

General reaction to the Exposure Draft and recommendation regarding general direction:

We did not expect to see an exposure draft of proposed USPAP changes this early in the process. In making the changes to USPAP regarding Scope of Work, the ASB first exposed for comment a concept paper showing what ASB believed about the SOW concept in general. Based on the feedback received, the ASB then established its guiding principles, which in turn were incorporated into exposure drafts proposing changes to the next edition of USPAP. The process was therefore carefully deliberated, the resulting changes well thought out, and the end result was a much improved USPAP.

This current exposure draft is premature. While the ASB solicited answers to specific questions about reporting late last year, this current exposure draft shows that the ASB did not, as a result of the responses received, use them to establish their guiding principles regarding reporting in USPAP.

The ASB should be urged to start with the question of “what constitutes *communication* in USPAP?” Once that is established, they should then move to the question of “what constitutes *adequate* communication in USPAP?” These questions must be answered before ANY changes can be made in USPAP relating to reporting.

Until it is firmly established what constitutes “communication”, there is no point in proposing a Communication Rule. Proposing a Communication Rule to USPAP does not accomplish the task answering the question, “what constitutes communication?” It only serves to further confuse.

Once the ASB’s guiding principles are in place, we would like to see improvements made to USPAP with regard to the requirements for written appraisal reports. The existing requirements list the minimum elements that need to be incorporated into a report, but not in a clear manner. The current reporting rules rely on a false construct – the artificial distinctions made (or rather, implied) between state, summarize, and describe. USPAP’s use of these terms gives little direction to appraisers trying to determine what must be addressed in a report, and to what degree. Users of appraisal services are even more confused.

The three reporting options currently in Standard 2 do not work in actual practice because the distinction between what is required for a Summary and what is required for a Self Contained Appraisal Report is not clear. As a result, appraisers tend to default to “Summary”, and the result is a vast array of Summary reports exhibiting different levels of reporting. The term “Self Contained” gets wrongly interpreted to mean “must include every possible detail” and so is avoided. And “Restricted Use” has become code for “cheapest” – not at all what the ASB intended when it put those terms and concepts into USPAP in 1994.

We suggest the ASB consider a “scope of reporting” approach in USPAP. Reporting requirements should be based on the principle that report must meet information needs of intended user(s). (SR 2-1(b)) We feel the reporting requirements for written real property appraisal reports should be like those in Standard 10; i.e., should establish minimum requirements for Restricted Use reports and for what in Standard 10 is referred to as an “Appraisal Report” (similar to the Summary Appraisal Report currently under Standard 2.) An “Appraisal Report” would need to include certain minimum elements, but the level of detail could otherwise be adjusted according to the information needs of the intended users for the intended use.

Other concerns:

The question was raised by our committee: “If USPAP already includes reporting Standards (2, 5, 8, 10 and parts of 3 and 6), then why is there need for a Communication Rule?” Much of what is in the proposed Communication Rule (either version) repeats what is already said elsewhere in USPAP and is therefore redundant

Other parts (e.g., line 22-23 in Alternative A) have to do with matters other than “communication” and are thus misplaced. Also misplaced is a new requirement for personal property and business valuation appraisal consulting assignments” at lines 36-38 on p. 10 and lines 92-94 on p. 13. *A bullet within a Communications Rule is not the place to incorporate new types of assignments, and requirements for them, into USPAP!* Personal property and business valuation consulting assignments have never been defined or addressed in USPAP before. If they are to be addressed in USPAP, this is not the way or the place to do it.

The current definition of “report” in USPAP is very narrow. It currently applies only to appraisal, appraisal review and appraisal consulting assignments, not “other” assignments that might be prepared by an individual acting as an appraiser. While we agree the existing definition is flawed, the proposed new definition (under both Alternatives A and B), would broaden “report” to include “other” assignments. And under both Alternatives A and B, reporting requirements would be added to USPAP for such “other” assignments. But such reporting requirements would be impractical for some of these types of assignments. For example, an appraisal instructor who prepares and submits a syllabus would have to report the items on pp. 9-10, lines 29-38 under alternative A, or p. 13 lines 85-94 under alternative B. That makes no practical sense.

The Appraisal Institute Standards Committee members were very critical of proposed Communication Rule Alternative B, which would forbid “draft” reports but would allow “preliminary reports” for which the reporting requirements would be far less than they currently are for Restricted Use Appraisal Reports.

We would like to point out that existing state appraisal laws in some cases forbid the preparation of a “preliminary report” as proposed in the exposure draft.

The term “draft” has many different meanings. Unless “draft” is defined in USPAP, it is not appropriate for USPAP to forbid such a thing. What, exactly, is forbidden?

If what is meant by a “draft” is the communication of an opinion or conclusion that is not developed according to Standard 1 (using the case of a real property appraisal) and workfile requirements, then we do not think such a communication should be allowed. An appraiser should not communicate an opinion or conclusion that is not developed per the applicable development Standard. A client would only request an opinion or conclusion from an appraiser – draft or otherwise – because that client wanted to *do something with it* – i.e., rely on it to some degree. An opinion or conclusion that is not developed per Standard 1 could cause a great deal of harm to a client and could severely damage public trust.

However, if what is meant by a draft is a communication of an opinion or conclusion that IS developed according to the appropriate development Standard and workfile requirements, then we see no problem with allowing it. ANY report might be subject to subsequent revision or correction that the appraiser agrees needs to be made. This can easily be accomplished by the appraiser issuing a corrected or revised report which is differentiated from the earlier report by a new date of report.

**Comments on the First Exposure Draft
Prepared by the Appraisal Standards Committee
of the Appraisal Institute**

3

The term “draft” has been in use in appraisal practice and in general business communication for a long time. It is especially common in litigation work and in appraisal assignments involving non-residential properties for lending institutions and government agencies. These types of clients often request “draft” reports from an appraiser to signify to that appraiser that they may be requested to make revisions or corrections after the report is reviewed. While there are instances where “drafts” are used in an attempt to influence the appraiser’s opinions, more often the process is legitimate and is an efficient way for a client to coordinate any applicable requirements and other issues relevant to the assignment with the appraiser.

In short, first let’s make sure we’re all on the same page with regard to what is meant by a “draft”. Then, drafts should be allowed, but a draft report needs to meet the applicable reporting requirements (e.g., Standard 2 in the case of a real property appraisal.) Any report could be revised later if errors are discovered or revisions are otherwise needed.

While drafts should never be used by client to attempt to “negotiate” a value or other conclusion, they should not be forbidden. Other, existing requirements in the ETHICS RULE of USPAP are adequate to address the instance in which an appraiser is being subject to undue influence.

We feel it would be overkill to require documentation of changes between “preliminary” and “final reports” (or, using our preferred vernacular, reports and subsequently revised reports.) The ETHICS RULE already requires that a “true copy” of “any written report”. This covers it. The appraiser must keep true copies of whatever is given to the client. There is no need to also require documentation of changes.

We are aghast at the idea that a “preliminary report” not only *should not*, but *must not* include a certification. This presumably means the report would not need to be signed, or otherwise indicate who prepared it. So, it would not need to be signed? How does this promote public trust?

Our most significant concern with Alternative B is that too many clients would request no more than “preliminary report” and then cancel the assignment if the conclusion didn’t suit their purposes. Presumably the fee for a preliminary report would be less than for a “final”, so this would be done for cost purposes and/or as a way around USPAP’s reporting requirements. Our residential appraisers especially have expressed deep concern over this.