

USPAP CLASS NOTES
(from: www.DonRDenton.com/appraisal/)

USPAP (Uniform Standards of Professional Appraisal Practice)

The USPAP Manual contains the following:

- Definitions
- Preamble
- Rules
- 10 Standards
- 10 Statements

The book contains addenda of advisory opinions and an index that are NOT part of the USPAP.

DEFINITIONS

Advocacy – representing the cause or interest of another, even if that cause or interest does not necessarily coincide with one’s own beliefs, opinions, conclusions, or recommendations. Independent and objective appraisers are NOT advocates.

Appraisal – the act or process of developing an opinion of value; an opinion of value. A complete appraisal is one developed without invoking the departure rule. A limited appraisal is one developed or resulting from invoking the departure rule.

Appraisal Consulting – the act or process of developing an analysis, recommendation, or opinion to solve a problem.

Appraisal Practice – valuation services performed by an individual acting as an appraiser.

Appraisal Review – an opinion about the quality of another appraiser’s work; a critique.

Appraiser – one who is expected to perform valuation services completely and in a manner that is independent, impartial, and objective.

Appraiser’s Peers – other appraisers who have expertise and competency in the same or a similar type of assignment.

Bias – a preference or inclination that precludes an appraiser’s impartiality, independence, or objectivity in an assignment.

Binding Requirements – all or part of a Standards Rule of USPAP from which departure is not permitted.

Cash Flow Analysis – a study of the anticipated movement of cash into or out of an investment.

Client – the party or parties who engage an appraiser in an appraisal, appraisal review, or appraisal consulting assignment. A client may be an individual, group, or entity.

Confidential Information – information that is either identified by the client as confidential and that is not available from any other source; or classified as confidential or private by applicable law or regulation.

Cost – the amount required to create, produce, or obtain a property. Cost is either a fact or an estimate of fact.

Extraordinary Assumption – an assumption (an assumption is something believed to be true) which if found to be false could alter the appraiser’s opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

Feasibility Analysis – a study of the cost-benefit relationship of an economic endeavor. This is a possible candidate for appraisal consulting.

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Hypothetical Condition – that which is contrary to what exists but is supposed for the purpose of analysis.

Intangible Property (Intangible Assets) – nonphysical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, securities, and contracts as distinguished from physical assets such as facilities and equipment.

Intended Use – the use or uses of an appraiser’s reported appraisal, appraisal review, or appraisal consulting assignment opinions and conclusions. Typical intended uses include: purchase, refinance, probate, estate, etc.

Intended User – the client and any other party as identified by name or type. The client is NOT always the person paying for the appraisal.

Market Value – the most probable price.

Personal Property – identifiable tangible objects that are considered by the general public as being “personal” – for example, furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; all tangible property that is not classified as real estate.

Price – the amount asked, offered, or paid for a property. Once stated, price is a fact.

Real Estate – an identified parcel or tract of land, including improvements, if any.

Real Property – the interests, benefits, and rights inherent in the ownership of real estate. In some jurisdictions, the terms real estate and real property have the same legal meaning. The separate definitions recognize the traditional distinction between concepts in appraisal theory.

Report – any communication, written or oral, of an appraisal, appraisal review, or appraisal consulting service that is transmitted to the client upon completion of an assignment. Most reports are written and most clients require a written report. Four types of reports: Appraisal Report, Self-Contained Appraisal Report, Summary Appraisal Report, and Restricted Use Appraisal Report. Every written appraisal report requires a certification statement.

Scope of Work – the amount and type of information researched and the analysis applied in an assignment. Scope of work includes, but is not limited to, the following: the degree to which the property is inspected or identified; the extent of research into physical or economic factors that could affect the property; the extent of data research; and the type and extent of analysis applied to arrive at opinions or conclusions.

Signature – personalized evidence indicating authentication of the work. A signature can be represented by a handwritten mark, a digitized image controlled by a personalized identification number, or other media, where the appraiser has sole personalized control of affixing the signature.

