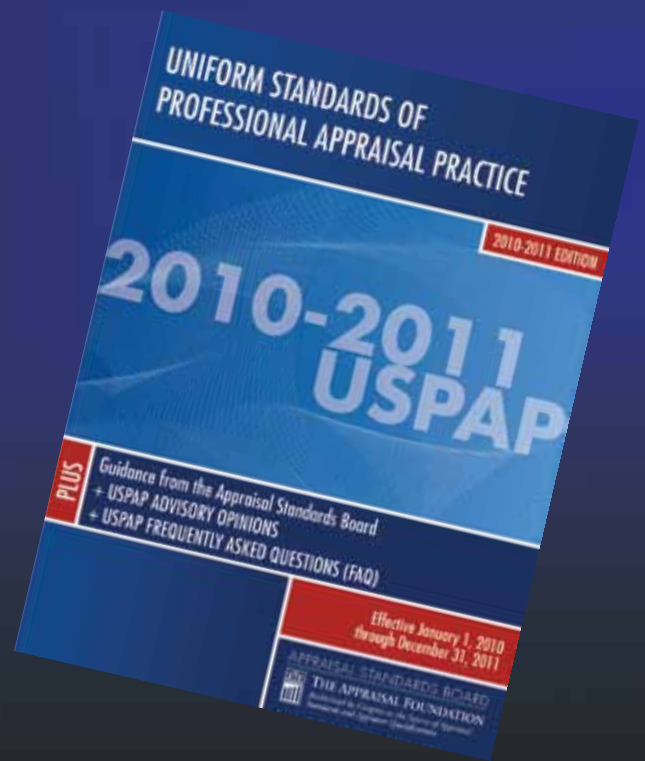


Understanding the Scope of Work Rule and Advisory Opinion 32

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Assessor's offices may observe rules or policy items that are not clear. Sometimes policies are rewritten to more precisely state the rule or guideline. Sometimes memorandums are prepared to better illustrate the point. Sometimes the changes bring about unintended or unexpected consequences or side effects. Every administrator, leader, manager, board member, and assessor must walk that very murky line at times in hopes of taking to a higher level the group for which he or she holds some type of responsibility.

For anyone in a controlling position in regard to the recognized, uniform standards for any profession, the last thing he or she needs is hasty or quick changes. The ASB has adopted that approach and has a written set of rules of procedure for exposure of potential changes/additions to USPAP.

This holds true for The Appraisal Foundation (TAF) as well. When TAF, through the Appraisal Standards Board (ASB), seeks to clarify points to the appraisal profession, it has two avenues to accomplish its objective. The ASB can make changes

directly to the *Uniform Standards of Professional Appraisal Practice* (USPAP) through changes to the Definitions, Preamble, Rules, Standards, Standard Rules, and Statements. This is much like rewriting office or organizational policies. Or ASB can make changes to other parts of the published document that accompany USPAP, such as the Index, Frequently Asked Questions, and Advisory Opinions sections. Although these items are not considered part of USPAP, they do play a very important role for ASB. These other items, as they are sometimes referred to, provide guidance to or help illustrate the applicability of USPAP based on peculiar appraisal situations. These items are much like the memorandum usage example given above.

This article explores the ASB *rules of procedure*, its writing of the *Scope of Work Rule*, and its subsequent writing of *Advisory Opinion 32* to help illustrate its applicability in ad valorem appraisals. It looks at how the assessor/appraiser can determine an appropriate scope of work in the office and clarifies a misinterpretation of *Advisory Opinion 32*, explaining how the opinion does not limit the ad valorem appraiser's ability to perform appraisals under USPAP Standards 1, 2, 6, 7, and 8.

ASB Rules of Procedure

"The purpose of the *Uniform Standards of Professional Appraisal Practice* is to promote and maintain a high level of public trust" (TAF 2010, U-6). For anyone in a controlling position in regard to the recognized, uniform standards for any profession, the last thing he or she needs is hasty or quick changes. The ASB has adopted that approach and has a written set of *rules of procedure* for exposure of potential changes/additions to USPAP.

