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January 20, 2009

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Mr. John C. Dugan
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Docket ID OCC-2008-0021

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
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Attention: ID OTS-2008-0012

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve
Board
20th and Constitution Avenues, NW
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Docket No. OP-1338

To Whom It May Concern:

On behalf of the 25,000 members of the largest professional appraisal organization in the United States, we thank you for the opportunity to provide comment on the proposed Interagency Appraisal and Evaluation Guidelines.

Our organization supports the underlying intent to compile guidance into a single document for ease of readability and understanding by federally regulated institutions. However, we believe that the underlying appraisal regulations pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 should be revisited at this time. Given current market conditions, we believe that the existing FIRREA regulations no longer are adequate to ensure the safety and soundness of financial institutions, particularly with regard to real estate-related transactions. As one example, there are outstanding issues related to the role of mortgage brokers or "financial services institutions" that can only be addressed through a change in the regulation. Further, changes to appraisal standards and appraiser qualifications criteria have created inconsistencies between the regulations and current appraisal practice, methodology and terminology.

We also have a general concern about the structure and tone of the proposed guidelines; specifically, the extreme emphasis on exemptions from appraisal requirements and lack of focus on how to obtain competently prepared appraisals. The Interagency guidelines originally were developed at a time when there was concern by the lending industry over the availability of

appraisal services, thus, the regulations and guidelines accepted low appraisal requirements and exempted a significant percentage of transactions, which time has proven to be problematic.

While it may not work correctly all the time, the appraisal system of today has been built and is now firmly established. The bank regulatory agencies should turn their attention to providing solutions to help our economy recover. We believe that this requires increased emphasis on the quality of the appraisal process and the inclusion of properties that have proved to be problematic, yet fall under exemptions to the original regulations.

Appraisal regulations now have been in place for 18 years and last were revisited in 1994. Since then, many sections of the regulations lack clarity and routinely cause confusion. Therefore, we strongly urge the federal financial institution regulatory agencies (“Agencies”) to reconsider revisions to the interagency guidelines and, instead, to undertake revisions strengthening the underlying appraisal regulations.

We clearly understand the magnitude of this project, which is why we are committing the resources of our organization to improve bank regulation as it relates to real estate appraisal and evaluation.

However, should the Agencies opt to issue final guidelines instead of pursuing revisions to the underlying regulations, we offer our comments and suggestions below.

The Importance of Competency

Broadly, we cannot emphasize enough the importance of having competent and ethical real estate appraisers retained to conduct appraisals for federally related transactions. To this point, the proposed guidelines make clear that licensing itself does not necessarily constitute competency, and that lenders should review an appraiser’s education and experience when making a hiring decision¹. Too often, this provision has been misunderstood or ignored, with licensing being viewed as a be-all and end-all when Congress never intended it to be. The intent of Title XI always has been to establish minimum requirements, with more complex assignments requiring higher credentialed appraisers, such as professionally designated members of nationally recognized professional appraisal organizations or those with advanced education and experience. We urge retention of provisions, which make clear that licensing does not necessarily constitute competency, in the final version of the guidelines.

Further, we believe that the guidelines should emphasize this point and recognize the importance of credentials to help determine an appraiser’s education and experience. Appraisers who have earned designations from our organizations have met higher levels of education and experience requirements than those required for licensing, and may help financial institutions in the evaluation of an appraiser’s education and experience. We note that Fannie Mae and Freddie Mac provide expanded commentary regarding appraiser qualifications and review of an appraiser’s education and experience. For example, the Fannie Mae Selling Guide states:

“When evaluating an appraiser’s qualifications, a lender should review the appraiser’s education and experience, sample appraisals, professional affiliations, and references from prior clients and employers. Professional appraisal designations can be helpful to the lender in evaluating an appraiser’s qualifications, particularly when the designation is from a nationally recognized organization that has formal experience, education, and ethics requirements that are strongly administered. If the lender considers an appraisal

¹ Specifically, the proposed guidelines state: “The proposed Guidelines remind institutions that an appraiser’s credential is not the sole determination of competency and that institutions should consider the appraiser’s education and experience to assess his or her competency for a given appraisal assignment.”

designation in its evaluation, it should be familiar with the appraisal organization's specific requirements to ensure that the designation is evaluated appropriately. However, federal law prohibits a lender from selecting or hiring an appraiser based solely on the appraiser's membership in any particular appraisal organization or from not hiring an appraiser based solely on his or her lack of membership in any organization.”²

Therefore, we respectfully urge the Agencies to include similar language in the final guidelines.

