MEETING AGENDA
AMC Advisory Committee
TALCB Headquarters Office
4th Floor, Stephen F. Austin State Office Building
1700 North Congress, Austin, Texas 78701

Friday, October 24, 2014, 1:00 p.m.

1. Call to order
2. Status update on AMC Committee action items
3. SES report on AMC complaint cases
4. ELS report on AMC registrations
5. Discussion and possible action regarding development of a penalty matrix for AMC complaints
6. Discussion and possible action regarding audits of AMCs regarding compliance with certain statutory and rule requirements
7. Discussion and possible action regarding the definition of “review” and scope of work in Rule 159.155
8. Review of AMC Committee action items
9. Discussion and possible action regarding agenda items for future meetings
10. Discussion regarding future meetings dates
11. Adjourn

October 15, 2014

AMC COMPLAINTS

Respondent (AMC)	Date Received	Disposition	Disposition Date	Complainant	Complaint Source	Complaint No.
2014						
TITLE SOURCE LLC	8/19/2014	Pending	Pending	BOYTER STUART LEE	Consumer	2015-024
RELS LLC	7/21/2014	Pending	Pending	OSTROWICKI NICHOLAS	Consumer	2014-264
NOVO APPRAISAL MANAGEMENT CORPO	8/18/2014	Pending	Pending	TALCB	Staff Initiated	2014-296
LENDERVEND, LLC	4/21/2014	Pending	Pending	TALCB	Staff Initiated	2014-191
STREETLINKS, LLC	3/28/2014	Dismissed by Commissioner	6/5/2014	TALCB	Staff Initiated	2014-169
MURCOR, INC.	2/19/2014	Contingent Dismissal	9/2/2014	TALCB	Staff Initiated	2014-132
LANDAVALUE, LLC	2/3/2014	Dismissed by Commissioner w/warning	7/7/2014	WALLACE RUSSELL RAY	Appraiser	2014-119
2013						
LANDAVALUE LLC	11/8/2013	Disciplinary Action (Revocation)	5/21/2014	TALCB	Staff Initiated	2014-064
LANDAVALUE LLC	10/9/2013	Disciplinary Action (Revocation)	5/21/2014	TALCB	Staff Initiated	2014-039
FIRST VALUATION SERVICES LLC	11/8/2013	Dismissed by Commissioner	2/21/2014	ALDRIDGE DAVID EDWARD	Appraiser	2014-067
STREETLINKS LLC	7/3/2013	Dismissed by Commissioner	12/16/2013	LYSSY MATT	Consumer	2013-266
STREETLINKS LLC	6/18/2013	Dismissed by Commissioner	8/15/2013	AVILES ANDREW	Consumer	2013-248
2012						
ES APPRAISAL SERVICES LLC	12/27/2012	Disciplinary Action (Revocation)	7/10/2013	JONES ROBERT RANDELL	Appraiser	2013-114
VALUATION PARTNERS	11/29/2012	Dismissed by Commissioner w/warning	1/22/2013	DURHAM RONALD DWAYNE	Appraiser	2013-096
JVI APPRAISAL DIVISION LLC	11/14/2012	Dismissed by Commissioner	4/29/2013	ALDRIDGE DAVID EDWARD	Appraiser	2013-086
JVI APPRAISAL DIVISION LLC	11/9/2012	Dismissed by Commissioner	4/29/2013	BORING JOHN MATTHEW	Appraiser	2013-084
JVI APPRAISAL DIVISION LLC	11/7/2012	Dismissed by Commissioner	4/29/2013	LEAL LAURO	Appraiser	2013-083
JVI APPRAISAL DIVISION LLC	10/23/2012	Dismissed by Commissioner	4/29/2013	TOLOPKA MICHAEL ANTHONY	Appraiser	2013-072
JVI APPRAISAL DIVISION LLC	10/22/2012	Dismissed by Commissioner	4/29/2013	MCINTURFF DAVID CHARLES	Appraiser	2013-067
JVI APPRAISAL DIVISION LLC	10/22/2012	Dismissed by Commissioner	4/29/2013	MARLOW BRIAN JAMES	Appraiser	2013-061
JVI APPRAISAL DIVISION LLC	10/22/2012	Dismissed by Commissioner	4/29/2013	SORGE GREGORY KENT	Appraiser	2013-070
JVI APPRAISAL DIVISION LLC	10/22/2012	Dismissed by Commissioner	4/29/2013	FREESE KEN MITCHEL	Appraiser	2013-071
LESTER MICHAEL LANCE	10/19/2012	Dismissed by Commissioner	1/22/2013	MCCOY KLINT	Consumer	2013-056
JORDAN REAL ESTATE GROUP INC	10/1/2012	Dismissed by Commissioner w/warning	8/1/2013	KREAMER MARK	Consumer	2013-044
JVI APPRAISAL DIVISION LLC	9/27/2012	Dismissed by Commissioner	4/18/2013	WATSON DEBORAH LOYCE	Appraiser	2013-028
RELS	9/27/2012	Dismissed by Commissioner	11/29/2012	GARZA ROBERT LEE	Other	2013-032
JVI APPRAISAL DIVISION LLC	9/18/2012	Dismissed by Commissioner	4/29/2013	MOFFITT MICHAEL LOUIS	Appraiser	2013-026
JVI APPRAISAL DIVISION LLC	8/2/2012	Disciplinary Action (Revocation)	4/8/2013	STREEP WILLIAM CLOKE	Appraiser	2012-302

Appraisal Management Company Registrations

FY	Month	# Apps Received	Paper	Online	# Registrations Issued	# Panelists	# Renewals Received	Paper	Online	Issued
2012	Mar	22	18	4	0	0				
	Apr	21	16	5	0	0				
	May	41	25	16	44	342				
	Jun	67	53	14	64	5538				
	Jul	19	13	6	54	7061				
	Aug	6	5	1	7	2407				
2013	Sep	1	0	1	3	1137				
	Oct	3	0	3	5	911				
	Nov	3	2	1	2	635				
	Dec	3	1	2	4	642				
	Jan	0	0	0	2	936				
	Feb	1	1	0	-3	-384				
	Mar	0	0	0	-1	885				
	Apr	2	1	1	0	868				
	May	0	0	0	1	795				
	Jun	1	0	1	4	714				
	Jul	1	0	1	-1	529				
	Aug	2	1	1	1	642				
2014	Sep	3	0	3	1	618				
	Oct	1	0	1	2	560				
	Nov	0	0	0	0	460				
	Dec	1	0	1	1	404	2	0	2	0
	Jan	0	0	0	0	430	4	1	3	1
	Feb	0	0	0	-1	457	10	0	10	5
	Mar	2	0	2	1	321	8	1	7	9
	Apr	1	1	0	1	541	21	7	14	18
	May	2	1	1	0	907	33	5	28	28
	Jun	2	1	1	3	323	33	4	29	37
	Jul	0	0	0	0	778	25	10	15	24
	Aug	0	0	0	0	366	7	3	4	15
2015	Sep	2	1	1	1	313	3	0	3	4
TOTALS		**207**	**140**	**67**	**195**	**30136**	**146**	**31**	**115**	**141**

** Totals reflect the 8 surrenders, 3 revocations and 2692 removed panelists (paid removal or surrender removal)

Appraisal Management Company (AMC) Complaint Processing

(a) Receipt of a Complaint Intake Form by the board does not constitute the filing of a formal complaint by the board against the appraisal management company (AMC) named on the Complaint Intake Form. Upon receipt of a signed Complaint Intake Form, staff shall:

(1) assign the complaint a case number in the complaint tracking system; and

(2) send written acknowledgement of receipt to the complainant.

(b) If the staff determines at any time that the complaint is not within the board's jurisdiction or that no violation exists, the complaint shall be dismissed with no further processing. The board or the commissioner may delegate to staff the duty to dismiss complaints.

(c) A complaint alleging mortgage fraud or in which mortgage fraud is suspected:

(1) may be investigated covertly; and

(2) shall be referred to the appropriate prosecutorial authorities.

(d) Staff may request additional information necessary to determine how to proceed with the complaint from any person.

