

Appraisal Guidelines

Basis of Appraisal

UASFLA or Yellow Book - An Uniform Appraisal Standards for Federal Land Acquisition (UASFLA or Yellow Book) appraisal must be submitted by completing an appraisal for market value of the larger parcel before the easement (before value) is placed and an appraisal for market value as defined below of the larger parcel as if the easement is in place (after value) as of a current date. The difference between the before value and the after value is the price of the easement. The larger parcel concept involves not only the land proposed for the easement area but all surrounding land that meets the definition of larger parcel. The valuation of the effect of imposition of the easement is based upon Federal Rules, which considers any loss in value to the whole property as well as any increase in value of the whole property due to imposition of the easement.

NRCS Requirements – NRCS requirements for the appraisal are outlined in the Farmland and Ranch Lands Protection Manual, Section 519.102 – Specifications for Appraisals of Real Property for the Farm and Ranch Land Protection Program. Among other requirements:

1. The appraisal must list the USDA/NRCS as an intended user.
2. The purpose of the report (in addition to the IRS requirement as outlined below) is for the entities involved in the transaction, to determine the value of the conservation easement of such lands entering into the Federal Farm and Ranchlands Protection Program.
3. Property rights such as improvements (homes, barns, fencing, etc.) as well as timber or orchards may either be valued, or the appraiser may state that such property rights are the same in the before and after values and, hence, have no impact on the conservation easement value.
4. The type of report must be indicated. Such report may be either a self-contained report or a summary report done under USAFLA requirements.¹
5. The appraiser must personally inspect the subject property and comparable sales.
6. The appraiser must talk personally to the property owner or the owner's agent.
7. The effective date of the report is the date of the site visit by the appraiser or updated visit.

IRS Requirements - IRS requirements for a deduction of a donation or bargain sale should be met in a separate report. While this report can build on the Yellow Book appraisal, both valuation and

¹ USAFLA states on page 9, Introduction, "Much confusion exists in the appraisal industry regarding what constitutes a self-contained report as opposed to a summary report, and the terminology used by appraisers varies on a regional basis. However, for the purposes of these Standards any appraisal report, whether identified by the appraisers as a self-contained report or summary report, will be considered as meeting the USPAP requirements for a self-contained report if it has been prepared in accordance with these Standards."

compliance with IRS regulations must be met in order for the appraisal to be accepted by the IRS. In addition, NRCS now mandates that they not be included in the same report to the IRS.

The following is a summary of IRS rules and requirements for the appraisal in accordance with IRS Publication 561:

1. A “qualified appraisal” must be obtained. This is defined as an appraisal from a “qualified appraiser” that contains the following information:
 - a. A description of the property
 - b. The expected date of the contribution
 - c. The date on which the property was valued
 - d. A statement of the fair market value of the property on the date of contribution and the basis of the valuation
 - e. A statement that the appraisal was prepared for income tax purposes and the IRS is an intended user of the report
 - f. A statement of the qualifications of the qualified appraiser, including the appraiser’s background, experience, education, and any membership in professional appraisal associations.
 - g. The name, address, signature and tax identification number of the appraiser
2. The appraisal must value the larger parcel (the Yellow Book concept known as the larger parcel test). All contiguous family owned property, whether the parcels have the highest and best use or not, must be appraised. In addition, the appraisal must separately take into account ANY property (not just contiguous) that has an increase in value which is either owned by the donor OR the taxpayer’s immediate family. The IRS definition of immediate family is described in IRC §267(c)(4) which states that the donor’s immediate family is confined to the donor’s brother and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants. Any variances in Yellow Book and the value for IRS purposes should be outlined in the report.
3. The appraisal must be dated within 60 days before the closing to meet IRS guidelines (or if done afterwards, must be dated as of the closing date). The report should list the landowner as the “client” and the IRS as the intended user. A Form 8283, Section B, Part III must be completed. Typically the landowner name, conservation easement acres, value of the easement, and compensation for the easement is completed by the county farmland protection board or appraiser. Both the county farmland protection board and the appraiser must sign the Form 8283. The signed Form 8283 should be given to the landowner at or after the easement closing.

Appraiser Qualifications

The real property appraiser performing appraisals shall be a State Certified General Real Property Appraiser and be in good standing with the licensing authority where the credential was issued. In addition, the appraiser cannot have been prohibited from practicing before the IRS under Section 330(c)

of Title 31 of the United States Code at any time during a three-year period ending on the appraisal date. The appraiser must have demonstrated competency in compliance with UASFLA in conducting appraisals of agricultural properties with and without conservation easements of the requested type and shall provide documentation of appraisal education courses attended including either eminent domain or conservation easements course completion for UASFLA.

See Title 440 – Conservation Programs Manual Amend. 74, September 2010 – Part 519 Farm and Ranch Lands Protection Program – Subpart J – Exhibits, 519.201 – Specifications for Appraisals of Real Property for the Farm and Ranch Lands Protection Program for more detailed information on NRCS requirements.