Let's review the ASB *rules of procedure* for changes to USPAP. The changes are not done without considerable attempts to receive public comment from those in the profession who will be affected by the changes. As a matter of fact, an exposure draft process for receiving and evaluating public comments is required. The following are the *rules of procedure* required by the ASB prior to issuing changes to USPAP:

- (i) The giving of notice and the holding of public hearings (except where, in the judgment of ASB, it can make an informed decision on the basis of existing data without a public hearing)
- (ii) The exposure of proposed appraisal standards
- (iii) Consultation with The Appraisal Foundation Advisory Council (TAFAC) and the Industry Advisory Council (IAC)
- (iv) Consultations, to the extent deemed practicable by ASB, with interested persons and organizations (TAF 2008).

By the time the changes are published and become effective, ASB has a complete understanding of the issue under consideration as well as the expected intentions of its actions. The board typically has received public comment on the subject and also comments and/or suggestions from one or both of its advisory councils. However, as in any office or organization, knowing the point or intent of a particular change does not always mean it will be crystal clear to those for whom the rule is intended.

Scope of Work Rule

In 2003, ASB had a problem: many appraisers were interpreting USPAP incorrectly. These appraisers, mainly from the single-property appraisal field, shared a common notion that each scope of work decision should be a one-size-fits-all solution; that is, they were not considering the purpose or the intended use of the appraisal or the client's needs. The ASB solution was not a comprehensive rewrite of new requirements but a comprehensive reorganization of already existing requirements. Existing material was restructured

and added to the 2006 USPAP edition as a new rule, the *Scope of Work Rule (SOWR)*. While ASB's work should be addressed as a rewrite because nothing new was added, some items were removed as the SOWR was introduced. (ASB was emphatic that the new rule did not add any new requirements that were not already in the previous USPAP edition.) ASB removed the Departure Rule and related terms such as Binding Requirement, Specific Requirement, Complete Appraisal, and Limited Appraisal. The application of these items/terms throughout the appraisal profession was quite different from appraiser to appraiser prior to the 2006 USPAP edition. The items that were removed were actually a major part of the problem, and their removal was necessary for ASB to meet its objectives for the new rule.

The specific assignment items can be determined only after careful communication with clients, but note that the scope of work determination is the responsibility of appraisers only.

To understand the rule, consider how USPAP defines scope of work: "the type and extent of research and analyses in an assignment," in other words, the work the appraiser must complete or perform in order to properly develop the appraisal assignment results. The ASB's restructuring of the "scope of work" attempts "to simplify the structure of USPAP, and to make the flexibility of the development Standards clearer" (TAF 2009).

By taking the existing requirements and putting them into its own rule, ASB made it easier for the appraisal profession to distinguish the requirements. This consolidation of requirements into a single rule section emphasizes the importance of the

scope of work requirements, while making them more accessible to both appraisers and users of appraisal services.

The rule specifies a few items that must be addressed in each appraisal assignment. The appraiser must

1. Identify the problem to be solved
2. Determine and perform the scope of work necessary to develop credible assignment results
3. Disclose the scope of work in the report (TAF 2010, U-13).

Identify the Problem

Identifying the problem is the starting point for all appraisal assignments. USPAP lists specific assignment elements that must be identified. The specific assignment items can be determined only after careful communication with clients, but note that the scope of work determination is the responsibility of appraisers only. Clients should be included in the process because they provide most of the needed information, but they do not make the scope of work determination. Appraisal judgment, communication with clients, and awareness of appraisers' current level of competency in the type of appraisal assignment are meshed together to adequately complete the problem identification requirement. (Note that there is a separate rule in USPAP, the Competency Rule, and to ensure compliance with its requirements, the appraiser must read and be familiar with that rule; that rule is beyond the scope of this article.)

Determine Scope of Work

The second item that must be addressed by the appraiser is to determine and perform the scope of work necessary to develop credible assignment results. As defined by USPAP, *credible* means worthy of belief (TAF 2010, U-3). Credible assignment results are the outcome of proper preparation and application of generally accepted appraisal procedures. As stated earlier, the "purpose of the *Uniform Standards of Professional Appraisal Practice (USPAP)* is to promote and maintain a high level of public trust in appraisal practice" (TAF 2010, U-6). Gaining and increasing the public trust can be accomplished only by producing credible assignment results.