(e) As part of a preliminary investigative review, a copy of the Complaint Intake Form and all supporting documentation shall be sent to the respondent unless the complaint qualifies for covert investigation and the Standards and Enforcement Services Division deems covert investigation appropriate.

(f) The respondent shall submit a response within 20 days of receiving a copy of the Complaint Intake Form. The 20-day period may be extended for good cause upon request in writing or by e-mail. The response shall include the following:

(1) a copy of the appraisal report and/or any other documentation or business records that is the subject of the complaint;

(2) a copy of the documents and/or business records associated with the appraisal(s), incident(s), or conduct listed in the complaint, with the following signed statement attached to the response: I SWEAR AND AFFIRM THAT EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE COPY OF EACH AND EVERY BUSINESS RECORD ACCOMPANYING THIS RESPONSE IS A TRUE AND CORRECT COPY OF THE ACTUAL BUSINESS RECORD, AND NOTHING HAS BEEN ADDED TO OR REMOVED FROM THIS BUSINESS RECORD OR ALTERED. (SIGNATURE OF RESPONDENT);

(3) a narrative response to the complaint, addressing each and every item in the complaint;

(4) a list of any and all persons known to the respondent to have actual knowledge of any of the matters made the subject of the complaint and, if in the respondent's possession, contact information;

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(5) any documentation that supports respondent's position that was not in the original documentation, as long as it is conspicuously labeled as additional documentation and kept separate from the original documentation. The respondent may also address other matters not raised in the complaint that the respondent believes need explanation; and

(6) a signed, dated and completed copy of any questionnaire sent by board staff.

(g) Staff will evaluate the complaint within three months of receipt of the response from respondent to determine whether sufficient evidence of a potential violation of TALCB's statutes or rules, or the Uniform Standards of Professional Appraisal Practice (USPAP) exists to pursue investigation and possible formal disciplinary action. If the staff determines that there is no jurisdiction, no violation exists, or there is insufficient evidence to prove a violation, or the complaint warrants dismissal, including contingent dismissal, under subsection (j) of this section, the complaint shall be dismissed with no further processing.

(h) If the complaint is not dismissed under subsection (g) of this section, a formal complaint will be opened and it will be investigated by a staff investigator or peer investigative committee, as appropriate. Staff may also open a formal complaint on its own motion. A written notice that a formal complaint has been opened will be sent to the complainant and respondent.

(i) The staff investigator or peer investigative committee assigned to investigate a formal complaint shall prepare a report detailing its findings on a form approved by the board for that purpose. Reports prepared by a peer investigative committee shall be reviewed by the Standards and Enforcement Services Division, which shall determine the appropriate disposition of the complaint.

(j) In determining the proper disposition of a formal complaint pending as of or filed after the effective date of this subsection, and subject to the maximum penalties authorized under Texas Occupations Code §§1104.201, 1104.202, 1104.214, and 1104.215, staff, the administrative law judge in a contested case hearing and the board shall consider the following sanctions guidelines and list of non-exclusive factors as demonstrated by the evidence in the record of a contested case proceeding.

(1) For the purposes of these sanctions guidelines:

(A) An AMC will not be considered to have had a prior warning letter, contingent dismissal or discipline if that prior warning letter, contingent dismissal or discipline occurred more than seven (7) years ago;

(B) A prior warning letter, contingent dismissal or discipline given less than seven years ago will not be considered unless the board had taken final action against the AMC before the date of the incident that led to the subsequent disciplinary action;

(C) Prior discipline is defined as any sanction (including administrative penalty) received under a board final or agreed order;

(D) A violation refers to a violation of any provision of the Act, Board Rules or USPAP;

(E) "Minor deficiencies" is defined as violations of the Act, Board Rules or USPAP which do not call into question the qualification of the AMC for licensure in Texas;

(F) "Serious deficiencies" is defined as violations of the Act, Board Rules or USPAP which do call into question the qualification of the AMC for licensure in Texas;

(G) "Remedial measures" include, but are not limited to, training, , education, , or any combination thereof; and

(H) The terms of a contingent dismissal agreement will be in writing and agreed to by all parties. If respondent completes all remedial measures required in the agreement within a certain prescribed period of time, the complaint will be dismissed with a non-disciplinary warning letter.

(2) List of factors to consider in determining proper disposition of a formal complaint:

(A) Whether the Respondent has previously received a warning letter or contingent dismissal, and if so, the similarity of facts or violations in that previous complaint to the facts or violations in the instant complaint matter;

(B) Whether the Respondent has previously been disciplined;

(C) If previously disciplined, the nature of the discipline, including:

(i) Whether it concerned the same or similar violations or facts;

(ii) The nature of the disciplinary sanctions imposed;

(iii) The length of time since the previous discipline;

(D) The difficulty or complexity of the incident at issue;

(E) Whether the violations found were of a negligent, grossly negligent or a knowing or intentional nature;

(F) Whether the violations found involved a single appraisal or instance of conduct or multiple appraisals or instances of conduct;

(G) To whom were the appraisal report(s) or the conduct directed, with greater weight placed upon appraisal report(s) or conduct directed at:

(i) A financial institution or their agent, contemplating a lending decision based, in part, on the appraisal report(s) or conduct at issue;

(ii) The board;

(iii) A matter which is actively being litigated in a state or federal court or before a regulatory body of a state or the federal government;

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(iv) Another government agency or government sponsored entity, including, but not limited to, the United States Department of Veteran's Administration, the United States Department of Housing and Urban Development, the State of Texas, Fannie Mae, and Freddie Mac;

(v) A consumer contemplating a real property transaction involving the consumer's principal residence;

(H) Whether Respondent's violations caused any harm, including financial harm, and the amount of such harm;

(I) Whether Respondent acknowledged or admitted to violations and cooperated with the board's investigation prior to any contested case hearing;

(J) The business operating history of the AMC, including, but not limited to:

(i) The size of the AMC's appraiser panel;

(ii) The length of time Respondent has been licensed as an AMC in Texas;

The length of time the AMC has been conducting business operations, in any jurisdiction;

(iii) The nature and extent of any remedial measures and sanctions the Respondent had received related to the areas in which violations were found; and

If the Respondent is affiliated with any other business entities;

(K) Whether Respondent can improve the AMC practice through the use of remedial measures.

(3) The sanctions guidelines contained herein shall be employed in conjunction with the factors listed in paragraph (2) of this subsection to assist in reaching the proper disposition of a formal complaint:

(A) 1st Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

(iii) Contingent dismissal with remedial measures.

(B) 1st Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in one of the following outcomes:

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(i) Contingent dismissal with remedial measures;

(ii) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(III) A probationary period with provisions for monitoring the AMC's practice;

(IV) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(V) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(VI) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(C) 1st Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

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(viii) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(D) 2nd Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in one of the following outcomes:

(i) Dismissal;

(ii) Dismissal with non-disciplinary warning letter;

(iii) Contingent dismissal with remedial measures;

(iv) A final order which imposes one or more of the following:

(I) Remedial measures;

(II) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(III) A probationary period with provisions for monitoring the AMC's practice;

(IV) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(V) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(VI) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(E) 2nd Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

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(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(F) 2nd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or with gross negligence will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(G) 3rd Time Discipline Level 1--violations of the Act, Board Rules, or USPAP which evidence minor deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

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(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(H) 3rd Time Discipline Level 2--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies will result in a final order which imposes one or more of the following:

(i) A period of suspension;

(ii) A revocation;

(iii) Remedial measures;

(iv) Required promulgation, adoption and implementation of written, preventative policies or procedures addressing specific areas of the AMC practice;

(v) A probationary period with provisions for monitoring the AMC's practice;

(vi) Restrictions on the AMC's ability to administer an appraiser panel, or the size thereof;

(vii) Restrictions on the scope of practice the AMC is allowed to engage in for a specified time period or until specified conditions are satisfied;

(viii) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(I) 3rd Time Discipline Level 3--violations of the Act, Board Rules, or USPAP which evidence serious deficiencies and were done with knowledge, deliberately, willfully, or

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with gross negligence will result in a final order which imposes one or more of the following:

(i) A revocation; and

(ii) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(J) 4th Time Discipline--violations of the Act, Board Rules or USPAP will result in a final order which imposes the following:

(i) A revocation; and

(ii) Up to $10,000 in administrative penalties per act or omission which constitutes a violation(s) of USPAP, Board Rules, or the Act; each day of a continuing violation is a separate violation.