The importance of competency may be emphasized in other ways by the agencies. Specifically, we believe that the agencies should continue to stress the importance of competency over factors such as price of the appraisal or the appraiser's turnaround time. This is consistent with recent guidance released by the Agencies, which makes clear that competency should be the primary factor used when hiring an appraiser. Unfortunately, provisions to this effect were not carried forward in the proposed guidelines and we urge that this be corrected as soon as possible. Recommended language should be inserted in the final guidelines, as follows:

“Regulated institutions are reminded to consider an appraiser’s competency for a given appraisal assignment. Further, regulated institutions should not allow lower cost or reduced delivery time to compromise the determination of an appropriate scope of work for appraisals supporting federally related transactions.”³

Lastly, the final guidance must make clear, through the use of examples, that appraisals in declining (and rapidly increasing) markets require an appraiser with a higher level of expertise. We could provide a multitude of examples that illustrate this point, and we would be happy to provide them to the Agencies.

Loan Modifications/Refinancings/Debt Restructures (Exemption 7)

The proposed guidelines state that if a loan workout involves modification of terms and conditions of an existing credit, including acceptance of new real estate collateral that facilitates the orderly collection of the credit or reduces the institution’s risk of loss, an appraisal or evaluation of the existing and new collateral may be prudent, even if it is obtained after the modification occurs.

The extraordinary events of the past two years highlight the extreme importance of obtaining well-supported, well-documented appraisals when there have been material changes in the market. Many real estate markets are rapidly declining, presenting serious safety and soundness concerns to financial institutions and the federal government. It is imperative that financial institutions understand the condition and quality of assets in their portfolio; thus, we believe that the best way to accomplish this is through a current, carefully prepared appraisal by a qualified appraiser. Further, without current appraisals, financial institutions may be inflating the values of assets on their books. A current appraisal not only helps the institution assess its risk, but also aids in investor and taxpayer protection.

We believe that the Agencies should be stronger in their encouragement for obtaining current appraisals in renewals and refinancings, particularly in light of current market conditions and investor concerns about transparency and the uncertainty of underlying asset values in the securitization market. Specifically, we strongly encourage the Agencies to clarify that it is “generally prudent” or “nearly always prudent” to obtain well-supported appraisals any time there

² Fannie Mae Selling Guide. Retrieved January 17, 2009, from AllRegs

³ The 2006 Revisions to the Uniform Standards of Professional Appraisal Practice. Available at <http://www.occ.treas.gov/ftp/bulletin/2006-27a.pdf>

have been obvious and material changes in market conditions. We sent a letter raising similar concerns to the FDIC regarding the agency's Loss Sharing Proposal.⁴

In addition, we find the wording used to describe Exemption 7 to be extremely confusing. For example, the language found on page 31 appears to contradict the language on page 45, in reference to the two tests for the exemption. While there is, in fact, no contradiction, careful study is required by the reader to understand that point. Further, the example found on page 46 appears to fail the two tests because the property is physically impaired. The guidelines need to be clearer in the way they describe this exemption.

Evaluations - Broker Opinions of Price

We remain concerned over ongoing misuse of broker opinions of price, particularly in states that strictly prohibit their performance for purposes beyond a listing if it is provided for a fee. In as many as 24 states⁵, it is illegal for a real estate broker or salesperson to perform a broker opinion of price for anything beyond establishing a listing price if it is provided for a fee. In these states, the performance of a broker opinion of price for anything other than establishing the sales or purchase price of property is strictly prohibited. For example, in Mississippi, it is only permissible for a broker or salesperson to "in the ordinary course of business, give[s] an opinion as to the price of real estate for the purpose of a prospective listing or sale."⁶

Additionally, brokers are largely untrained in valuation techniques and don't have to show a minimum level of competency as real estate appraisers do. Further, these products are not prepared by any standards or guidelines.

Unfortunately, many lenders and brokers appear to be unaware or unconcerned about these state laws or competency concerns, despite clear statements from state enforcement authorities outlining their misuse.⁷ We do not believe it is appropriate or productive for the federal bank regulatory agencies to promote widespread violations of state law, allowing the intent of FIRREA to be undercut by the proliferation of unregulated appraisal practices.