To gauge whether the scope of work is adequate to produce credible results, USPAP gives the appraiser two tests, both of which must be met. The first test is that the scope of work must meet or exceed “the expectations of parties who are regularly intended users for similar assignments” (TAF 2010, U-14). Again, competence and experience in a particular assignment are necessary for the appraiser to understand and evaluate the expectations. It would be highly unlikely that an appraiser could properly judge the expectations of an intended user without having experience with the type of assignment at hand. The second test is to recognize and then meet or exceed “what an appraiser’s peers’ actions would be in performing the same or a similar assignment” (TAF 2010, U-14). As with the first test, competence and experience are necessary ingredients for the appraiser. When appraisers have met or exceeded these two tests, they can answer and support their decision to use or not use any method or technique or any research or information available. A scope of work determination challenge or dispute may be conveyed by the client, an intended user, a peer appraiser, or an appraisal board investigation. Again, the scope of work decision is the responsibility of the appraiser.

Disclose Scope of Work

The third item that must be addressed by the appraiser deals with disclosure. The appraiser must disclose the scope of work in the final report. The scope of work decision is purely an appraisal development issue. Each type of appraisal assignment in USPAP is distinctly broken down into either development requirements or reporting requirements. All the decisions on the appropriate scope of work relate to the development portions of the standards and standard rules. This final step requires only that the appraiser disclose in sufficient detail the scope of work in the appraisal assignment determination. The report must contain adequate information to ensure that the client and other intended users understand both the “research and analyses performed” and “research and analyses not performed” (TAF 2010, U-14).

Clearly the SOWR was established to show that the scope of work decision should be based on the intended use and

the needs of the intended users for each assignment—not a one-size-fits-all decision. The new SOWR is applicable to all real and personal property assignments, including ad valorem.

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Application of the SOWR in the Assessor’s Office

As stated earlier, the original issue leading to the SOWR dealt with misinterpretation by some appraisers in the single-property discipline. However, the SOWR is applicable to all real and personal property assignments, including those in the ad valorem discipline. To help illustrate the applicability of the SOWR to the ad valorem field, the ASB issued *Advisory Opinion 32* (AO32) in 2008. But in 2006 before AO32 was drafted or considered, USPAP and the IAAO Appraiser Regulatory Committee were preparing a white paper titled “Ad Valorem Mass Appraisal Scope of Work Decisions.” The intent behind the paper was “clarification and guidance ... to assist assessors, appraisers, and the public to better understand ad valorem mass appraisal as compared with mass appraisal for other intended uses and/or single property appraisal” (author’s personal notes). The paper was offered to ASB and IAAO worked closely with the board as it developed AO32. As chair of the Appraisal Regulatory Committee, I was fortunate to

attend multiple public meetings of the ASB in late 2006 and 2007 as AO32 was being finalized.

As the assessor works to determine an appropriate scope of work in the office, what are some of the considerations that must be taken into account? First, what are the nuances of the ad valorem office and the mass appraisal discipline? The ad valorem field is the single largest appraisal discipline. The profession touches more property owners each year than any other appraisal discipline. In a typical assessment jurisdiction the appraisal division employs appraisal methods and techniques that are both familiar and typical to the single-property appraiser and to the mass appraiser. In fact, the principles, techniques, and standards required for a single-property appraisal assignment are the necessary starting point for a mass appraiser. A *competent mass appraiser* must have a familiarity with and an appropriate understanding of the single-property appraisal discipline, and an *effective assessor’s office* must be proficient in and effective at both single-property appraisals (Standards 1 and 2 and Standards 7 and 8) and mass appraisals (Standard 6).

One of the unique items illustrated in AO32 is the understanding that in the ad valorem tax office are both single-property appraisal assignments and mass appraisal assignments. AO32 offers the following explanatory language:

- Standards 1 and 2 address the requirements for development of an appraisal and reporting of appraisal results for a particular real property interest as of a given date.
- Standard 6 addresses the requirements for developing a mass appraisal and reporting mass appraisal results for real and personal property. Mass appraisal is the valuation of a universe of properties (many properties) as of a given date using standard methodology, employing common data, and allowing for statistical testing. Mass appraisal provides for a systemic approach and uniform application of appraisal methods and techniques to obtain estimates of values that allow for statistical review and analysis of results.