(K) Unlicensed AMC activity will result in a final order which imposes a $10,000 in administrative penalties per unlicensed AMC activity; each day of a continuing violation is a separate violation.

(4) In addition, staff may recommend any or all of the following:

(A) Reducing or increasing the recommended sanction or administrative penalty for a complaint based on documented factors that support the deviation, including but not limited to those factors articulated under paragraph (2) of this subsection;

(B) Probating all or a portion of any remedial measure, sanction, or administrative penalty for a period not to exceed five years;

(C) Requiring additional reporting requirements;

(D) the payment of costs expended by the board associated with the investigation, and if applicable, a contested case, including legal fees and administrative costs; and

(E) Such other recommendations, with documented support, as will achieve the purposes of the Act, the Rules, and/or USPAP.

(k) Agreed resolutions of complaint matters pursuant to Texas Occupations Code §1104(a)(3) must be signed by the respondent, a representative of the Standards and Enforcement Services Division, and the commissioner.

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Appraisal Management Company (AMC) Audit Process

I. Purpose: The reason for conducting audits of AMCs in Texas is to protect consumers of real estate services by ensuring AMCs registered in Texas are complying with their licensing requirements, as promulgated in Texas Occupations Code Chapter 1104, 22 Texas Administrative Code Chapter 159, and related law. The Texas Appraiser Licensing and Certification Board (the "Board") is required under Tex. Occ. Code Sec. _1104.156_____ to ensure AMCs are complying with their licensing requirements. This provision also allows the Board to audit AMCs to ensure compliance.. [OPTIONAL BASED ON FEDERAL REGULATIONS] Additionally, the Appraisal Subcommittee requires the Board to audit AMCs, pursuant to Federal Registry Regulation ____TBD_____ [THIS IS THE MINIMUM AMC REGULATION REQUIREMENTS PROPOSED BY THE GROUP OF FEDERAL AGENCIES]. AMC compliance with licensing requirements is not complaint driven like appraiser regulation, thus an audit process is required to ensure AMC's are complying with their licensing requirements.

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II. Scope: There will be two types of audits of AMCs in Texas. The first audit will be titled a First Tier Audit. The First Tier Audit will be a random [RANDOM OR ALL?] audit of all AMCs registered in Texas, to ensure compliance with statutory and regulatory licensing requirements. [WHICH LICENSING REQUIREMENTS?] The second audit will be titled the Second Tier Audit. The Second Tier Audit will be for those AMCs who fail the First Tier Audit and for those AMCs selected for audit as a result of their disciplinary history. [OTHER REASONS FOR AN AMC TO BE SUBJECTED TO THIS TIER? WHICH LICENSING REQUIREMENTS? ALL?] First Tier audits will be done remotely [DESKTOP AUDITS SEEM MOST APPROPRIATE? ANY TO BE FIELD AUDITS?]. Second Tier Audits may be done remotely or in person, depending on, the location of the AMC, the size and structure of the AMC, nature of the triggering event, and the intended scope of the audit by staff; within staff's discretion [OTHER CONSIDERATIONS FOR IN PERSON VS. REMOTELY?].

III. Legal Authority: Pursuant to Tex. Occ. Code Sec(s). 1104.156(b)_____and 22 Tex. Admin. Code Rule(s) _____ [159.155, ____DEPENDS ON WHAT REQUIREMENTS WE WILL FOCUS ON], the Board is authorized to audit AMCs registered in the State of Texas.

IV. Audit Standards:

a. The standards for both the First Tier and Second Tier Audits can be found in Occ. Code Sec. _____and 22 Tex. Admin. Code Rule _____. [STILL NEED TO BE DEVELOPED. MOSTLY IN THE RULES, ALREADY HAVE A STATUTE PERMITTING AUDITING. THESE WILL BE THE AREAS WHERE THE AUDIT REQUIREMENTS ARE FOUND].

b. Standards of Performance: The standards for an AMCs performance resulting from an Audit will be: [ASC RATING CRITERIA ARE AN OPTION AS WELL THOUGH MAY NOT BE APPROPRAITE]

i. In Compliance;

~~i.~~ii. In General Compliance, Not Subject to Re-Audit

~~ii.~~iii. Not in General Compliance, Subject to Re-Audit

~~iii.~~iv. Not in Compliance.

V. Audit Resolution: Upon the completion of an audit, the AMC will receive one of the designated Standards of Performance. The audit resolution will depend on how the AMC performed. [THIS IS WHERE WE WILL EXPLAIN THE DEFINITION OF THE PERFORMANCE STANDARDS AND THE SUBSEQUENT COURSE OF ACTION, THE RECOURSE]

a. In Compliance: An AMC that is found to be in compliance will have no further audit requirements.

b. In General Compliance, Not Subject to Re-Audit: An AMC that is found to be in general compliant, not subject to re-audit, will be subject to: [COULD BE TAKEN OUT OF THE EXCLUSION PERIOD AFTER AUDIT AND PUT BACK IN POOL OF RANDOM AUDIT CANDIDATES]

i. Warning letter;

ii. Adopt Change in Written Policies and Procedures;

iii. Highlight deficient areas of prior audit on subsequent audits;

~~b.~~c. Not in General Compliance, Subject to Re-Audit: An AMC that is found to be not in general compliance and subject to re-audit, will be subject to: [ADMIN PENALTY APPROPRIATE?]

i. Cease and Desist Letter;

ii. Adopt Change in Written Policies and Procedures; and

iii. A Subsequent Audit to confirm changes made.

~~c.~~d. Not in Compliance: An AMC that is found to not be in compliance will be subject to:

i. Cease and Desist Letter;

ii. Temporary Suspension; and

iii. Staff Initiated Complaint.

VI. Retention Schedule: [THIS IS A SECTION THAT WILL DETAIL HOW LONG AUDIT RESULTS ARE RETAINED ON RECORD. SUGGEST 4 TO 10 YEARS, BASED ON OUTCOME OF FINDINGS]

a. First Tier Audit:

b. Second Tier Audit:

~~i.~~

VII. First Tier Audit Procedure:

a. Scope of First Tier Audit: [WHAT WILL BE AUDITED - WHAT LICENSING REQUIREMENTS???]

~~a.~~b. AMC's to be Audited: [WHICH AMC'S WILL BE SUBJECT TO THE FIRST TIER AUDIT – A PERCENTAGE, RANDOMLY?, OR ALL OF THEM, HOW OFTEN, IF AUDITED HOW LONG REMOVED?]

~~b.~~c. ~~Random~~ Audit: This audit will be of all registered AMCs in the State of Texas. The Board will randomly audit _TBD___% [WHAT PERCENTAGE, 5% LIKE 159.155, WITH < 200 AMCs, WE CAN FIGURE OUT A REASONABLE SAMPLE AND WORKLOAD] of all AMCs each _quarter____ [TIME PERIOD?] [OR WE COULD DO A LIMITED AUDIT OF ALL AMC'S ON A CERTAIN BASIS, LIKE 3-4 LICENSING REQUIREMENTS, ETC.].

i. Frequency of Audit: An AMC that is subject to a First Tier Audit and passes the audit with an In Compliance standard of performance, will not be subject to audit for two years, unless a Second Tier Audit is initiated by

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Staff as a result of the AMCs disciplinary history. [THOUGHTS ON THIS TIME PERIOD – SHORTER OR LONGER? SHOULD THEY BE REMOVED AT ALL FROM SUBSEQUENT AUDIT PERIODS?]

ii. Selection Process: [HOW CAN WE RANDOMLY GENERATE ___ % OF REGISTERED AMCS TO AUDIT IF TO BE DONE RANDOMLY? IT SHOULD BE ABLE TO CODE SOMETHING FOR THIS. OR WILL IT BE ALL AMCS?]

