



USPAP Q&A

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The Appraisal Standards Board (ASB) of The Appraisal Foundation develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. The USPAP Q&A is a form of guidance issued by the ASB to respond to questions raised by appraisers, enforcement officials, users of appraisal services and the public to illustrate the applicability of USPAP in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems. The USPAP Q&A may not represent the only possible solution to the issues discussed nor may the advice provided be applied equally to seemingly similar situations. USPAP Q&A does not establish new standards or interpret existing standards. USPAP Q&A is not part of USPAP and is approved by the ASB without public exposure and comment.

Client Request to Limit Scope of Work to New Client Name

Question:

An appraiser completed an appraisal for Client A. Client B received a copy of the appraisal from Client A and finds it acceptable for their purposes, but wants to be identified as the client in the appraisal report. Client B is aware that appraisers are prohibited from readdressing (or transferring) a completed report to a different client's name. As a result, Client B would like to engage the appraiser in a new assignment, limiting the appraiser's scope of work to only identifying them as the new client. Can the appraiser complete the assignment from Client B under these terms?

Response:

No. USPAP requires the scope of work performed to produce credible assignment results. USPAP clearly establishes that the scope of work is determined by the appraiser. If a client's instructions (i.e. assignment conditions) limit the appraiser's scope of work in a new assignment to simply identifying a new client, the client, not the appraiser, has made the scope of work decision.

In addition, even if the appraiser accepted the client's proposed scope of work as his or her own, that scope of work may not be adequate to produce credible assignment results as required by USPAP.

As is the case with all assignments, when a client's assignment conditions are too restrictive to produce credible assignment results, an appraiser must decline or withdraw from an assignment.

Client Requirement to Disregard Market Value Changes Prior to Effective Date

Question:

I am aware of the ASB's June 2008 Q&A which addressed the implementing regulation, 49 CFR Part 24, for *The Uniform Relocation Assistance and Real Property Acquisitions Act of 1970*, as Amended (the Uniform Act). The topic of this Q&A is the relationship of Standard Rule 1-4(f) and "Before Acquisition Value." The ASB pointed out that such a situation does not create a jurisdictional exception under USPAP, but is rather an assignment condition.

My state has a similar law that requires the appraiser to disregard any decrease or increase in market value of the property prior to the effective date of value caused the by the public improvement for which the property is being acquired. Is this state law a jurisdictional exception under USPAP?

Response:

No. The state law is not a jurisdictional exception in this case. USPAP SR 1-4(f) becomes applicable in an assignment only *if* the scope of work includes the analysis of anticipated improvements:

When analyzing anticipated public or private improvements, located on or off the site, an appraiser must analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions. (Bold added for emphasis)

As was pointed out in the June 2008 Q&A response, the key word in SR 1-4(f) is "**When.**" Your state law does not conflict with USPAP because the word **When** indicates that SR 1-4(f) is only applicable in the circumstance that public or private improvements must be analyzed in order to develop credible assignment results.

The recently adopted 2010-2011 edition of USPAP that becomes effective on January 1, 2010, is intended to enhance clarity and understanding in application of the JURISDICTIONAL EXCEPTION RULE. While there are no new requirements, the following four steps have been added to the RULE:

In an assignment involving a jurisdictional exception, an appraiser must:

- 1. identify the law or regulation that precludes compliance with USPAP;*
- 2. comply with that law or regulation;*

3. *clearly and conspicuously disclose in the report the part of USPAP that is voided by that law or regulation; and*
4. *cite in the report the law or regulation requiring this exception to USPAP compliance.*

Client Requirement to Disregard the Influence on Market Value of Public Improvements

Question:

I am aware that development of an opinion of market value also requires development of an opinion of reasonable exposure time linked to the value opinion. The assignment I am working on has an assignment condition under the *Uniform Appraisal Standards for Land Acquisitions* (the Yellow Book) that requires me to disregard any decrease or increase in market value of the property prior to the effective date of value that is caused by the public improvement for which the property is being acquired. My research indicates the time frames of buyers and sellers are often influenced by pending public improvement projects. Does this requirement represent a jurisdictional exception?

Response:

Yes. In this case, the implementing law for what is commonly known as the Yellow Book *precludes* you from complying with the USPAP requirement stated in the Comment to USPAP SR 1-2(c), which requires an appraiser to develop an opinion of exposure time when an opinion of market value is developed. In contrast, the Yellow Book provides that “the appraiser shall not link an estimate of market value for federal land acquisitions to a specific exposure time.”

Is a “Waiver Valuation” a Jurisdictional Exception?

Question:

The Federal Highway Administration (FHWA) permits a “waiver valuation.” To quote 49 CFR 24.102(c)(2), “The term waiver valuation means the valuation process used and the product produced when the agency determines that an appraisal is not required, pursuant to 24.102(c)(2) appraisal waiver.” Is this an application of the JURISDICTIONAL EXCEPTION RULE?

Response:

No. There is no jurisdictional exception in the situation described. USPAP does not establish who or which assignments must comply. An agency may determine that an appraisal is not required for a specific situation, and may elect to rely on a waiver valuation.

An appraiser who is required to practice under USPAP, or chooses to do so, must still comply with USPAP. However, nothing in the definition of waiver valuation *precludes the appraiser from complying with USPAP*. Compliance with USPAP sometimes

requires an appraiser to develop an expanded level of analyses, or communicate results with a different minimum set of requirements, distinct from what might be desired by a particular intended use or user. These additional obligations may impact an appraiser's decision whether they *choose* to accept the assignment.

It is important that an appraiser take the time and effort to clearly understand all the assignment elements, and make an appropriate scope of work decision that complies with the appraiser's obligation to be able to demonstrate that the scope of work is sufficient to produce credible assignment results.

Client Requirement to Assume No Contamination Exists

Question:

The Federal Highway Administration (FHWA) publishes a "Guide for Preparing an Appraisal Scope of Work." One of the items listed is that the property being acquired should be "appraised as if free and clear of contamination," unless otherwise specified. Is this a jurisdictional exception, extraordinary assumption, or hypothetical condition?

Response:

This situation is not an application of the JURISDICTIONAL EXCEPTION RULE. Rather, if contamination is an aspect of the valuation, the situation calls for either an extraordinary assumption or a hypothetical condition. In the DEFINITIONS section, an extraordinary assumption is defined as:

an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions.

A hypothetical condition is defined as:

that which is contrary to what exists but is supposed for the purpose of analysis.

If the contamination status of the property is uncertain and cannot be determined, an extraordinary assumption is appropriate. If the property is known to be contaminated, a hypothetical condition to the contrary would be required.

The USPAP Q&A is posted each month on The Appraisal Foundation website (www.appraisalfoundation.org). The ASB compiles the monthly USPAP Q&A into the USPAP Frequently Asked Questions (USPAP FAQ) for publication with each edition of USPAP. In addition to incorporating the most recent questions and responses issued by the ASB, the USPAP FAQ is reviewed and updated to ensure that it represents the most recent guidance from the ASB. The USPAP Frequently Asked Questions can be purchased (along with USPAP and USPAP Advisory Opinions) by visiting the “Foundation Store” page on The Appraisal Foundation website (<https://commerce.appraisalfoundation.org>).

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