



**BOARD POSITION STATEMENT
REGARDING APPRAISER PERFORMANCE OF EVALUATIONS
September 17, 2019**

TALCB Board Members

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INTRODUCTION

The Texas Appraiser Licensing and Certification Board (TALCB or Board) has been asked to consider allowing appraisers licensed in Texas to perform evaluations, as accepted by federal financial institutions under the *Interagency Appraisal and Evaluation Guidelines*, 75 Fed. Reg. 77,450 (Dec. 10, 2010) ("*Interagency Guidelines*"), without complying with the Uniform Standards of Professional Appraisal Practice (USPAP).

POSITION STATEMENT


Reading the plain language of Chapter 1103, Texas Occupations Code, in context and construing the statute as a whole, it is the Board's position that appraisers licensed under Chapter 1103 must comply with USPAP and that the Board does not have authority to grant an exemption from USPAP compliance for appraisers performing evaluations under the *Interagency Guidelines*. To allow appraisers licensed in Texas to perform evaluations without USPAP compliance, will require the Board to seek statutory changes from the Legislature. Because the Legislature is not scheduled to meet again until 2021, statutory amendments, if adopted in 2021, would not be effective for at least two years.

Since an evaluation meets the statutory definition of an appraisal under current Texas law, at most, the Board could adopt rules relating to the standards for the development and reporting of an evaluation "that are recognized as substantially equivalent to or consistent with [USPAP]." See Tex. Occ. Code §§1103.003(1) (defining "appraisal"), .154(3) (authorizing Board to adopt rules relating to professional conduct); *Advisory Opinion 13* (AO-13), USPAP 2018-19 at 89-91 (explaining that an evaluation, when performed by an appraiser who is bound by USPAP, is an appraisal and must comply with USPAP). While some states have enacted statutory changes allowing appraisers licensed in those states to perform

evaluations under the *Interagency Guidelines* without complying with USPAP, the *Interagency Guidelines* are merely supervisory guidance provided to financial institutions by the same federal agencies who regulate those institutions. See *Interagency Statement Clarifying the Role of Supervisory Guidance* at 1 (Sept. 11, 2018) (issued by the Federal Reserve, FDIC, NCUA and OCC). The *Interagency Guidelines* do not have the force and effect of law, see *id.*, and they are not substantially equivalent to or consistent with USPAP. Tex. Occ. Code §1103.154(3). Accordingly, the Board cannot adopt rules establishing the *Interagency Guidelines* as standards for developing and reporting evaluations under current Texas law.

As an alternative, the Board may seek changes in USPAP from the Appraisal Standards Board (ASB). The ASB released a concept paper on September 3, 2019, asking for input and feedback on developing standards for performing evaluations in USPAP. The ASB has requested comments to be submitted on or before October 11, 2019, and will hold a public meeting on October 18, 2019, in Washington, D.C. The ASB has not established a timeline for adopting standards for performing evaluations in USPAP. Thus, it is unclear whether or when the ASB may adopt standards for performing evaluations in USPAP. It is entirely possible that the ASB may not adopt standards for performing evaluations in USPAP before the Board has an opportunity to seek statutory changes to Texas law in 2021.

Approved by the Board and signed this 17th day of September, 2019.


Jamie S. Wickliffe, Chairperson
Texas Appraiser Licensing & Certification Board