~~c.~~d. Board Education and Licensing Services Division Report: [WHAT INFORMATION DO WE WANT TO GET FROM ELS BEFORE WE INITIATE THE AUDIT PROCESS? WHAT LICESNING REQUIREMENTS COULD BE PRELIMINARILY REVIEWED PRIOR TO NOTICE OF AUDIT AND AUDIT? FOR EXAMPLE, REGISTRATION REQUIREMENTS?]

~~d.~~e. Audit Notice: [WHEN AND HOW WE SEND NOTICE]

~~e.~~f. AMC Response:

i. Response: [WHEN AND HOW THEY HAVE TO RESPOND?]

ii. Documents Subject to Audit: [WHICH BUSINESS RECORDS WILL THEY HAVE TO PRODUCE WITH THEIR RESPONSE? WILL LIKELY NEED INPUT FROM INDUSTRY PARTICIPANTS]

iii. Failure to Respond: Failure to timely respond to an audit notice will result in a Staff-initiated complaint against the AMC. [WHAT OTHER PRINCIPLED RECOURSE COULD OCCUR?]

~~f.~~g. Audit Report: [THIS WILL BE A REPORT THAT IS SIMILAR TO OUR INVESTIGATIVE REPORT. SHOULD BE SET UP SIMLARLY AND INCLUDE INFORMATION THAT IS FOUND IN OUR DISCIPLINARY FACTORS WORKSHEET, WE COULD TITLE THE SECTION "AUDIT STANDARDS OF PERFORMANCE FACTORS", WHICH WOULD BE ADDITIONAL FACTORS TO CONSIDER IN RATING THE AUDIT STANDARD]

VIII. Second Tier Audit Procedure:

a. Scope of Second Tier Audit: [WHAT WILL BE AUDITED – WHAT LICENSING REQUIREMENTS?]

b. ~~Target Audit~~AMC's to be Audited: This audit will be for AMCs registered in the State of Texas who either fail the First Tier Audit or are selected for audit as a result of their disciplinary history. [ANY OTHER REASON FOR AN AMC TO BE SELECTED FOR A SECOND TIER AUDIT?]

c. First Tier Audit Failure: [HOW LONG AFTER THE FIRST TIER AUDIT SHOULD WE PERFORM THE SECOND TIER AUDIT IF THEY FAIL THE FIRST, IMMEDIATELY??]

d. Disciplinary History for Second Tier Audit: [THESE AMCS WILL BE SUBJECT TO THE SECOND TIER AUDIT DUE TO CERTAIN DISCIPLINARY HISTORY, RECIDIVISTS ARE ORDERED SIMILAR TO THE TIERED APPROACH OF 153.24]

i. First Time Offenders: These AMCs will be selected for a Second Tier Audit as a result of having one prior discipline instance.

ii. Second Time Offenders: These AMCs will be selected for a Second Tier Audit as a result of having two prior discipline instances.

iii. Third Time Offenders: These AMCs will be selected for a Second Tier Audit as a result of having three prior discipline instances.
iv. Fourth Time Offenders: These AMCs will be selected for a Second Tier Audit as a result of having four prior discipline instances.
v. Automatic Offenses: These offenses automatically trigger a Second Tier Audit, regardless of how many prior discipline instances an AMC has.
1. Offenses Automatically Triggering Audit:

e. Board Education and Licensing Services Division Report: [WHAT INFORMATION DO WE WANT TO GET FROM ELS BEFORE WE INITIATE THE AUDIT PROCESS?]
f. Audit Notice: [WHEN AND HOW WE SEND NOTICE]
g. AMC Response:
i. Response: [WHEN AND HOW THEY HAVE TO RESPOND]
ii. Documents Subject to Audit: [WHICH BUSINESS RECORDS WILL THEY HAVE TO PRODUCE WITH THEIR RESPONSE]
iii. Failure to Respond: Failure to timely respond to an audit notice will result in a Staff-initiated complaint against the AMC.
h. Audit Report: [THIS WILL BE A REPORT THAT IS SIMILAR TO OUR INVESTIGATIVE REPORT. I WANT IT SET UP THE SAME WAY. I ALSO WANT IT TO INCLUDE INFORMATION THAT IS FOUND IN OUR DFAW, WE COULD TITLE THE SECTION "AUDIT STANDARDS OF PERFORMANCE FACTORS", WHICH WOULD BD ADDITIONAL FACTORS TO CONSIDER IN RATING THE AUDIT STANDARD]

IX. Notes for Discussion

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a. Prohibited Practices 1104.203: Would require the auditing of certain amount of appraisal assignments [WHAT PERCENTAGE OF THEIR APPRAISALS WOULD WE REVIEW, OR HOW MANY AUDIT? OR A PERCENTAGE UP TO A CERTAIN NUMBER? HOW CHOOSE THOSE FILES? WHAT PROHIBITED PRACTICES OR ALL OF THEM? UNDER TIER ONE OR TIER TWO? (PERHAPS TIER ONE BECAUSE SO FUNDAMENTAL)]
b. IN-PERSON AUDIT VERSUS DESKTOP AUDIT – SHOULD AUDITS BE IN PERSON/FIELD? SHOULD THIS BE RESERVED FOR SECOND TIER OR CERTAIN FIRST TIER AUDITS? HOW CONDUCT IN THE FIELD (THINK SAFETY)?
i. WHAT LICESNING REQUIREMENTS WOULD LEND ITSELF TO A FIELD AUDIT VS. DESKTOP AUDIT?

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ii. WHICH INVESTIGATORS DO FIELD AUDITS?
iii. WHO FROM AMC WOULD HAVE TO BE PRESENT AT A FILED AUDIT?
iv. COULD THE AMC HAVE A REPRESENTATIVE OR COUNSEL PRESENT? IF SO, HOW DOES SES RESPOND?
v. OR SHOULD IN FIELD BE DISCRETIONARY? SHOULD AT LEAST RETAIN THE ABILITY TO DO?
vi. HOW HANDLE FIELD AUDITS IF AMC PLACE OF BUSINESS IS A RESIDENCE?
c. DO WE WANT TO HAVE AN UNANNOUNCED AUDIT?

~~h.~~d. SHOULD WE ALLOW FOR AUDITS TO BE CONDUCTED PURSUANT TO VERIFIABLE TIPS? FOR INSTANCE, IF AN AMC EMPLOYEE, MEMBER OF THE PUBLIC, OR SOMEONE OTHERWISE WITH KNOWLEDGE MAKES US AWARE OF SUSPECTED ISSUES, SHOULD WE BE ABLE TO INITIATE AN AUDIT BASED ON THE VERIFIABLE TIP? IF YES, THEN WHAT LEVEL OF AUDIT, FIRST OR SECOND? LIMITED TO ALLEGATIONS IN VERIFIABLE TIP [MAY BE TOO LIMITING]?