We understand that many lenders and loan services are turning to this lesser product because they are seen as cheaper and faster alternatives to appraisals. We dispute this contention. Many brokers routinely advertise turnaround times similar to appraisals, so speed is a not an issue. We do not dispute that broker opinions of price often cost less than appraisals. However, this is due to the different nature of the product. As a valuation product, appraisals are far more robust.

⁴ Letter to the FDIC on Loss Sharing Proposal to Promote Affordable Loan Modifications, November 19, 2008. Available at http://www.appraisalinstitute.org/newsadvocacy/downloads/ltrs_tstmny/2008/Al-ASA-NAIFA-ASFMRA_FDICLoanMods-11-19-Final.pdf

⁵ AL, AR, CT, DE, GA, HI, ID, KY, MD, MI, MN, MS, NE, NJ, NV, NM, ND, OR, PA, RI, TN, UT, WI, WV

⁶ Mississippi Code § 73-34-5. Available at <http://michie.com/mississippi/lpExt.dll?f=templates&eMail=Y&fn=main-h.htm&cp=mscode/15df8/16b16/16b22>

⁷ One example includes a memorandum from the State of West Virginia Real Estate Commission to all Real Estate Associates, Associate Brokers, and Salespersons, dated December 5, 2007. Available at <http://www.wvrec.org/BPO-letter.pdf>

It is important to note that the real estate appraisal community offers financial institutions an array of cost-effective and efficient services to assist in this effort. Specifically, there is great flexibility within the Uniform Standards of Professional Appraisal Practice (USPAP) in developing a scope of work to meet client needs for an appraisal assignment. This allows the client to receive a cost and time efficient report, prepared by a qualified individual, and to uniform and generally accepted standards. Further, while real property appraisers are uniquely qualified to analyze real property markets and develop opinions about market value (most probable price), they are also capable of providing clients with information for purposes of pricing a property for sale. We believe the Interagency Guidelines should inform lenders to this point.

In sum, if the intent of FIRREA and the Interagency Guidelines is to provide structure and regulation of valuation products, any encouragement of broker opinions of price is a contradiction. We believe these products are simply are an unregulated form of appraisal that lack certifications of independence, non-bias and competency. While these services are not illegal in 26 states, their use, particularly in the 24 states that strictly prohibit their performance, flaunts the intent of Congress in its passage of FIRREA.

We believe the best course of action is for the federal bank regulatory agencies guidelines to promote the importance of competency in developing reliable opinions of value. We do not believe broker opinions of price produce reliable value results.

To this end, we believe that it is far more appropriate for the federal bank regulatory agencies to require that evaluations used in federally related transactions **must** adhere to USPAP to help bring uniformity to valuation products with varying scopes of work. We urge the Agencies to embark on this initiative immediately, and we offer our assistance and expertise to accomplish this goal.

Evaluations - Automated Valuation Modules (AVMs)

Pages 32-33 of the proposed guidelines detail the requirements for an evaluation report. We believe that AVMs fail to meet many of these requirements, as they do not indicate the sources of data, previous sales data, comparable sales information used, or the disclosure of the analysis that was performed and supporting information used. Further, they do not provide information and analysis of the property's physical condition and that of the surrounding neighborhood. This only may be provided by a site inspection. If this information is so important that it must be analyzed and reported in the evaluation, AVMs should not be an acceptable evaluation alternative.

It is important to point out that well developed and thorough appraisal reports provide more information than a simply point value estimate. This includes comments on the market and neighborhood and the competitive position of the subject property in that context. Further information concerning the condition of the property, functional deficiencies and physical features are found in well developed appraisal reports, which are important collateral risk items that cannot be found in AVMs.

Further, our members report that conflicts of interest exist between AVM service providers and AVM testers. We believe that this is largely a result of the lack of standards or regulations on

AVM company activity. Specifically, we urge the Agencies to make clear that any entity furnishing sample records, performing testing services or determining cascade order must not be affiliated with, nor have any financial interest in, the models being tested unless that entity is insuring or guaranteeing the loan transactions. Additionally, we urge that lenders must review test results at the address level and not rely solely on aggregate results or validation testing representations provided by external AVM providers, unless that entity is insuring or guaranteeing the loan transactions. We urge that the final guidelines address these points.

Additional Comments and Concerns

Several other points of concern and suggestions follow below.