- Standards 7 and 8 address the requirements for developing an appraisal and reporting appraisal results for a particular personal property interest as of a given date.

The keys to distinguishing a mass appraisal are as follows: (1) the subject of the appraisal is a *universe* of properties, that is, more than one property, and (2) the assignment involves standard methodology employing common data that allow for statistical testing. These models may be based on the cost approach, the income approach, and/or the sales comparison approach to value (TAF 2010, A-111).

The assessor's office and its mass appraisers also have a unique client and a unique intended use. The client is the taxing authority. Many may argue that the citizens are a client, but in my opinion, they are not. Without the budget development process and the need to distribute the revenue burden—the intended use—among jurisdictions, there would be no need for the mass appraisal or even the assessor's office. It is the taxation authority's need for the overall taxable value to determine the tax rate and the individual property assessed values to distribute the needed revenue in a uniform, equitable manner that defines the client. In some jurisdictions, the assessor may be elected by the citizens, but that is not significantly different from a recent experience of mine. I purchased a home in October 2009. The bank ordered an appraisal because it wanted to ensure that the loan-to-value ratio was at the required level prior to loaning me the money to purchase the home. I paid for the appraisal. I am buying the house, but the bank is the client. Once the assessor completes the appraisal assignment in a given year, each individual property value is multiplied by the tax rate to produce the tax bill.

As discussed previously, the assessor is required to:

1. Identify the problem to be solved.
2. Determine and perform the scope of work necessary to develop credible assignment results.
3. Disclose the scope of work in the report (TAF 2010, U-13).

Much of the information needed for problem identification is found in the

property tax statutes and regulations that govern the jurisdiction. These can include the following (the list is not all-inclusive):

- The client and the intended use
- Type and definition of value
- What is considered taxable property
- What is exempted or excluded from the tax roll
- The date of valuation and the tax year information
- Relevant characteristics that should be considered
- Any assignment conditions (except required physical inspections).

Trying to determine “an acceptable scope of work” in an assessment office can involve evaluating the needs when beginning or starting the appraisal assignment. This self-evaluation must be an honest assessment of the quality and quantity of data and information currently possessed or easily accessed. A conversation with the regulatory authority, that is, the state department of revenue or other applicable group, can determine whether it can provide a beginning checklist of suggested elements that a typical jurisdiction, based on statutes and regulations, would need to adequately complete the appraisal project. Some suggested elements of an effective property taxation system are as follows (the list is not all-inclusive):

- A legal system and legal infrastructure that define and support ad valorem administration
- A recording and inventory system for all land and improvements, which represents the inventory of property being appraised
- Sufficient market data from which valuations may be determined
- Sufficient resources and trained personnel to implement the uniform valuation of all property
- Continued maintenance of the inventory and databases to ensure accurate valuations and more equitable taxation
- A process for sampling and testing developed models to ensure methodology and application.

The final item requires the assessor to disclose in sufficient detail the scope of work. The disclosure should sufficiently provide intended users enough information for them to rely on the assignment results. This is strictly a reporting item, and again the assessors/appraisers should review the statutes and regulations to determine whether their reporting requirements exceed the minimum levels established in USPAP. Remember that the notice of valuation, the property record card, a tax bill, or other individual property owner items specified by statute or regulation do not constitute a mass appraisal report. The items required for reporting are beyond the scope of this article and can be found in USPAP Standard 6.

Misinterpretations of *Advisory Opinion 32*

Not long after the 2008 edition of USPAP edition went into effect, people were taking the new advisory opinion and offering their suggestions and interpretations of ASB's intent for AO32. The misinterpretations surrounded ASB's recognition that in an ad valorem office there are both single-property appraisal assignments and mass appraisal assignments. The misinterpretations offered a view that the assessor's office is able to complete only the assignments that fall under mass appraisal (Standard 6). Further, if the scope of work determination calls for an appraisal assignment under Standards 1 and 2 *or* Standards 7 and 8, the assessor's office clearly had to hire a state-certified appraiser to complete those assignments—no exceptions.