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.101. REGISTRATION REQUIRED.	1104.101-REGISTRATION REQUIRED	Unless a person is registered under this chapter, a person may not: (1) act or attempt to act as an appraisal management company; (2) provide or attempt to provide appraisal management services; or (3) advertise or represent or attempt to advertise or represent the person as an appraisal management company.	REGISTRATION REQUIRED; See also Board Rule § 159.101 Registration Requirements
1104.102. ELIGIBILITY FOR REGISTRATION; OWNERSHIP.		(a) A person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state may not own in any manner more than one percent of an appraisal management company registered or applying for registration under this chapter unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated. (b) An entity more than 10 percent of which is owned by a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state may not own more than 10 percent of an appraisal management company registered or applying for registration under this chapter unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated. (c) A person owning more than 10 percent of an appraisal management company in this state must: (1) be of good moral character, as determined by the board; and (2) submit to a background investigation, as determined by the board. (d) An appraisal management company applying for registration under this chapter shall certify to the board that: (1) it has reviewed each entity that owns more than 10 percent of the company; and (2) no entity reviewed under Subdivision (1) is more than 10 percent owned by a person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation and who has not subsequently had a license or certificate to act as an	ELIGIBILITY FOR REGISTRATION; OWNERSHIP; See also Board Rule §159.102 Eligibility for Registration; Ownership

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.103. APPLICATION FOR REGISTRATION OR RENEWAL.		(a) An applicant for registration or registration renewal under this chapter must submit: (1) an application on a form approved by the board; and (2) the application or renewal fee established under Section 1104.052(a). (b) The application must contain: (1) the name, business address, and telephone contact information of the entity seeking registration; (2) if the entity is not a corporation domiciled in this state, the name and contact information for the company's agent for service of process in this state; (3) the name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns more than 10 percent of the appraisal management company; (4) the name, address, and contact information for at least one controlling person; (5) the designation of a primary contact under Section 1104.104; (6) the name and contact information of at least one appraiser designated by the company to respond to and communicate with appraisers on the company's appraisal panel regarding appraisal assignments; (7) a certification that the entity has a system in place to ensure compliance with Subchapter D and Section 129E of the Truth in Lending Act (15 U.S.C. Section 1601 et seq.); (8) a written irrevocable consent to service of process; and	APPLICATION FOR REGISTRATION OR RENEWAL; See also Board Rule § 159.103 Applications
1104.104. DESIGNATION OF PRIMARY CONTACT.	1104.104. DESIGNATION OF PRIMARY CONTACT AND REQUIREMENTS OF PRIMARY CONTACT	(a) An appraisal management company applying for registration under this chapter shall designate one controlling person as the primary contact for all communication between the board and the company. (b) The controlling person designated under Subsection (a): (1) must: (A) be certified as an appraiser in at least one state at all times during the designation; or (B) have completed: (i) the 15-hour national Uniform Standards of Professional Appraisal Practice course; and (ii) the seven-hour national Uniform Standards of Professional Appraisal Practice update course not more than two years before the renewal of the appraisal management company's registration; (2) may not have had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state unless the person has subsequently had a license or certificate to act as an appraiser granted or reinstated; (3) must be of good moral character, as determined by the board; and (4) shall submit to a background investigation, as determined by the board.	DESIGNATION OF PRIMARY CONTACT; See also Board Rule § 159.104 Primary Contact; Appraiser Contact

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.105. DENIAL OF REGISTRATION.	1104.105-DENIAL OF REGISTRATION	(a) The board may deny a registration: (1) to an applicant who fails to satisfy a requirement of this chapter; or (2) on a determination by the board that: (A) there is reasonable evidence that any person who owns more than 10 percent of the appraisal management company or any controlling person of the company has, within the 24 months preceding the date of the application, had a license or certification as an appraiser or a registration as an appraisal management company suspended, revoked, or put on probation in any state; (B) the applicant has, while registered under this chapter, demonstrated incompetency, untrustworthiness, or conduct or practices that render the registrant unfit to perform appraisal management services; or (C) the applicant no longer performs appraisal management services in good faith and is a source of detriment, injury, or loss to the public. (b) The board shall immediately provide written notice to the applicant of the board's denial of a registration under this chapter. (c) An appeal of the denial of a registration is governed by Chapter 2001, Government Code.	DENIAL OF REGISTRATION; See also Board Rule § 159.105 Denial of Registration
1104.106. ISSUANCE AND PUBLICATION OF REGISTRATION NUMBER.	1104.106-ISSUANCE AND PUBLICATION OF REGISTRATION NUMBER	The board shall: (1) issue a unique registration number to each appraisal management company registered under this chapter; and (2) publish annually a list of the companies registered under this chapter and the registration number of each company.	ISSUANCE AND PUBLICATION OF REGISTRATION NUMBER. This is a requirement of the Board.
1104.107. EXPIRATION OF REGISTRATION.	1104.107-EXPIRATION OF REGISTRATION EVERY TWO (2) YEARS	Unless renewed, a registration issued under this chapter expires on the second anniversary of the date the registration is issued.	EXPIRATION OF REGISTRATION; See also Board Rule § 159.107 Expiration
AMC OPERATIONAL LICENSURE REQUIREMENTS - 1104. SUBCHAPTER D. PRACTICE BY APPRAISAL MANAGEMENT COMPANY			

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.151. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED.	1104.151-EMPLOYMENT OF CERTAIN PERSONS PROHIBITED AND EXCEPTIONS	(a) An appraisal management company registered under this chapter may not knowingly: (1) employ a person in a position in which the person has the responsibility to order appraisals or to review completed appraisals if the person has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state; (2) enter into any independent contractor arrangement for the provision of appraisals or appraisal management services with any person who has had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state; or (3) enter into any contract, agreement, or other business relationship for the provision of appraisals or appraisal management services with any entity that employs, has entered into an independent contract arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser denied, revoked, or surrendered in lieu of revocation in any state. (b) An appraisal management company is not in violation of Subsection (a) if the person whose license or certification was denied, revoked, or surrendered in lieu of revocation has since that denial, revocation, or surrender had a license or certificate granted or reinstated and the person maintains the license or certificate in good standing.	EMPLOYMENT OF CERTAIN PERSONS PROHIBITED
1104.152. VERIFICATION OF LICENSURE OR CERTIFICATION.	1104.152-VERIFICATION OF LICENSURE OR CERTIFICATION OF PANELISTS	An appraisal management company registered under this chapter must verify that an individual to whom the company is making an assignment for the completion of an appraisal: (1) is licensed or certified under Chapter 1103; and (2) has not had a license or certificate as an appraiser denied, revoked, or surrendered in lieu of revocation since the last time the company made an assignment for an appraisal to the appraiser.	VERIFICATION OF LICENSURE OR CERTIFICATION
1104.153. APPRAISAL REVIEW.	1104.153-APPRAISAL REVIEW REQUIREMENTS OF WHO CAN REVIEW UNDER RULE 159.155	A person who performs an appraisal review for an appraisal management company must be licensed or certified under Chapter 1103 with at least the same certification for the property type as the appraiser who completed the report being reviewed.	APPRAISAL REVIEW; See also Board Rule § 159.155(e) Periodic Review of Appraisals, the "5% requirement"
1104.154. COMPETENCY OF APPRAISERS.	1104.154-AMC MUST ENSURE COMPETENCY OF APPRAISERS	Before making an assignment to an appraiser, an appraisal management company must verify that the appraiser receiving the assignment satisfies each provision of the competency rule of the Uniform Standards of Professional Appraisal Practice for the appraisal being assigned.	COMPETENCY OF APPRAISERS; See also Board Rule § 159.154 Competency of Appraisers
1104.155. PROFESSIONAL STANDARDS.	1104.155-AMC MUST ENSURE COMPLIANCE WITH PROFESSIONAL STANDARDS INCLUDING USPAP	An appraisal management company registered under this chapter shall on a periodic basis perform an appraisal review of the work of appraisers performing appraisal services for the company to ensure that the services comply with: (1) the edition of the Uniform Standards of Professional Appraisal Practice in effect at the time of the appraisal; or (2) other standards prescribed by board rule.	PROFESSIONAL STANDARDS; See also Board Rule § 159.155 Periodic Review of Appraisers, the "5% requirement"

