

# Uniform Standards of Professional Appraisal Practice

*Applying the Standards*

**Standards Rule 1-2** (This Standards Rule contains binding requirements from which departure is not permitted.)

In developing a real property appraisal, an appraiser must:

- Identify the client and other intended users;
- Identify the intended use of the appraiser's opinions and conclusions;

**Comment:** Identification of the intended use is necessary for the appraiser and the client to decide:

- the appropriate scope of work to be completed; and
- the level of information to be provided in communicating the appraisal.

An appraiser must not allow a client's objectives or intended use to cause an analysis to be biased.

- Identify the purpose of the assignment, including the type and definition of the value to be developed; and, if value opinion to be developed is market value,\* ascertain whether the value is to be the most probable price:
  - in terms of cash; or
  - in terms of financial arrangements equivalent to cash; or
  - in other precisely defined terms; and
  - If the opinion is to be based on submarket 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 the purpose of an assignment is to develop an opinion of market value, the appraiser must also develop an opinion of reasonable exposure time linked to the value opinion.\*

Identify the effective date of the appraiser's opinions and conclusions;\*

Identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal;\*

Identify the location and physical, legal, and economic attributes of the real property interest to be valued;

Identify any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;

Identify any known encumbrances, easements, or other items of a similar nature and

Identify whether the subject property is a fractional interest, physical segment, or partial holding.

Identify the basis of the appraisal: If the necessary subject property information is not available from the research opportunity (public or private sources), the appraiser must obtain the necessary information where possible, in compliance with the applicable law and any applicable regulatory assumption about such information.

Identify the appraiser's contribution of a property inspection and

Identify the appraiser's contribution of a property inspection and

**STANDARD 2 REAL PROPERTY APPRAISAL, REPORTING**

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

**Comment:** STANDARD 2 addresses the content and level of information required in a report that communicates the results of a real property appraisal.

**Comment:** STANDARD 2 does not mandate the form, format, or style of real property appraisal reports. The form, format, and style of a report are functions of the needs of users and appraisers. The substantive content of a report determines its compliance.

**Standards Rule 2-1** (This Standards Rule contains binding requirements from which departure is not permitted.)

Each written or oral real property appraisal report must:

- clearly and accurately set forth the appraisal in a manner that enables the intended users of the appraisal to understand the appraisal; and
- contain sufficient information to enable the intended users of the appraisal to understand the appraisal; and
- clearly and accurately disclose any extraordinary assumption, hypothetical condition, or limiting condition that directly affects the appraisal and indicate its impact on value.

**Comment:** Examples of extraordinary assumptions or hypothetical conditions might include, but are not limited to, the execution of a pending lease agreement, atypical financing, a known but not yet quantified environmental issue, or completion of civic or public improvements. In a written report the disclosure is required in conjunction with statements of each opinion or conclusion that is affected.

**Standards Rule 2-2** (This Standards Rule contains binding requirements from which departure is not permitted.)

Each written or oral real property appraisal report must be prepared under one of the following three options and

Identify the appraiser's contribution of a property inspection and

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**Dennis S. Tosh & William B. Rayburn**

SIXTH EDITION

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*Applying the Standards*

Dennis S. Tosh & William B. Rayburn



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# *Preface*

Recognition and adoption of the Uniform Standards of Professional Appraisal Practice (USPAP) have resulted in significant changes in the appraisal profession. The uniform standards have established a minimum foundation on which both the development of an appraisal and a reporting of the results must be based. The USPAP has been adopted by all of the major appraisal organizations in the United States, and members of these organizations who desire to be designated and recertified by their organizations must show successful completion of a uniform standards course. State appraisal boards have incorporated the uniform standards into their statutes and, thus, violations of the standards have resulted in suspensions and revocations of appraisal licenses and certifications. The financial regulatory agencies that oversee federally related real estate transactions require compliance with the USPAP as the minimum standards on which other procedural and reporting requirements by an appraiser are based. Public agencies at all levels—local, state, and federal—have adopted the USPAP and added supplemental standards that must be followed by anyone employed by or working on behalf of such agencies.

Effective March 31, 1999, significant changes occurred in regard to both the types of appraisal assignments and the types of appraisal reports recognized by the USPAP. In addition, the standards rules are now much more specific as to what must be included in the various types of appraisal reports. In recent years, several new statements and a number of advisory opinions have also been added to the USPAP.