This interpretation could not be further from the truth. The assessor is required by law to value all properties in his or her respective jurisdiction. The assessor, and the appraiser, as defined in USPAP, must determine an appropriate scope of work, which for most properties will fall under Standard 6. But for some unique or one-of-a-kind properties or a property in the appeal process, the office may develop the appraisals under Standards 1 and 7. During the scope of work determination, if the assessor determines that the office can competently handle either the single-property appraisal assignment (Standards 1 and 7) or the mass appraisal assignment (Stan-

dard 6), then the assessor and the staff can complete them. And likewise if the assessor decides that he or she needs assistance to complete an assignment, someone can be hired to either assist or complete the appraisal. This is not unique to ad valorem assignments. A competency requirement is applicable and required for all USPAP standards. The scope of work decision is the assessor's and is made based on the complexity of the properties in question, the level of appraisal experience of the assessor and the staff, the quality and the quantity of market data, and any other factor as determined by the assessor.

In an effort to clear up any confusion on this issue, the USPAP and Appraiser Regulatory Committee for the IAAO asked the ASB whether it intended to limit the ad valorem appraiser to only Standard 6, mass appraisal assignments. The ASB response (see letter at right) supports the argument made in this article. ASB stated in its letter to IAAO that "within this Advisory Opinion and in USPAP, there is no inference that an appraiser involved in ad valorem taxation assignment is limited *only* to estimation of property values under Standard 6. Rather, every appraiser must determine an appropriate scope of work for the assignment. This would then determine which Standards(s) must be followed." The full response is shown at the right and is also posted on the IAAO Web site for members to reference if needed.

Conclusion

Standards and procedures will continue to change—this is a good thing. Staying in a vacuum without change never pushes anyone to better results. The need for the *Scope of Work Rule* was apparent. And the ASB's further written recognition of the complexity and flexibility of ad valorem taxation assignment and its scope of work determination is good for the assessment profession. Nevertheless, there are always those willing to offer their interpretation, or misinterpretations, of the standards. It is this continued feedback and professional involvement that give USPAP standards their strength and validity and, when tempered with correct application, will meet the goal "to promote and maintain a high level of public trust" (TAF 2010, U-6).

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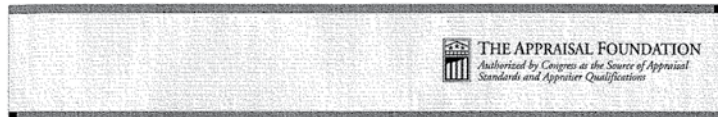
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Letter of response from The Appraisal Foundation



September 4, 2009

Ken Joyner
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Dear Mr. Joyner:

As Chair of the IAAO USPAP and Regulatory Advisory Committee, you have asked the Appraisal Standards Board to provide additional insight on appraisal standards applicable to ad valorem assignments.

You have asked for clarification as to whether an assessor or his staff could perform assignments under Standard 1 or Standard 7, or only perform ad valorem assignments under STANDARD 6.

Advisory Opinion 32, *Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments* (AO-32) in the 2008-2009 USPAP edition, addresses this issue indirectly in Example 2, found on lines 127-128 on page A-114. This example discusses the scenario where, for purposes of estimating a value of a specific property that cannot be adequately valued in a mass appraisal model (STANDARD 6), the assessor would need to value the property individually, and must comply with STANDARD 1 or 7.

This Advisory Opinion provides guidance for those entities involved in ad valorem taxation assignments. It specifically notes on Line 15, Page A-111, that "Ad valorem taxation assignments include both appraisal assignments and mass appraisal assignments." Subsequent text then specifically notes STANDARDS 1, 2, 7 and 8 as individual property appraisal guidelines for real and personal property, and STANDARD 6 as the mass appraisal guidelines.

Within this Advisory Opinion and in USPAP, there is no inference that an appraiser involved in ad valorem taxation assignment is limited ONLY to estimation of property values under STANDARD 6. Rather, every appraiser must determine an appropriate scope of work for the assignment. This would then determine which Standard(s) must be followed.

Of course, this response only addresses the guidelines established by USPAP. It does not address the potential existence of specific laws applicable to a particular jurisdiction that might address an assessor's allowable scope of work.

I hope this answers your question. If you have additional questions or need additional information, please feel free to contact me.

Sincerely,
Sandra Guilfoil
Chair
Appraiser Standards Board