Specific Requirements – all or part of a Standards Rule of USPAP from which departure is permitted under certain limited conditions.

Valuation Services – services pertaining to aspects of property value. Valuation services pertain to all aspects of property value and include services performed both by appraisers and by others.

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PREAMBLE

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 by establishing requirements for appraisers. It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.

The Appraisal Standards Board (ASB) promulgates USPAP for both appraisers and users of appraisal services. The appraiser's responsibility is to protect the overall public trust and it is the importance of the role of the appraiser that places ethical obligations on those who serve in this capacity. USPAP reflects the current standards of the appraisal profession.

(The Appraisal Standards Board exercises all authority and power over the subject, style, content, and substance of USPAP.)

(The Appraisal Qualifications Board – AQB – exercises all authority over the establishment of education, experience, and other criteria for licensing.)

(The mission of the Appraisal Subcommittee – ASC – is to ensure that real estate appraisers who perform appraisals in real estate transactions that could expose the United States government to financial loss are sufficiently trained and tested. The ASC also oversees the activities of The Appraisal Foundation, including both the ASB and the AQB. The ASC also oversees the activities of state appraisal agencies and maintains a national database of licensed and certified appraisers.)

USPAP does not establish who or which assignment must comply. Neither the Appraisal Foundation (TAF) nor its Appraisal Standards Board is a government entity with the power to make, judge, or enforce law. Compliance with USPAP is required when either the service or the appraiser is obligated to comply by **law** or **regulation**, or by **agreement** with the client or intended users. When not obligated, individuals may still choose to comply.

USPAP addresses the ethical and performance obligations of appraisers through Definitions, Rules, Standards, Standard Rules, and Statements.

The Ethics Rule sets forth the requirements for integrity, impartiality, objectivity, independent judgment, and ethical conduct.

The Competency Rule presents pre-assignment and assignment conditions for knowledge and experience.

The Jurisdictional Rule preserves the balance of USPAP if a portion is contrary to law or public policy of a jurisdiction.

The Supplemental Standards Rule provides the means for government agencies, government sponsored enterprises, and other entities that establish public policy to augment USPAP.

Standards 1 and 2 establish requirements for real property appraisals.

Standard 3 establishes requirements for an appraisal review.

Standards 4 and 5 establish requirements for appraisal consulting assignments.

Standard 6 establishes requirements for a mass appraisal.

Standards 7 and 8 establish requirements for personal property appraisal.

Standards 9 and 10 establish requirements for a business or intangible asset appraisal.

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ETHICS RULE

The Ethics Rule is divided into four sections: Conduct, Management, Confidentiality, and Record Keeping.

Conduct:

- An appraiser must perform assignments ethically and competently.
- In appraisal practice, an appraiser must not perform as an advocate for any party or issue.
- An appraiser must not accept an assignment that includes the reporting of predetermined opinions and conclusions
- An appraiser must not communicate assignment results in a misleading or fraudulent manner.
- An appraiser must not use or rely on unsupported conclusions

Management:

- The payment of undisclosed fees, commissions, or things of value in connection with the procurement of an assignment is unethical. Disclosure of fees, etc., connected to the procurement of an assignment must appear in the certification and in any transmittal letter in which conclusions are stated.
- It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an assignment, that is contingent on any of the following: the reporting of predetermined result; a direction in assignment results that favors the cause of the client; the amount of a value opinion; the attainment of a stipulated result; or the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.
- Advertising for or soliciting assignments in a manner that is false, misleading, or exaggerated is unethical.

Confidentiality (doesn't end when a client dies):

- An appraiser must not disclose confidential information or assignment results to anyone other than the client or persons specifically authorized by the client; state enforcement agencies and such third parties may be authorized by due process of law; and a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

Record Keeping:

- An appraiser must prepare a work file for each appraisal. The work file must include: the name of the client and the identity, by name or type, of any other intended users; true copies of any written reports, documented on any type of media; summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with this Rule and all other applicable Standards, or references to the location(s) of such other documentation.
- An appraiser must retain the work file for a period of **at least five (5) years** after preparation or **at least two (2) years after final disposition of any judicial proceeding** in which the appraiser provided testimony related to the assignment, **whichever period expires last**.
(If an appraisal assignment is completed on December 1, 2001, the appraiser should keep the file and records of this assignment until December 1, 2006.)
- An appraiser must have custody of his or her work file, or make appropriate work file retention, access, and retrieval arrangements with the party having custody of the work file.