All real property appraisers must understand and be able to incorporate into their appraisal practice the suggestions and requirements contained within the USPAP. Anything less most certainly will result in a reaction by clients, readers of the appraisal report, and/or the general public who are directly impacted by the results of the appraiser's activities.

While the uniform standards cover types of appraisal activities and reporting other than real property, the direction of this book is toward understanding the portion of the standards that explains the development and reporting of real property appraisals. In addition, review appraisal, as it relates to real property, also is discussed.

The text begins with a brief explanation of the background of the USPAP. How the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 addresses the uniform standards, as well as how state appraisal boards have included the standards in their statutes, is explained. The differences between the standards, standards rules, statements on standards, and advisory opinions is discussed.

The Preamble of the USPAP through Standard 3 are the portions of the uniform standards that have the most direct impact on real property appraisers. Thus, these portions of the USPAP are fully explained in this text. Examples and illustrations are included to assist the appraiser in understanding how his or her appraisal practice is impacted by the uniform standards. Each of these chapters in the text is followed by review questions. On completing the appropriate readings, the review questions should be answered. Both answers to the review questions as well as explanations appear in Appendix B.

In addition to the uniform standards and standards rules, the Appraisal Standards Board (ASB) also publishes Statements on Standards. As of 1999, nine statements have been published. These statements are explained in the text to help the appraiser better understand how these statements impact practice.

The text also contains 30 case studies, designed to provide the reader with the opportunity to take what has been learned from studying the uniform standards, and applying that understanding to typical problems and situations confronted by appraisers. Suggested answers to the case studies appear in Appendix C, along with rationales and references to the appropriate portion of the USPAP in Appendix A.

You'll find Appendices D and E to be invaluable resources. Appendix D is a handy list of web addresses for eight appraisal-related organizations, while Appendix E offers contact information for all of the country's state appraisal boards. Both appendices are useful for research purposes, or if you're interested in joining an appraisal society or are seeking licensing or certification in other jurisdiction.

On completing your study of this material, you should have a better understanding of the USPAP. Because the uniform standards are a living document and thus subject to change and update, you should keep abreast of the changes. A quick overview of the standards is not sufficient. The standards should be studied, notes should be made, and questions should be asked. If we indeed hope to be looked upon as professionals, then we must understand and comply with our uniform standards.

*The Uniform Standards of Professional Appraisal Practice* is copywritten and promulgated by The Appraisal Foundation. They are subject to ongoing critique and to additions and corrections. The portions of USPAP appearing in this book are reprinted with the permission of The Appraisal Foundation.

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State Real Estate Appraiser Boards



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# *Background*

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The Uniform Standards of Professional Appraisal Practice (USPAP) are based on an original set of standards developed in 1986–1987 by the Ad Hoc Committee on Uniform Standards. This committee was comprised of representatives of the eight major appraisal organizations in the United States. Each of these appraisal organizations has adopted the uniform standards and, as such, these standards have become recognized throughout the United States as the generally accepted standards of appraisal practice. In addition, the standards have been adopted by other appraisal organizations as well as by local, state, and federal agencies.

The standards are considered to be a living document. They can be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) of the Appraisal Foundation after exposure to the appraisal profession, users of appraisal services, and the public in accordance with established rules of procedure.

A current edition of the uniform standards (Preamble through Standard 3) is reproduced and explained in this text. As part of an effective appraisal practice, every appraiser should retain a current copy of the USPAP. The easiest and most dependable method of staying current with the uniform standards is by participating in the subscription service offered by the Appraisal Foundation. The subscription service will provide you with all information disseminated through the ASB. This information will include changes in standards, standards rules, statements on standards, and advisory opinions. The current charge is \$150 annually. Information in regard to the subscription service can be obtained from:

Appraisal Standards Board  
The Appraisal Foundation  
Suite 900  
1029 Vermont Avenue, NW  
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[www.appraisalfoundation.org](http://www.appraisalfoundation.org)

## **The Financial Institutions Reform, Recovery and Enforcement Act**

At the time the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) was signed into law (August 9, 1989), the USPAP had become recognized and accepted as the uniform standards of the appraisal profession. Included in Section 1110 of Title XI of FIRREA is the following statement:

Each federal financial institution's regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require at a minimum—

- (1) that real estate appraisals be performed in accordance with generally accepted appraisals standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and
- (2) that such appraisals shall be written appraisals. Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

All of the federal financial institutions' regulatory agencies have incorporated the minimum standards set forth in the statute (Title XI) in their final rules, while listing additional criteria that shall apply to all appraisals performed as required for federally related transactions. Of the appraisal reporting requirements cited in the final rules of the regulatory agencies, "Appraisal must be in compliance with the USPAP" is the first requirement mentioned.