1. **Appraisal Independence** – *“Persons who perform appraisals must be independent of the loan production and collection processes and have no direct or indirect interest, financial or otherwise, in the property or transaction.”* (Page 20)

This statement calls for further guidance. There have been many instances in which this has been wide open to interpretation. For instance, if the subject property is a church and the appraiser is a parishioner of the church, is that appraiser disqualified from taking on the appraisal assignment? If the appraiser has a relative who works for the institution, or if the appraiser is a customer of the institution, is that appraiser disqualified? Also, it should be clarified that an appraiser does not have an interest merely by virtue of the fact that he or she previously appraised the property.

2. **Conflict of Interest vs. Bias** – *“To avoid the appearance of any conflict of interest, appraisal or evaluation development work should not commence until the institution has selected a person for the assignment.”* (Page 22)

We suggest that “selected” be replaced by “engaged.” This will help avoid confusion as to when an appraiser may expect to be compensated for his or her services. The point of selection is not the same as the point of engagement.

3. **Direct or Indirect Interests** – *“Although allowed by USPAP, the Agencies’ appraisal regulations do not permit an appraiser to appraise any property in which the appraiser has an interest, direct or indirect, financial or otherwise.”* (Page 23)

Please footnote that USPAP would not permit an appraiser to take the assignment if the interest caused the appraiser to have a bias. Without this clarification, the statement is misleading.

4. **Extent of Inspection** – *“The appraisal report should contain sufficient disclosure of the nature and extent of inspection and research performed to verify the property’s condition and support the appraiser’s opinion of the market value.”* (Page 24)

We suggest that the word “verify” be changed to “identify” or “investigate.” The appraiser does not “verify” a property’s condition. An appraiser “identifies” or “investigates” the relevant property characteristics for purposes of developing an opinion of its value.

5. **Level of Detail** – *“The level of detail should be sufficient to understand the appraiser’s analysis and opinion of the property’s market value.”* (Page 24)

Please insert “for the intended user”, so that the sentence reads as follows: “The level of detail should be sufficient for the intended user to understand the appraiser’s analysis and opinion of the property’s market value.” This would better clarify that the report is being written for the institution’s understanding, not for that of the borrower or any other party.

6. **Values/Sum** – *“While an institution may request the appraiser to provide the sum of retail sales for a proposed development, this value is not the market value of the property...”* (Page 25)

The word “sales” in this sentence should be “values” and the word “value” (first usage) should be “sum”, so that the sentence reads *“While an institution may request the appraiser to provide the sum of retail values for a proposed development, this sum is not the market value of the property...”*

7. **Highest and Best Use** – *“An appraisal must include the market value of the property and should reflect the property’s condition in its actual physical condition, use, and zoning designation, as of the effective date of the appraisal.”* (Page 25)

This statement, which is repeated later in the document, is problematic and needs clarification. Requiring that the property be appraised based upon its actual use and actual zoning is inconsistent with USPAP and with recognized appraisal methodology, which calls for the market value of the property to be based on the highest and best use (HBU). HBU must be a legally permissible use, and the current use might not be legal (e.g., an illegal addition or illegal living unit). The way the guidelines are worded, if the property legally is a duplex, but is being used as a triplex because it has an illegal third unit, the guidelines say to value it as a triplex. That would not be prudent. Further, USPAP requires in Standards Rule 1-3(a) that the appraiser analyze “reasonably probable modifications to land use regulations.” If a change in zoning is highly likely, that likelihood, if recognized by potential buyers in the market, could impact value, either positively or negatively.

We suggest rephrasing it, as follows:

“An appraisal must include the market value of the property, based on its highest and best use and given its actual physical condition, as of the effective date of the appraisal. The highest and best use analysis must consider the property’s actual zoning, as well as reasonably probable modifications to zoning and other land use regulations.”

8. **Attached or Detached Single Family Homes** – The guidance provided in this section would apply to commercial & industrial (C&I) development projects in which individual C&I units are built and sold off separately. Adding a footnote to that effect would be appropriate. (Page 26)
9. **Individual Unit Appraisals** – *“If an institution finances construction on an individual unit basis, an appraisal of the individual units may be used if the institution can demonstrate...”* (Page 26)

Please change “an appraisal of the individual units” to “individual unit values,” because “an appraisal of the individual units” can be interpreted to mean a single value reflecting all the units

together as though sold to one purchaser, which is exactly the opposite of what the guidelines are intending to express.

