



Appraiser Evaluations— Why Not?

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Editor's Note: According to George R. Mann, there is lot of work appraisers cannot engage because of a USPAP restriction—unless you live in one of three states.

I have worked at or with several top 20 banks and estimate that the annual volume of evaluations is two to three times that of appraisals. Basically, every loan that is renewed requires at least an evaluation. Appraisals are sometimes required but in the vast majority of cases, appraisers are not getting a chance at this work because USPAP does not allow it, even though it is permitted under federal guidelines. The obvious question every appraiser should be asking today is “Why?”

Background

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The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) allows true evaluations for certain loans—new loans \$250,000 and under, new business loans \$1 million and under, and loan renewals meeting certain criteria. The Uniform Standards of Professional Appraisal Practice (USPAP), however, which guides appraisers, says something different.

Under USPAP, the minimum an appraiser can prepare is a *Restricted Use Appraisal Report*. This is an appraisal, not an evaluation. States have said that any service that gives an opinion of value must meet USPAP. So states require USPAP appraisals even for those loans where federal law says an evaluation will do—and where someone other than an appraiser is typically doing them. It's safe to say that clients would prefer using licensed appraisers to perform this service. Isn't it time for the industry to launch

a campaign to help states pass laws allowing appraisers to perform evaluations?

As it stands now, appraisers are not able to perform true evaluations except in North Carolina, Tennessee and Virginia, where it is permitted by state law.

Evaluations Defined

What is an “evaluation”? A quick definition might be: An opinion of value that does not need to meet the USPAP.

The term *evaluation* is “defined” in the December 2010 Interagency Appraisal and Evaluation Guidelines. Appendix D of this document defines an evaluation as follows: *A valuation permitted by the Agencies’ appraisal regulations for transactions that qualify for the appraisal threshold exemption, business loan exemption, or subsequent transaction exemption.* While this definition is not very specific, there is more in the content requirements outlined in the Guidelines.

XIII. Evaluation Content: An evaluation should contain sufficient information detailing the analysis, assumptions, and conclusions to support the credit decision. An evaluation’s content should be documented in the credit file or reproducible.

The evaluation should, at a minimum:

- Identify the location of the property, provide a description of the property and its current and projected use.
- Provide an estimate of the property’s market value in its actual physical condition, use and zoning designation as of the effective date of the evaluation

(that is, the date that the analysis was completed), with any limiting conditions.

- Describe the method(s) the institution used to confirm the property’s actual physical condition and the extent to which an inspection was performed.
- Describe the analysis that was performed and the supporting information that was used in valuing the property.

- Describe the supplemental information that was considered when using an analytical method or technological tool.
- Indicate all source(s) of information used in the analysis, as applicable, to value the property, including: external data sources (such as market sales databases and public tax and land records), property-specific data (such as previous sales data for the subject property, tax assessment data, and comparable sales information), evidence of a property inspection, photos of the property, description of the neighborhood, local market conditions.

- Include information on the preparer when an evaluation is performed by a person, such as the name and contact information, and signature (electronic or other legally permissible signature) of the preparer.
- The Guidelines state “... appraisers, real estate lending professionals, agricultural extension agents, or foresters” can perform evaluations. The “persons who perform evaluations should possess the appropriate appraisal or collateral valuation education, expertise, and experience relevant to the type of property being valued.”

Financial institutions primarily have two choices to meet the demand for evaluations:

- Hire internal staff, most of whom are not licensed appraisers.
- Have non-appraisers (e.g. real estate brokers) perform the evaluations.
- The best candidate for performing evaluations is rarely an option—i.e. licensed and certified real estate appraisers. As they did with AMC laws,

Wouldn't it be better to pay a licensed appraiser to do an evaluation?

Appraisers should campaign to get state laws amended to allow licensed appraisers to perform evaluations that do not need to comply with USPAP.

Tennessee Prototype Law

In Tennessee licensed and certified appraisers can perform evaluations that do not meet USPAP. Tennessee appraisers have been providing this service since 1995 and can attest that the cost to perform an evaluation is substantially less than a Restricted Use Appraisal Report. This is the reason banks in other states avoid using appraisers for their evaluation needs. Why pay an appraiser a higher fee for a Restricted Use Appraisal Report when other professionals can provide an evaluation much cheaper?

The Tennessee law limits the use of evaluations to the financial institutions industry only. This product cannot be used by other users of appraisals (e.g. attorneys, government agencies, general public), nor can it be provided to anyone outside the financial institution.

62-39-104 of the Tennessee “State Licensing and Certified Real Estate Appraisers Law” addresses applicability of this law and states the following:

- (d) (1) This chapter does not apply to any evaluation of the value of real estate serving as collateral for a loan made by a federally regulated financial institution or to any evaluation of the value of the assets of a trust held by the institution, provided that:

- (A) The applicable federal regulator does not require an appraisal by a state-licensed or state-certified appraiser for the loan or trust;
- (B) The evaluation is used solely by the financial institutions in their records to document the collateral or asset value;
- (C) The evaluation shall be labeled on its

face “this is not an appraisal”; and (D) Individuals performing these evaluations may be compensated for their services.

(2) Nothing in this chapter shall prevent a state-licensed or state-certified appraiser from performing the evaluation. Acts 1990, ch. 865, § 5; 1991, ch. 366, § 6; 1992, ch. 697, § 5; 1994, ch. 605, § 9.

Wouldn't it be better to pay a licensed appraiser to do an evaluation? The bank would get a more reliable product from licensed appraisers, and appraisers would get more work. Seems like a win-win for both industries.

An appraisal industry campaign to get this law passed in all other states would likely be supported by state banking authorities. I encourage appraisers, bank clients, and industry leadership to begin a national campaign to get the Tennessee law passed in all states and the District of Columbia. **WRE**

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