserve, CFPB: Appraisals for Higher-Priced Mortgage Loans Exemption Threshold The final rule exempted, among other loan types, transactions of \$25,000 or less, and required that this loan amount be adjusted annually based on any annual percentage increase in the CPI-W. In years following a year in which the exemption threshold was not adjusted, the threshold is calculated by applying the annual percentage increase in the CPI-W to the dollar amount that would have resulted, after rounding, if the decreases and any subsequent increases in the CPI-W had been taken into account. Based on the CPI-W in effect as of June 1, 2019, the exemption threshold increased from \$26,700 to \$27,200, effective January 1, 2020. |
| 39 CFR 230 | US Postal Service: Disposition of Property Acquired by USPS Requires, where property has been sold, a person submitting a valid claim under this section must be reimbursed the same amount as the last appraised value of the property prior to sale of such property. |

Commerce

82 CFR 57934

Economic Development Administration

EDA may rely on a current certified appraisal of a project property prepared by an appraiser licensed in the state where the project property is located to determine the fair market value.

Federal Statutes Affecting the Appraisal Profession (continued)

Energy

18 CFR 11

Federal Energy Regulatory Commission

Revises the commission's regulations for assessing the annual charge for use of government lands by hydropower licensees. Each year, the commission revises regulations to create an annual per-acre fee schedule by county using a formula with four components: (1) a per-acre land value by county based on a publicly available index of land values, (2) an encumbrance factor, (3) a rate of return, and (4) an inflation adjustment.

Government-Sponsored Enterprises

12 CFR 1282

FHFA: Enterprise Duty to Serve Underserved Markets

Allows appraisers for underwriting purposes to set the market rent for similar units and receive duty to serve credit.

12 CFR 1290, 1291

FHFA: Affordable Housing Program Amendments

Amends the regulation to provide the banks additional authority to allocate their AHP funds, among other things.

Housing and Urban Development

24 CFR 5, 982, 983

Changes to the Section 8 Tenant and Project-Backed Voucher Program

Removes the requirement that the independent entity approved by HUD to determine initial contract rents to owner must be based on an appraisal by a licensed, state-certified appraiser.

24 CFR 100

Fair Housing Act Implementation

Prohibits the use of an appraisal where the person "knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, handicap, familial status, or national origin," as well as "conditioning the terms of an appraisal of residential real property on a person's response to harassment because of race, color, religion, sex, handicap, familial status or national origin."

24 CFR 203, 206, 234

Project Approval for Single-Family Condominiums

Implements HUD's authority under the single-family mortgage insurance provisions of the National Housing Act to insure one-family units in a multifamily project (including a project in which the dwelling units are attached or are manufactured housing units, semi-detached, or detached) and an undivided interest in the common areas and facilities that serve the project.

24 CFR 206, 30

Federal Housing Administration: Strengthening the Home Equity Conversion Mortgage Program

Requires the mortgagee to have the property appraised no later than 30 days after receipt of the request by an applicable party in connection with a pending property sale; the property must be appraised within 30 days of a foreclosure sale. The rule also allows the commissioner to approve the use of other appraisers when the mortgagee is required to appraise the property.

Federal Statutes Affecting the Appraisal Profession (*continued*)

Interior

2 CFR 1402

Financial Assistance Interior Regulation

Clarifies the standard for real property appraisals, appraiser standards, and reporting requirements.

25 CFR 169

Rights of Way on Indian Land

The final rule provides flexibility in two ways: (1) by allowing for any type of valuation of fair market value, as long as it meets USPAP standards and departmental policies, and (2) by listing factors that Indian landowners may wish to consider in negotiating for compensation either by ensuring that they are included in the estimate of fair market value or by requesting that they be added.

432 CFR 100

Waiving Departmental Review of Appraisals and Valuations of Indian Property

Under the final rule, the minimum qualifications for a qualified appraiser include (a) holding a current license as a general appraiser in the state where the trust property is located, (b) being in good standing with the state regulatory agency, and (c) complying with the Uniform Standards of Professional Appraisal Practice rules and provisions for appraisers. Also, the Interior Department will not review an appraisal or valuation of Indian property done by a qualified appraiser if the tribe waives the review and the property owner does not object to foregoing the additional review.

Securities and Exchange Commission

17 CFR 229, 230, 232, 239, 240, 243, 249

Asset-Backed Securities Disclosure and Registration

Requires disclosure of any valuation “obtained by or for any transaction party or its affiliates.”

Transportation

23 CFR 635, 710, 810

Federal Highway Administration: Right of Way and Real Estate

The term “waiver evaluation” is used instead of “appraisal waiver.”

Treasury

12 CFR 11

Appraisal Subcommittee: Revised ASC Policy Statements

The ASC Policy Statements provide guidance to ensure that state appraiser certifying and licensing agencies comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, and the rules promulgated thereunder.

12 FR 1102

Appraisal Subcommittee: Collection and Transmission of Annual AMC Registry Fees

Fees for AMCs in states that require them to register and be supervised will be assessed as follows: AMCs in business for more than a year will pay \$25 for each appraiser who performed an appraisal for the AMC on a covered transaction in the state during the previous year. AMCs in business less than a year will pay \$25 for each appraiser who performed an appraisal for the AMC on a covered transaction in the state since the AMC commenced doing business.

26 CFR 1

Internal Revenue Service

Provides definition for “Real Estate Investment Trust Real Property.”

26 CFR 1, 602

Internal Revenue Service: Substantiation and Reporting Requirements for Cash and Noncash Charitable Contribution Deductions

Provides definitions for “qualified appraiser” and “qualified appraisal.”