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.156. BUSINESS RECORDS.	1104.156-AMC BUSINESS RECORDS RETENTION REQUIREMENTS	(a) An appraisal management company registered under this chapter or that has applied for registration under this chapter shall retain for at least five years all business records relating to each service request that the company receives and the appraiser who performs the appraisal for the company. (b) The board may audit the records of an appraisal management company registered under this chapter to ensure compliance with this chapter, board rules, and the Uniform Standards of Professional Appraisal Practice. (c) A written record of all substantive communications between an appraisal management company registered under this chapter and an appraiser relating to inclusion on an appraisal panel or to an appraisal assignment must be maintained as provided under Subsection (a).	BUSINESS RECORDS; See also Board Rule § 159.156 Business Records
1104.157. COMPENSATION OF APPRAISERS.	1104.157-COMPENSATION OF APPRAISERS POLICY AND REASONABLE AND CUSTOMARY REQUIREMENTS	(a) An appraisal management company shall: (1) except in cases of breach of contract or substandard performance of services, pay an appraiser for the completion of an appraisal or valuation assignment not later than the 60th day after the date the appraiser provides the completed appraisal or valuation assignment to the company or its assignee; and (2) compensate appraisers at a rate that is reasonable and customary for appraisals being performed in the market area of the property being appraised consistent with the presumptions under federal law. (b) An appraiser who is aggrieved under this section may file a complaint with the board against the appraisal management company if the matter remains unresolved after the appraiser completes the company's dispute resolution process under Section 1104.162.	COMPENSATION OF APPRAISERS; See also Board Rule § 159.157 Compensation of Appraisers
1104.158. STATEMENT OF FEES.	1104.158-STATEMENT OF FEES DISCLOSURE TO PANELISTS REQUIRED	(a) In reporting to a client, an appraisal management company shall separately state the fees: (1) paid to an appraiser for the completion of an appraisal; and (2) charged by the company for appraisal management services. (b) An appraisal management company may not: (1) prohibit an appraiser from recording in the body of the report that is submitted by the appraiser to the company the fee that the appraiser was paid by the company for completing the appraisal; or (2) include any fees for appraisal management services performed by the company in the amount the company reports as charges for the actual completion of an appraisal by an appraiser.	STATEMENT OF FEES; See also Board Rule § 159.157 Compensation of Appraisers
1104.159. DISCLOSURE OF REGISTRATION NUMBER.	1104.159-DISCLOSURE OF REGISTRATION NUMBER REQUIRED	An appraisal management company registered under this chapter shall disclose the company's registration number on all documents used to procure appraisals in this state.	DISCLOSURE OF REGISTRATION NUMBER; See also Board Rule § 159.159 Disclosure of Registered Name and Registration Number

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.160. MANDATORY REPORTING.	1104.160-MANDATORY REPORTING REQUIREMENT	An appraisal management company that has a reasonable basis to believe an appraiser is failing to comply with the Uniform Standards of Professional Appraisal Practice in a manner that materially affects a value conclusion, violating applicable laws, or otherwise engaging in unethical or unprofessional conduct shall refer the matter to the board in the manner provided by Section 1104.204.	MANDATORY REPORTING
1104.161. REMOVAL OF APPRAISER FROM APPRAISAL PANEL.	1104.161-REMOVAL OF APPRAISER FROM APPRAISAL PANEL REQUIREMENTS	(a) Other than during the first 30 days after the date an appraiser is first added to the appraisal panel of an appraisal management company, a company may not remove an appraiser from its panel, or otherwise refuse to assign requests for appraisal services to an appraiser without: (1) notifying the appraiser in writing of the reasons for removal from the company's panel; (2) if the appraiser is being removed from the panel for illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of this chapter, notifying the appraiser of the nature of the alleged conduct or violation; and (3) providing an opportunity for the appraiser to respond in writing to the notification. (b) An appraiser who is removed from the appraisal panel of an appraisal management company for alleged illegal conduct, a violation of the Uniform Standards of Professional Appraisal Practice, or a violation of this chapter, may file a complaint with the board for a review of the decision of the company if the matter remains unresolved after the appraiser completes the company's dispute resolution process under Section 1104.162. (c) In a review under Subsection (b), the board may not make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the grounds for the removal. (d) The board shall hear and resolve a complaint filed under Subsection (b) not later than the 180th day after the date the	REMOVAL OF APPRAISER FROM APPRAISAL PANEL; See also Board Rule § 159.161 Appraiser Panel
1104.162. DISPUTE RESOLUTION.	1104.162-DISPUTE RESOLUTION PREREQUISITES FOR FILING OF ENUMERATED COMPLAINT	An appraisal management company shall make a dispute resolution process available to review a written request by an appraiser who: (1) is dismissed from the company's appraisal panel for a reason stated in Section 1104.161(a)(2); (2) is not paid as required by Section 1104.157; or (3) alleges a violation by the company of one or more prohibitions in Section 1104.203.	DISPUTE RESOLUTION; See also Board Rule § 159.162 Dispute Resolution
AMC PROHIBITED PRACTICES LICENSURE REQUIREMENTS - 1104.203. PROHIBITED PRACTICES			
Prohibited Practices 1104.203; 1104.203(a)(1)	1104.203(a)(1)-B42 FACTORS	(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (1) cause or attempt to cause the appraised value of a property assigned under an appraisal to be based on any factor other than the independent judgment of the appraiser;	Appraiser Independence - Prohibited Practices 1104.203: Would require the auditing of certain amount of appraisal assignments to determine these practices are not occurring. Would also be appropriate to get a written response from appraiser of selected files, questionnaire of prohibited practices and then follow up phone interview.

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.203(a)(2)	1104.203(a)(2)-APPRAISER INDEPENDENCE REQUIRED MISCHARACTERIZATION	(a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (2) cause or attempt to cause the mischaracterization of the appraised value of a property in conjunction with a consumer credit transaction;	Appraiser Independence
1104.203(a)(3)	1104.203(a)(3)-APPRAISER INDEPENDENCE REQUIRED PREDETERMINED VALUE	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (3) seek to influence an appraiser or otherwise to encourage a targeted value in order to facilitate the making or pricing of a consumer credit transaction;	Appraiser Independence
1104.203(a)(4)	1104.203(a)(4)-NO TAMPERING WITH APPRAISAL REPORT	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (4) alter, modify, or otherwise change a completed appraisal report submitted by an appraiser by: (A) altering or removing the appraiser's signature or seal; or (B) adding information to, removing information from, or changing information contained in the appraisal report, including any disclosure submitted by an appraiser in or with the report;	AMCs may not alter appraisal reports
1104.203(a)(5)	1104.203(a)(5)-NO PRECONDITION REQUIREMENTS	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (5) condition the request for an appraisal or the payment of an appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;	No conditional assignments
1104.203(a)(6)	1104.203(a)(6)-MAY NOT REQUEST ESTIMATES OR PREDETERMINATIONS	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (6) request that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time before the appraiser's completion of an appraisal;	Appraiser Independence
1104.203(a)(7)	1104.203(a)(7)-NO PROVIDING OF TARGETED VALUE	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (7) provide to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for a purchase transaction may be provided;	Appraiser Independence
1104.203(a)(8)	1104.203(a)(8)-NO CONTINGENCY ON OUTCOME	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (8) make any part of the appraiser's fee or the appraisal management company's fee contingent on a favorable outcome, including: (A) a loan closing; or (B) a specific valuation being achieved by the appraiser in the appraisal report;	No fee contingent on favorable outcome

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.203(a)(9)	1104.203(a)(9)-NO IMPROPERT WITHHOLDING OF PAYMENT	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (9) withhold or threaten to withhold timely payment for an appraisal report or appraisal services rendered when the appraisal report or services are provided in accordance with the contract between the parties;	No withholding of payment after services are provided in accordance with contract
1104.203(a)(10)	1104.203(a)(10)-NO IMPROPER WITHHOLDING FUTURE BUSINESS	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (10) withhold or threaten to withhold future business from an appraiser;	No withholding, or threat of withholding, future business
1104.203(a)(11)	1104.203(a)(11)-NO IMPROPER THREATS	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (11) demote or terminate or threaten to demote or terminate an appraiser;	No demotion or termination, or threat of demotion or termination, of an appraiser
1104.203(a)(12)	1104.203(a)(12)-NO IMPROPER ENTICEMENTS	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (12) expressly or impliedly promise future business, promotions, or increased compensation for an appraiser;	No promise of future business, promotions, or increased compensation
1104.203(a)(13)	1104.203(a)(13)-NO COLLATERAL COMPENSATION	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (13) provide to an appraiser, or any person related to the appraiser, stock or other financial or nonfinancial benefits;	No stock or other financial or nonfinancial benefits
1104.203(a)(14)	1104.203(a)(14)-NOTICE REQUIRED TO REMOVE PANELISTS	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (14) allow the removal of an appraiser from an appraisal panel, without prior written notice to the appraiser;	No removal from appraisal panel, without prior written notice to the appraiser
1104.203(a)(15)	1104.203(a)(15)-NO SECOND APPRAISAL REPORT AND EXCEPTIONS (VALUE SHOPPING)	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (15) obtain, use, or pay for a second or subsequent appraisal or order an automated valuation model in connection with a mortgage financing transaction unless: (A) there is a reasonable basis to believe that the initial appraisal was flawed or tainted and that basis is clearly and appropriately noted in the loan file; (B) the subsequent appraisal or automated valuation model is done under a bona fide pre-funding or post-funding appraisal review or quality control process; or (C) the subsequent appraisal or automated valuation model is otherwise required or permitted by federal or state law;	May only obtain automated valuation model under certain circumstances
1104.203(a)(16)	1104.203(a)(16)-NO PROHIBITIONS AGAINST ALLOWABLE COMMUNICATIONS	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (16) prohibit legal and allowable communication between the appraiser and: (A) the lender; (B) a real estate license holder; or (C) any other person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant;	May not prohibit communication between appraiser and certain individuals