Appraisal Review Guidelines

Appraisal Review to Comply with NRCS Requirements

All appraisals for parcels with FRPP funding in each fiscal year (October 1 through September 30) must have a technical review by a qualified State Certified General appraiser who assesses the quality of the appraisal report based upon UASFLA compliance, appraisal instructions and the appraisal theory and methodology used in completing the appraisal. Such review must be made and the appraisal determined to be acceptable to NRCS prior to the closing the easement. All appraisal reports will have an administrative appraisal review conducted by NRCS.

Review Appraiser Qualifications

The review appraiser must be a State Certified General Real Property Appraiser and be in good standing with the licensing authority where the credential was issued. The review appraiser must have demonstrated competency in compliance with USPAP in conducting and reviewing appraisals of agricultural properties with and without conservation easements. Review appraisers must provide documentation of appraisal education courses attended including eminent domain or conservation easements; classroom hours of training in performing technical appraisal reviews; and UASFLA courses completed. The review appraiser should be familiar with IRS requirements for donated easements and bargain sales.

Review Appraiser Independence

To ensure objectivity and independence in the review process, and to preclude the appearance of conflicts of interest or wrongdoing, review appraisers shall not for the easement under review or as a practice on other easements in the state of West Virginia:

1. Be responsible for case processing or negotiating the acquisition, disposal, authorization or exchange of any appraised property;
2. Review an appraisal for a property they personally and recently appraised;
3. Review an appraisal prepared by the reviewer's supervisor;
4. Review an appraisal prepared by an appraiser where possible conflicts, or the appearance of conflicts, may exist, including one by an associate of the same firm as the review appraiser is actually or represented to be affiliated with.

Technical Appraisal Review Requirements

The scope of work is a desk technical review to assure the appraisal meets the definition of an appraisal, examine the appraisal to assure that it meets applicable appraisal requirements including USPAP, UASFLA and NRCS appraisal instructions. The technical review will be in compliance with USPAP Standard 3, and UASFLA and appraisal instructions issued by NRCS; and must be typed, dated and signed by the reviewer. The review appraiser is required to make a determination and render an opinion as to the acceptability of the appraisal in accordance with the standards as noted previously.

The review appraiser will determine if the appraisal is approved or not acceptable. The review appraiser may be instructed to express their own opinion of value. This determination will be made on a case by case basis by NRCS and included in any work order.

If the review appraiser determines that the appraisal report is approved, the review report will:

1. Set forth the recommended value.
2. State that the report complies with the standards as outlined previously; adequately supports the value estimate; complies with contract requirements; and for UASFLA, documents any damages or benefits to any remaining property.
3. Provide approved report to NRCS.

If the review appraiser determines that the appraisal report is NOT acceptable, such notice in the form of the report analysis must first be given to the Authority and the NRCS. The review appraiser may not contact the appraiser, county farmland protection board, nor any state regulatory body, until the Authority and the NRCS are notified. In most cases, the county farmland protection board will be contacted so that the review appraiser may work directly with the appraiser in making the necessary corrections or changes. The NRCS could also make a determination that a new appraisal be ordered.

If the review appraiser does not approve the appraisal, the transaction closing will not take place.

If, after diligent documented efforts have been made to get the needed support and improvements, the appraisal report still does not meet acceptable standards and the value estimate is not adequately supported, the review appraiser may disapprove or reject an appraisal report. Rejection indicates

particular problems of integrity. The review appraiser must clearly show why the appraisal report is inadequate. Recommending a second appraisal to confirm, support, or replace an unapproved appraisal report does not constitute rejection. If, however, the second report supports a significantly different value estimate and that report is ultimately approved, this effectively disapproves the previous appraisal report. No appraisal should be “rejected” unless it is in violation of appraisal principles and standards, agency or departmental regulations or directives, is inconsistent with facts, or asserts unsupported conclusions.

The review appraiser must abide by the following where corrections or concerns regarding an appraisal arise:

1. The review appraiser may not change an appraisal report. Except for minor mathematical or typographical errors, which must be called to the appraiser’s attention, requested changes to the report must be included in the review appraisal. No one, except the original appraiser, is permitted to edit or otherwise revise the original appraisal report.
2. The review appraiser may not substitute personal judgment for that of the appraiser, nor dismiss careful appraisal judgment solely because it cannot be supported by conclusive market data. However, the review appraiser may question the appraiser’s judgment when it is illogical, unreasonable, not supported by data cited, or is inconsistent with other data.
3. The review appraiser shall not allow any outside pressures to influence the review appraiser’s opinion of an appraisal report’s value estimate. Nor can the review appraiser’s personal opinion regarding the proposed action influence the review process.
4. The review appraiser must not attempt to influence the appraiser’s judgment or direct the appraiser toward a value estimate. The only effort should be to obtain a properly supported value estimate based on factual evidence and valid analysis of all facts available through use of approved appraisal approaches and techniques. Minor technical non-conformance with UASFLA and USPAP should not be the cause of rejection of an appraisal report unless the deficiencies affect the reliability of the value estimate.

See Title 440 – Conservation Programs Manual Amend. 74, September 2010 – Part 519 Farm and Ranch Lands Protection Program – Subpart J – Exhibits, 519.205 –Technical Appraisal Review Specifications for more detailed information on NRCS review requirements.