## **State Licensing/Certification**

Today, every jurisdiction has, by statute, a licensing/certification program in operation. The USPAP has been incorporated in the statutes that created the state licensing and certification of appraisers. In some jurisdictions, the USPAP has been incorporated in its entirety (Introduction through Standard 3) in the appraisal law, while in other states the uniform standards are simply referenced by name. Thus, a violation of the various provisions contained in the uniform standards may result in disciplinary action by the state appraisal board/commission against an appraiser. Disciplinary action may result in either suspension or revocation of a license or certification. State regulatory authorities, therefore, expect appraisers to understand the uniform standards and abide by them. In addition, proof that an applicant has had an educational course covering the uniform standards is a prerequisite for licensing and/or certification in every jurisdiction. In addition, some jurisdictions require an update on the USPAP as part of the continuing education requirement for license/certification renewal.

## Table of Contents

The USPAP is composed of the following sections:

- Preamble
- Ethics Rule
- Competency Rule
- Departure Rule
- Jurisdictional Exception Rule
- Supplemental Standards Rule
- Definitions

### Standards and Standards Rules

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

### Statements on Appraisal Standards

### Advisory Opinions

### Glossary

### Index

A sound real property appraisal practice should include the documentation and review procedure required in the applicable sections. Specifically, you should fully understand the Preamble and Rules; Standards 1 and 2 covering Real Property Appraisal, Development and Real Property Appraisal, Reporting; and Standard 3, Real Property Appraisal Review, Development and Reporting.

## Standards

As you familiarize yourself with the uniform standards, you will note that the ten standards are very broad statements. In fact, they consist of only two or three lines of text. You also will recognize the relationship that exists between the various standards. Specifically, Standards 1 and 2 deal with the development of a real estate appraisal and the reporting of the appraisal. Standards 4 and 5 cover the same

substantive aspects of real estate consulting and reporting. Standards 7 and 8 deal with personal property, while Standards 9 and 10 cover business valuation. Two of the ten standards are singular in terms of subject matter. Standard 3, Real Property Appraisal Review, Development and Reporting, and Standard 6, Mass Appraisal, Development and Reporting do not have a separate reporting standard as do the other four areas of coverage.

## **Standards Rules**

All ten standards are followed by standards rules. These standards rules are much lengthier than the standards themselves and are intended to be very specific concerning what should be done to adhere to each standard. Many of the standards rules are followed by explanatory comments, which further describe the intent of the standards rules. While the standard could be thought of as a “skeleton” in terms of a broad statement, the standards rules serve the function of “hanging muscle” on the skeleton and give completeness to the standard.

## **Statements on Standards**

In addition to the standards and standards rules, the ASB also publishes statements on standards. The purpose of these statements is to clarify, interpret, explain, and/or elaborate on the standards and the standards rules. Statements on standards also serve to assist appraisers, clients, users, and the general public in understanding the standards. The statements have the same weight as the standards rules and can only be adopted by the ASB after exposure draft and proper time for comments. Additional statements on standards will be forthcoming through the ASB. As of January 1, 1992, the ASB issues an annual update of the USPAP that includes the new statements adopted by the ASB during the previous 12 months. The Appraisal Foundation subscription service includes a copy of the annual update.

## **Advisory Opinions**

Advisory opinions also are issued by the ASB. These opinions are considered by the ASB as informal responses to requests it receives for information. These opinions, while unenforceable, do not establish new standards. They are published for general distribution. If you wish to receive an advisory opinion concerning a specific question or problem, direct your request to the Appraisal Standards Board, in care of the Appraisal Foundation at the address given previously.

## **Glossary**

The Appraisal Standards Board has recently issued a Glossary as a form of “other communications.” While not an integral part of the USPAP, as the Definitions subsection is, these words and phrases are considered common to appraising. The purpose of providing such a glossary is to show the similarities and differences between these words and phrases.