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
1104.203(a)(17)	1104.203(a)(17)-MUST ACCEPT APPRAISAL REPORTS WITH SUBSTANTIAL ASSISTANCE UNLESS NOTED IN ASSIGNMENT CONDITIONS OR STATEMENT OF WORK	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (17) refuse to accept an appraisal report prepared by more than one appraiser if an appraiser provides substantial assistance to another appraiser in the preparation of the report, unless the appraisal assignment names an individual appraiser or the statement of work requires an unassisted report;	May not refuse to accept an appraisal report prepared by more than one appraiser
1104.203(a)(18)	1104.203(a)(18)-APPRAISER INDEPENDENCE REQUIRED CATCHALL	a) An appraisal management company or an employee, director, officer, or agent of an appraisal management company may not: (18) require an appraiser to: (A) prepare an appraisal report if the appraiser, in the appraiser's own professional judgment, believes the appraiser does not have the necessary expertise for the specific geographic area and the appraiser has notified the company of this belief; (B) prepare an appraisal report under a schedule that the appraiser, in the appraiser's own professional judgment, believes does not afford the appraiser the ability to meet all the relevant legal and professional obligations if the appraiser has notified the company of this belief; (C) provide the appraisal management company with the appraiser's digital signature or seal; (D) modify any aspect of an appraisal report without the appraiser's agreement that the modification is appropriate; (E) engage in any act or practice that does not comply with: (i) the Uniform Standards of Professional Appraisal Practice; or (ii) any assignment conditions and certifications required by the client; (F) engage in any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality; (G) enter into an agreement to not serve on the panel of another appraisal management company; (H) indemnify or hold harmless the appraisal management company against liability except liability for errors and omissions by the appraiser; or	Appraiser Independence
AMC OPERATIONS REQUIREMENTS IN BOARD RULES - BOARD RULE § 159.155. PERIODIC REVIEW OF APPRAISALS			
159.155	159.155-AMC FIRST FIVE AND 5% REVIEW SCOPE OF WORK REQUIREMENT	(a) A registrant shall review the work of appraisers performing appraisal services on 1-4 family unit properties collateralizing mortgage obligations by performing a review in accordance with Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) of: (1) one of the first five appraisals performed for the registrant by each appraiser, prior to making a sixth assignment; and (2) a total of five percent, randomly selected, of the appraisals performed for the AMC for each twelve-month period following the date of the AMC's registration.	Review five percent, randomly selected, of all appraisals performed in the last twelve-months
		(b) Appraisals performed pursuant to subsection (a)(1) of this section shall be counted toward the calculation of five percent for the purposes of subsection (a)(2) of this section.	Calculation of five percent
		(c) A review pursuant to subsection (a)(1) of this section is not required if the first five appraisals by an appraiser were completed before the AMC was required by Chapter 1104 of the Texas Occupations Code, to be registered with the Board.	Calculation of five percent

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	Short Definition	Definition	Comments
		(d) In addition to satisfying the requirements of §1104.153 of the Act, the review appraiser must have access to appropriate data sources for the appraisal being reviewed.	Review appraiser must have access to appropriate data sources
		(e) A certified residential appraiser may perform a review of a residential real estate appraisal completed by a certified general appraiser if the review appraiser is otherwise permitted by the Texas Appraiser Licensing and Certification Act to perform the assignment.	Certified residential appraiser may perform a review of a residential real estate appraisal completed by a certified general appraiser
		(f) An appraiser conducting a review under §1104.155 of the Act and this rule must ensure compliance with the USPAP and with §1104.154 of the Act.	Reviewer must comply with USPAP and competency requirements
		(g) In order to satisfy the requirements of §1104.155 of the Act, this rule and USPAP, a registrant performing a review must adhere to the following minimum scope of work:(1) research and consult the appropriate data sources for the appraisal being reviewed to, at a minimum, validate the significant characteristics of the comparables and the essential elements of the transactions including: (A) the multiple listing service(s) or other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a sales comparison approach;(B) published cost data sources and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a cost approach; (C) the comparable rental data, income and expense data, and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included an income approach; and(D) the sales or listing history of the property which is the subject of the appraisal under review, if that property was sold within the three years prior to the effective date of the appraisal under review or listed for sale as of the effective date of the appraisal under review, the scope of review must include research and consultation of that;	Scope of Work of review

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	Short Definition	Definition	Comments
		(2) state the reviewer's opinions and conclusions about the work under review for each of the approaches to value utilized in the appraisal under review, including the reason for any disagreements; (3) identify if the appraisal under review omitted an approach to value, a particular piece of information, or an analysis of either that was necessary for credible assignment results, identify what was omitted and explain why it was necessary for credible assignment results; (4) identify the client, any intended users and the effective date of the appraisal review; (5) state that the appraisal review's intended use and purpose is to satisfy the requirements of §1104.155 of the Act and this rule, including ensuring that the appraisal under review complies with the edition of USPAP in effect at the time of the appraisal; (6) state that the scope of work for the appraisal review is commensurate with the requirements of §1104.155 of the Act, this rule and USPAP in effect at the time of the appraisal review and that the scope of work ensures the development of credible assignment results and that no assignment conditions impose limitations which make the results of the review not credible;	Scope of Work of review
		(7) identify the appraisal under review, including: (A) any ownership interest of the appraiser or reviewer in the property that is the subject of the appraisal under review; (B) the report date and effective date of the appraisal under review; (C) the effective date of the opinions or conclusions in the appraisal under review; (D) the physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the appraisal under review; and (E) the name of all appraisers who signed or provided significant professional assistance in the appraisal under review;	
		(8) state clearly and conspicuously, all extraordinary assumptions and hypothetical conditions and state that their use might have affected the review; and (9) contain a certification which complies with USPAP Standards Rule 3-6.	Scope of Work of review
		(h) While not required by §1104.155 of the Act or this rule, if the reviewer elects to develop an opinion of value, review opinion, or real property appraisal consulting conclusion, the review must comply with the additional provisions of USPAP governing the development of an opinion of value, review opinion, or real property appraisal consulting conclusion.	Opinion of Value
BOARD RULE § 159.161. APPRAISER PANEL			

TEXAS AMC REQUIREMENTS			
AMC REGISTRATION LICENSURE REQUIREMENTS - 1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS			
Cite	**Short Definition**	**Definition**	**Comments**
159.161. APPRAISER PANEL	159.161. APPRAISER PANEL-AMC REQUIREMENTS TO ADD, REMOVE AND USE PANELISTS; TERMINATION PROCEDURES	(a) An appraisal management company may not make an assignment to an appraiser who is not a member of the AMC's panel at the time of the assignment unless the appraiser is employed by the AMC on an employer-employee basis. (b) To add an appraiser to a panel, the AMC shall: (1) initiate the appropriate two-party transaction, if available, through the Texas Appraiser Licensing and Certification Board's online license management system, including payment of any required fee(s); or (2) submit a notice on a form approved by the Board for this purpose, including the signatures of the appraiser and the AMC's primary contact, and the appropriate fee(s). (c) Either the appraiser or the AMC may terminate an appraiser's membership on a panel by: (1) submitting a termination notice electronically, if available, through the Texas Appraiser Licensing and Certification Board's online license management system, including payment of any required fee; or (2) submitting a notice on a form approved by the Board for this purpose and the appropriate fee(s). (d) If an appraiser terminates his or her membership on a panel, he or she shall immediately notify the AMC of the termination. If an AMC terminates an appraiser's membership on a panel, it shall immediately notify the appraiser of the termination. (e) If an appraiser's license or certification expires or is revoked, the Board shall remove the appraiser from any panels on which he or she is listed with no fee charged to the AMC or to the appraiser.	Appraiser panel requirements (rule being revised)