- 10. Deductions and Discount Reporting** – Our members report that there is much confusion over the requirement that if all units can be sold within a 12-month timeframe, there is no need to analyze and report appropriate deductions and discounts. As with the “less than five units” exception, this requirement is inconsistent with USPAP, which requires that regardless of the likely sell-out time or the number of units, the appraiser must consider whether the value of the whole (group of units), as though sold to one buyer, would be equal to, more than, or less than the sum of the values of the individual units. It would be better for the Agencies’ guidelines to state:

“If (1) there are fewer than 5 units or (2) all units, regardless of how many, could be sold within 12 months, then the appraisal need not report the value of the whole (group of units), as though sold to one buyer, and instead may report only the sum of the individual unit values.” (Page 27)

- 11. Prospective Market Values** – The discussion of prospective market values should include the following statement: *“In accordance with USPAP, appraisal reports that include prospective market values are based on extraordinary assumptions about expectations regarding market conditions as of the future date of value. Any extraordinary assumptions must be clearly and conspicuously disclosed in the appraisal report.”* Many lenders have said they do not permit any extraordinary assumptions in appraisals, but this is not an operable policy in the case of prospective market values, which *must* be based on such extraordinary assumptions. (Page 28)

- 12. Compliance** – *“While an appraiser must comply with USPAP and establish the scope of work in an appraisal assignment, an institution is responsible for complying with the Agencies’ appraisal regulations and obtaining an appraisal that provides sufficient information to support its decision to engage in the transaction.”* (Page 29)

We suggest re-wording this sentence to read:

“While an appraiser must comply with USPAP and establish the scope of work in an appraisal assignment, an institution is responsible for complying with the Agencies’ appraisal regulations and obtaining an appraisal that involves sufficient analysis and is sufficiently documented to support the institution’s decision to engage in the transaction.”

This better delineates between the appraisal development and reporting processes, and the institution’s needs regarding each.

- 13. Applicable Regulations** – *“From the appraiser’s perspective, these minimum appraisal standards are considered assignment conditions under USPAP.”* (Page 29)

We support this clarification, but request further clarification that “applicable regulations” could be added. We suggest rewording the sentence, as follows: *“From the appraiser’s perspective, these minimum appraisal standards are assignment conditions under USPAP, as they are applicable regulations.”* (See USPAP 2008 edition, lines 392-396, which discuss the various types of “assignment conditions.” “Regulations” are just one of several types of assignment conditions.)

14. **Restricted Use Appraisal Report** – *“However, these less detailed reports may be appropriate for real estate collateral monitoring or in circumstances when an institution’s collateral valuation program requires an evaluation.”* (Page 30)

As outlined on page 33, an evaluation report must *“Disclose the analysis that was performed and the supporting information used to value the property.”* However, a Restricted Use Appraisal Report under USPAP is not required to contain detail about the data and analysis used in the valuation process. Thus, in order to suffice for evaluation purposes, a Restricted Use Appraisal Report would have to be supplemented to include this information. We suggest rewording as follows:

“However, these less detailed reports may be appropriate for real estate collateral monitoring and, if supplemented to include the analysis that was performed and the supporting information used to value the property, when the institution’s valuation program requires an evaluation.”

15. **Exceptions** – The section headed *“Transactions that Require Evaluations”* should make it clear that while there are 12 exceptions from the requirement to obtain an appraisal by a state licensed or certified appraiser, only three (3) of those require an evaluation. (Page 31)

16. **Appraisal Experience** – *“Examples include persons with appraisal experience.”* (Page 32)

Please insert “appraisers and”, so that the sentence reads *“Examples include appraisers and persons with appraisal experience...”*

17. **Analysis vs. Reporting** – *“While evaluation methodologies and tools may vary, all evaluations, at a minimum, should...”* (Page 33)

To better clarify the distinction between “analysis” and “reporting,” we suggest rewording, as follows: *“While evaluation methodologies and tools may vary, all evaluation reports, at a minimum, should...”*

18. **Transferring Appraisal Report** – In the discussion (top of Page 35) on accepting an appraisal engaged by another financial services institution, the guidelines need to clarify that the documentation required to show that the appraiser was engaged directly by the institution needs to come from the other institution – not from the appraiser. The appraiser would be in violation of confidentiality requirements relative to the first institution (the appraiser’s client) if he or she divulged such information to the second institution. Further, the appraiser cannot transfer the appraisal report without their client’s (the first lender’s) permission.

We suggest rewording, as follows:

“Among other considerations, when accepting an appraisal from another institution, the acquiring institution should obtain documentation from that institution”

And, adding:

“The transfer of an appraisal should be arranged between the two institutions. An appraiser cannot transfer an appraisal or readdress an appraisal, and must not be requested to do so.”