COMPETENCY RULE

Prior to accepting an assignment or entering into an agreement to perform any assignment, an appraiser must properly identify the problem to be addressed and have the knowledge and experience to complete the assignment competently; or alternatively, must:

1. Disclose the lack of knowledge and/or experience to the client before accepting the assignment.
2. Take all steps necessary or appropriate to complete the assignment competently.
3. Describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report.

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DEPARTURE RULE

This Rule permits exceptions from sections of the Uniform Standards that are classified as specific requirements rather than binding requirements. The burdens of proof and disclosure are on the appraiser to decide before accepting an assignment and invoking the Rule that the scope of the work applied will result in opinions or conclusions that are credible.

An appraiser may enter into an agreement to perform an assignment in which the scope of work is less than, or different from, the work that would otherwise be required by the specific requirements, provided that prior to entering into such an agreement:

1. The appraiser has determined that the appraisal process to be performed is not so limited that the results of the assignment are no longer credible.
2. The appraiser has advised the client that the assignment calls for something less than, or different from, the work required by the specific requirements and that the report will clearly identify and explain the departure(s).
3. The client has agreed that the performance of a limited appraisal service would be appropriate given the intended use.

When a specific requirement is not applicable to a given assignment, the specific requirement is irrelevant and therefore no departure is needed.

The degree of inspection doesn't determine whether an inspection is complete or limited. Whether an appraisal is complete or limited is based solely on whether the Departure Rule was invoked.

The Departure Rule does not apply to the Definitions, Preamble, Ethics Rule, Competency Rule, Jurisdictional Exception Rule, or Supplemental Standards Rule.

A flow chart of the appraisal decision process can be found on Page 56 of the USPAP Student Manual.

Whether a specific requirement is necessary will depend on the use of the appraisal and/or the scope of the work.

JURISDICTIONAL EXCEPTION RULE

If any part of these Standards is contrary to the law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction.

The purpose of the Jurisdictional Exception Rule is strictly limited to providing a saving or **severability clause** intended to preserve the balance of USPAP if one or more of its parts are determined to be contrary to law or public policy of a jurisdiction.

SUPPLEMENTAL STANDARDS RULE

Supplemental standards applicable to assignments prepared for specific purposes or property types may be issued by government agencies, government sponsored enterprises, or other entities that establish public policy.

STANDARD 1: REAL PROPERTY APPRAISAL, DEVELOPMENT

Note: All of the bold type in the book under Section 1 is a possible test question.

Standards Rule 1-1 relates to competency issues. (The requirements of this section are BINDING; departure is NOT permitted.)

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Standards Rule 1-2 (Binding requirements; departure is NOT permitted.)

If the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data. For example, a seller may agree to pay part of the closing costs; in that case, the buyer may be willing to pay more for the property than under normal conditions.

Identify the effective date of the appraiser's opinions and conclusions.

Identify any hypothetical conditions necessary in the assignment.

The effective date of an appraisal is NOT always the date of the inspection. When valuing an estate, the effective date on the appraisal is likely to be the date of the owner's death.

Standards Rule 1-3 (Specific requirements; departure is permitted.)

Standards Rule 1-4 (Specific requirements; departure is permitted.)

An appraiser must analyze the effect on value, if any, of anticipated public or private improvements, located on or off the site, to the extent that market actions reflect such anticipated improvements as of the effective appraisal date. Examples include a proposed airport or a new freeway.

Proposed improvements are hypothetical.

Standards Rule 1-5 (Binding requirements; departure is NOT permitted.)

Standards Rule 1-6 (Binding requirements; departure is NOT permitted.)