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# *Preamble and Rules*

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The Preamble and Rules Section of the uniform standards sets the general tone for the responsibilities of an appraiser. In addition to the appraiser's responsibilities to his or her client, obligations also extend to intended users of the appraisal report as well. Specific issues covered in this portion of the USPAP should be fully understood by appraisers before they try to address and understand the specific topics covered in the ten standards. To do otherwise is perhaps “putting the cart before the horse.”

The following subsections are included in this portion of the USPAP:

- Preamble
- Ethics Rule
- Competency Rule
- Departure Rule
- Jurisdictional Exception Rule
- Supplemental Standards Rule
- Definitions

## **Preamble**

Webster defines the word “preamble” as “an introduction to a statute stating its reason and purpose; preliminary.” The Preamble to the USPAP does, indeed, state its reason and purpose in its first paragraph.

***The purpose of these Standards is to establish requirements for professional appraisal practice, which includes appraisal, consulting, and review, as defined. The intent of these Standards is to promote and maintain a high level of public trust in professional appraisal practice.***

The Preamble makes it quite clear that the uniform standards are for appraisers and the users of appraisal services. Furthermore, the appraiser assumes liability to each intended user of the appraiser's



services. Also of interest in the Preamble is reference to a “professional appraisal practice.” Implicit in the wording is the assumption that the person carrying out the appraisal assignment will do so in a professional manner.

## Ethics Rule

The Ethics Rule of the USPAP states in part:

**To promote and preserve the public trust inherent in professional appraisal practice, an appraiser must observe the highest standards of professional ethics. This Ethics Rule is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping.**

When reading the Ethics Rule, a number of observations can be made. First, and certainly not by accident, the Ethics Rule is the first subsection of this portion of the USPAP. Clearly, the ethical responsibilities of an appraiser are paramount in terms of his or her arriving at and communicating the analyses, opinions, and conclusions. Second, this provision assumes the appraiser has a public responsibility as evidenced by the wording:

***To promote and preserve the public trust inherent in professional appraisal practice . . .***

To be ethical implies that one has personal obligations and responsibilities to someone else and, thus, “looking after number one” means looking after the best interest of your client. Finally, the words “professional appraisal practice” appear in this rule. As will be noted throughout the discussion of the standards, an appraiser is assumed to be a professional and as such is held to a higher level of accountability than would otherwise be expected.

The Conduct Section requires the appraiser to act as a disinterested third party. He or she is required to avoid any action that results in communicating assignments in a misleading or fraudulent manner. This includes reliance upon any unproven conclusions. Accordingly, appraisal independence is paramount. Objectivity must be present. To help assume independence and objectivity, federal regulatory agencies such as the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) require that fee appraisers (“appraisers not permanently employed by a given regulated institution”) be hired by a regulated institution or its agent rather than by the borrower. This requirement, as well as the inclusion of a conduct section in the Ethics Rule, is intended to remove any and all doubt as for whom the appraiser works. To further the goal of complete independence, the appraiser always should be employed via a letter of employment (engagement) by the person who employs the appraiser. Furthermore, the agreed-to fee for services rendered always should be paid directly to the appraiser by the person who employs the appraiser even though the appraisal fee may in turn be charged, for example, to the potential borrower as part of the loan application fee(s). Historically, independent

contractors, such as fee appraisers, have defined their clients to be: (1) the persons who order the reports and (2) the persons from whom payments are expected. Thus, the understanding as to who is the appraiser's client is made clear if the client orders the appraisal and pays the appraiser.

Finally, an appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value. Besides violating the Ethics Rule of the USPAP, such action also violates both fair housing and fair lending laws.

The Management Section of the Ethics Rule does not permit the acceptance of contingency fees by an appraiser in developing an opinion of value. This section states:

**Whenever an appraiser develops an opinion of value, it is unethical for the appraiser to accept compensation in developing that opinion that is contingent upon:**

- 1. the reporting of a predetermined value, or**
- 2. a direction in value that favors the cause of the client, or**
- 3. the amount of the value opinion, or**
- 4. the attainment of a stipulated result, or**
- 5. the occurrence of a subsequent event directly related to the value opinion.**

Standards Rule 2-3 requires that as part of the written real property report, the appraiser *must* include a signed certification statement that includes the following acknowledgment:

**My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.**

Clients should not confuse the unethical practice of collecting a contingency fee for developing the real property appraisal with a consulting assignment where the appraiser is clearly not acting as a disinterested party and would thus not reasonably be perceived as performing a service that requires impartiality. Standard 4, Real Estate/Real Property Consulting, Reporting, recognizes instances when an appraiser is not acting in a disinterested manner. However, an appraiser retained to perform a legitimate consulting service, such as zoning advice or market analysis, may be compensated by a fee contingent on the results achieved, but only when a proper disclosure of the role being performed by the appraiser is made. Standard 4 and the Management Section of the Ethics Rule require the appraiser to ensure that contingency compensation for a consulting service does not conflict with the independence and objectivity required of the appraiser employed to develop the real property appraisal.

False, misleading, or exaggerated advertising also is addressed in the Management Section. An

ad that states “See us for an appraisal, we’ll make sure you get the loan,” violates the Ethics Rule. In addition to advertising, this section also covers the responsibility of an appraiser who works for a firm in which a fellow employee or supervisor may have been the procuring cause of the appraisal assignment. In such an instance, the individual appraiser is responsible to ascertain that there has been no breach of ethics in obtaining, conducting, and communicating the appraisal in which he or she is involved.

The Confidentiality Section of the Ethics Rule states quite simply:

**An appraiser must protect the confidential nature of the appraiser-client relationship.**

Again, reference is made to the “appraiser-client relationship.” A fiduciary relationship is assumed.

The Confidentiality Section does, however, recognize three instances in which the appraiser may have to disclose confidential factual data. Specific instances cited in the USPAP in which disclosure of confidential information is acceptable are to:

1. the client and persons specifically authorized by the client;
2. state enforcement agencies and such third parties as may be authorized by due process of law; and
3. a duly authorized professional peer review committee.

Examples of the first instance, persons specifically authorized by the client, would include the potential borrower and other financial institutions who may be participating in the loan if the purpose of the appraisal is for loan documentation. State enforcement agencies and parties authorized by due process of law would include, for example, state appraisal licensing/certification boards as well as the results of legal action in which through the rules of discovery the opposing side in a lawsuit has the legal right to review the appraisal report and related documentation. Finally, a professional peer review committee would include, for example, an appraisal organization in which the appraiser is seeking professional membership. A common practice of such organizations is the requirement that the appraiser show samples of his or her work as part of the application for membership process. The Confidentiality Section of the Ethics Rule does, however, make it unethical for a member of such a duly authorized professional peer review committee to disclose confidential information or factual data presented to the committee.

If a client is concerned that information contained in an appraisal report is of such a nature that it should not be disclosed, then the client should include in the employment contract with the appraiser a statement that these appraisals cannot be used to present qualifications to a professional peer review committee without the prior written consent of the client. As a practical matter, appraisal organization review committees are not concerned with or interested in the subject matter of the appraisal assignments

they review as a condition of membership or designation. The purpose of reviewing such work is to see if the appraiser has followed the appraisal process and if he or she has incorporated the correct procedure into the assignment. Unless unusual circumstances exist, a client should not be concerned with information contained in an appraisal “going out to everybody” via a professional peer review committee.

The fourth and final section of the Ethics Rule addresses the appraiser's requirements for Record Keeping. Appraisers are required to retain such workfiles for each assignment for a period of at least:

1. five (5) years after preparation or
2. at least two (2) years after final disposition of any judicial proceeding in which testimony was given,

whatever period expires last. The five-year and/or two-year requirements are minimum. Some states have enacted into their appraisal laws record-keeping provisions greater than the five and/or two years. In such cases, the longer of the two (USPAP or state statute) would prevail. As a practical matter, appraisers often keep their files for a much longer period of time than these minimums require.

## Competency Rule

The Competency Rule states:

**Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively:**

1. **disclose the lack of knowledge and/or experience to the client before accepting the assignment; and**
2. **take all steps necessary or appropriate to complete the assignment competently; and**
3. **describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.**

The Competency Rule provides an integral component of the uniform standards. As noted in the comments section of the Competency Rule, the *background* and *experience* of appraisers varies widely and “a lack of knowledge or experience can lead to inaccurate or inappropriate appraisal practice.”

The introductory words of this rule, “prior to accepting an assignment,” fully explain its intent.