The guidance also should clarify whether the agencies believe it is acceptable for the second lender to use the appraisal report if a copy of the report was presented to them by the borrower, as there continues to be confusion on this point. This additional language is important, because appraisers continue to be asked by lenders to “readdress” and “transfer” appraisals. This next paragraph should conclude with a footnote reference to Advisory Opinion 26, *“Readdressing (Transferring) a Report to Another Party.”* (Page 35)

19. **Environmental Contamination Bullet** – We suggest changing this to *“Environmental contamination or other adverse conditions not previously identified.”* (Page 36)
20. **Changing Estimate of Value** – *“Any changes to an appraisal’s estimate of value are permitted only as a result of a review conducted by an appropriately qualified state-certified or licensed appraiser in accordance with USPAP.”* (Page 39)

We strongly support the addition of this language. In the past, values have been “changed” all too often by unqualified individuals. However, there is a need to clarify that such appraiser/reviewer must possess the requisite geographic and market area competency. We suggest changing it to *“...any changes to an appraisal’s estimate of value are permitted only as a result of a review conducted by an appropriately qualified state-certified or licensed appraiser in accordance with USPAP.”* “Appropriately qualified” includes possession of any requisite geographic and market area competency.

21. **Definition of “Appraisal”** – This definition of “appraisal” differs from the USPAP definition. A simple acknowledgement of this fact might help with what many appraisers see as a significant inconsistency, for while the Agencies require compliance with USPAP, their definition of “appraisal” differs.

We suggest a footnote comment, as follows: *“The definition of “appraisal” as that term is used in the Agencies’ regulations differs from the definition of “appraisal” in USPAP.”* (Page 57)

22. **Definition of “As Is Market Value”** – Please specify that the effective date (appraisal date) must be a current date. Otherwise, it doesn’t make sense that the current physical condition must be considered, even though the effective date of value might be prospective. We suggest changing “appraisal date” to *“effective date of the appraisal, which must be a current date.”* (Page 58)

Definition of “Credible (Appraisal) Assignment Results” – This entry has taken and combined several USPAP definitions (credible, assignment results) and concepts (scope of work acceptability) and resulted in something that misstates USPAP. Since the relevant terms are in USPAP, we think that there is no need to include this entry. (Page 59)

23. **Definition of “Financial Services Institution”** – We believe this term must be defined, illustrating the need to renew the underlying appraisal regulations. The proposed guidelines state the “Agencies do not define financial services institutions”. A definition is sorely needed, and a change in regulation is the best way to accomplish this. (Page 60)

24. **Definition of “Prospective Market Value “as Completed” and “as Stabilized”** – We suggest changing to “Prospective Market Value “as If Completed” and “as If Stabilized” to better characterize the nature of this type of value. Please note that these value scenarios will be based on “Extraordinary Assumptions” about anticipated market conditions. (Page 62)
25. **Definition of “Sum of Retail Sales”** – Please delete “*a collateral valuation method*”, as this “summing” is not a valuation method. Also, please change “*sum of the sales prices of each property to an individual purchaser*” to “*sum of the values of each of the properties as if sold to individual purchasers.*”

The edited sentence should read “*The sum of the values of each of the properties as if sold to individual purchasers.*” (Page 64)

26. **Definition of “Transaction Value”** – Please clarify: Is this the amount of the credit under consideration or the total amount of all outstanding debt? We have noted much confusion on this point. (Page 65)
27. **Sales Concessions** – In the discussion at the top of the page about sales concessions, it would be helpful to explain that “*according to the Agencies’ definition of market value, the subject property is appraised as though without concessions (“payment is made in terms of cash.”). The comparables are adjusted (as appropriate) if they sold with concessions. Any concessions associated with the current sale of the subject property are not considered in the adjustment process.*”

Confusion currently arises when the subject property is under contract and the contract includes seller concessions. While appraisers should understand this, quite often lenders do not and they make unreasonable requests for appraisers to adjust for the concessions associated with the subject property. Thus, it would be helpful to have this spelled out in the guidelines. (Page 64)

Thank you for your consideration of our suggestions, as we look forward to working with you on this critical issue. Please contact Bill Garber, Appraisal Institute Director of Government Relations, at 202-298-5576, or Brian Rodgers, Manager of Federal Affairs, at 202-298-5597 or brodgers@appraisalinstitute.org, should you have any questions.

Sincerely,

Appraisal Institute