TEXAS APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT

AMC NAME:

AMC REGISTRATION NO.:

1104. SUBCHAPTER C. REGISTRATION REQUIREMENTS					
No.	**Compliance**			**Statute/Board Rule**	**Requirement**
1	Yes	No	N/A	1104.101/159.101	Registration Required
	☐	☐	☐		
Comment:					
2	Yes	No	N/A	1104.102/159.102	Eligibility for Registration; Ownership
	☐	☐	☐		
Comment:					
3	Yes	No	N/A	1104.103/159.103	Application For Registration or Renewal
	☐	☐	☐		
Comment:					
4	Yes	No	N/A	1104.104/159.104	Designation of Primary Contact
	☐	☐	☐		
Comment:					
5	Yes	No	N/A	1104.105/159.105	Denial of Registration
	☐	☐	☐		
Comment:					
6	Yes	No	N/A	1104.107/159.107	Expiration of Registration
	☐	☐	☐		
Comment:					

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1104. Subchapter D. Practice By Appraisal Management Company					
No.	**Compliance**			**Statute/Board Rule**	**Requirement**
7	Yes	No	N/A	104.151	Employment of Certain Persons Prohibited
	☐	☐	☐		
Comment:					
8	Yes	No	N/A	1104.152	Verification of Licensure or Certification
	☐	☐	☐		
Comment:					
9	Yes	No	N/A	1104.153	Appraisal Review
	☐	☐	☐		
Comment:					
10	Yes	No	N/A	1104.154/159.154	Competency of Appraisers
	☐	☐	☐		
Comment:					
11	Yes	No	N/A	1104.155/159.155	Professional Standards; Periodic Review of Appraisers
	☐	☐	☐		
Comment:					
12	Yes	No	N/A	1104.156/159.156	Business Records
	☐	☐	☐		
Comment:					
13	Yes	No	N/A	1104.157/159.157	Compensation of Appraisers
	☐	☐	☐		
Comment:					
14	Yes	No	N/A	1104.158	Statement of Fees
	☐	☐	☐		
Comment:					
15	Yes	No	N/A	1104.159/159.159	Disclosure of Registration Number
	☐	☐	☐		
Comment:					
16	Yes	No	N/A	1104.160	Mandatory Reporting
	☐	☐	☐		

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Comment:					
17	Yes	No	N/A	1104.161/159.161	Appraiser Panel
	☐	☐	☐		
Comment:					
18	Yes	No	N/A	1104.162/159.162	Dispute Resolution
	☐	☐	☐		
Comment:					

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1104.203. PROHIBITED PRACTICES					
No.	**Compliance**			**Statute/Board Rule**	**Requirement**
19	Yes	No	N/A	1104.203	Appraiser Independence
	☐	☐	☐		
Comment:					

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159.201. GUIDELINES FOR REVOCATION, SUSPENSION, OR DENIAL OF A REGISTRATION					
No.	**Compliance**			**Statute/Board Rule**	**Requirement**
20	Yes	No	N/A	159.201	Guidelines for Revocation, Suspension, or Denial of a Registration
	☐	☐	☐		
Comment:					

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ADDENDUM

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CHAPTER 159 RULES RELATING TO THE PROVISIONS OF THE TEXAS APPRAISAL MANAGEMENT COMPANY REGISTRATION AND REGULATION ACT

RULE §159.155 Periodic Review of Appraisals

(a) A registrant shall review the work of appraisers performing appraisal services on 1-4 family unit properties collateralizing mortgage obligations by performing a review in accordance with Standard 3 of the Uniform Standards of Professional Appraisal Practice (USPAP) of:

(1) one of the first five appraisals performed for the registrant by each appraiser, prior to making a sixth assignment; and

(2) a total of five percent, randomly selected, of the appraisals performed for the AMC for each twelve-month period following the date of the AMC's registration.

(b) Appraisals performed pursuant to subsection (a)(1) of this section shall be counted toward the calculation of five percent for the purposes of subsection (a)(2) of this section.

(c) A review pursuant to subsection (a)(1) of this section is not required if the first five appraisals by an appraiser were completed before the AMC was required by Chapter 1104 of the Texas Occupations Code, to be registered with the Board.

(d) In addition to satisfying the requirements of §1104.153 of the Act, the review appraiser must have access to appropriate data sources for the appraisal being reviewed.

(e) A certified residential appraiser may perform a review of a residential real estate appraisal completed by a certified general appraiser if the review appraiser is otherwise permitted by the Texas Appraiser Licensing and Certification Act to perform the assignment.

(f) An appraiser conducting a review under §1104.155 of the Act and this rule must ensure compliance with the USPAP and with §1104.154 of the Act.

(g) In order to satisfy the requirements of §1104.155 of the Act, this rule and USPAP, a registrant performing a review must adhere to the following minimum scope of work:

(1) research and consult the appropriate data sources for the appraisal being reviewed to, at a minimum, validate the significant characteristics of the comparables and the essential elements of the transactions including:

(A) the multiple listing service(s) or other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a sales comparison approach;

(B) published cost data sources and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included a cost approach;

(C) the comparable rental data, income and expense data, and other recognized methods, techniques and data sources for the geographic area in which the appraisal under review was performed, if the appraisal under review included an income approach; and

(D) the sales or listing history of the property which is the subject of the appraisal under review, if that property was sold within the three years prior to the effective date of the appraisal under review or listed for sale as of the effective date of the appraisal under review, the scope of review must include research and consultation of that;

(2) state the reviewer's opinions and conclusions about the work under review for each of the approaches to value utilized in the appraisal under review, including the reason for any disagreements;

(3) identify if the appraisal under review omitted an approach to value, a particular piece of information, or an analysis of either that was necessary for credible assignment results, identify what was omitted and explain why it was necessary for credible assignment results;

(4) identify the client, any intended users and the effective date of the appraisal review;

(5) state that the appraisal review's intended use and purpose is to satisfy the requirements of §1104.155 of the Act and this rule, including ensuring that the appraisal under review complies with the edition of USPAP in effect at the time of the appraisal;

(6) state that the scope of work for the appraisal review is commensurate with the requirements of §1104.155 of the Act, this rule and USPAP in effect at the time of the appraisal review and that the scope of work ensures the development of credible assignment results and that no assignment conditions impose limitations which make the results of the review not credible;

(7) identify the appraisal under review, including:

(A) any ownership interest of the appraiser or reviewer in the property that is the subject of the appraisal under review;

(B) the report date and effective date of the appraisal under review;

(C) the effective date of the opinions or conclusions in the appraisal under review;

(D) the physical, legal, and economic characteristics of the property, properties, property type(s), or market area in the appraisal under review; and

(E) the name of all appraisers who signed or provided significant professional assistance in the appraisal under review;

(8) state clearly and conspicuously, all extraordinary assumptions and hypothetical conditions and state that their use might have affected the review; and

(9) contain a certification which complies with USPAP Standards Rule 3-6.

(h) While not required by §1104.155 of the Act or this rule, if the reviewer elects to develop an opinion of value, review opinion, or real property appraisal consulting conclusion, the review must comply with the additional provisions of USPAP governing the development of an opinion of value, review opinion, or real property appraisal consulting conclusion.

Source Note: The provisions of this §159.155 adopted to be effective March 5, 2012, 37 TexReg 483; amended to be effective December 4, 2012, 37 TexReg 9509; amended to be effective September 11, 2013, 38 TexReg 5879