

Wetlands Reserve Program (WRP) Appraisal Guidance

A. General

All easement acquisition appraisals completed for this program must be completed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) as a self-contained report, and appraisal instructions as issued by NRCS, as detailed in the subpart J, exhibit 514.99D, “Appraisal Specifications for Appraisals of Real Property for the Wetlands Reserve Program (WRP)” (WRP Appraisal Specifications).

Funds for the appraisal will not be obligated to the individual application. The appraisals will be obtained using an appropriate procurement method, and funds will be obligated to the procurement document. It is recommended that States use a blanket purchase agreement or an indefinite delivery and indefinite quantity contract, with funds then obligated as appraisals are ordered through a task-order process. The appraisal must be procured by an authorized official. For the purposes of procuring the appraisal, the authorized official is an NRCS employee who is not himself or herself supervised or formally evaluated by any person authorized to process, negotiate, or approve any easement or 30-year contract that will use the appraisal results.

The local NRCS representative will provide the appraiser with the documentation and information indicated in the WRP Appraisal Specifications. The land to be appraised will be clearly delineated on a map that includes the boundaries of the area to be enrolled, the ingress and egress route or routes or point of access, and any other descriptive information available.

The appraiser must notify the local NRCS representative and the landowner of the date and time for conducting the appraisal fieldwork. Notification must be a minimum of 3 business days prior to beginning work. The local NRCS representative will schedule a site visit with the appraiser and the landowner or the landowner’s representative. During the site visit, the proposed easement boundaries will be reviewed, as will the easement access route (if the easement is not adjacent to a publicly dedicated right-of-way). If the work is not started on the planned date, the appraiser must notify NRCS and the landowner of the revised date and time that work will begin.

B. Appraiser Qualifications

All real-property appraisers performing appraisals under this program must be State-certified, general real-property appraisers, or must obtain a temporary practice permit, in conformance with title XI of the Financial Institution’s Reform, Recovery, and Enforcement Act of 1989 (FIRREA) in the State or States where the subject property is located. The appraiser must be in good standing with the licensing authority where the credential was issued. The appraiser must have demonstrated competency in compliance with USPAP in conducting appraisals of properties of the requested type. A copy of the appraiser’s state license or practice permit must be provided to the authorized official at the time of the bid’s submission. Work will not be granted until the authorized official has reviewed and approved the licensing credentials and the experience and education requirements of the contractor and any subcontractors.

If the contractor subcontracts the appraisal work, the subcontractor must also be a State-certified, general real-property appraiser or must obtain a temporary practice permit in the State or States where the subject property is located, and be in good standing with the licensing authority where the credential was issued. Proof of the subcontractor's qualifications must be supplied within 10 days of contract award. The appraiser and any subcontractor must have demonstrated competency in compliance with USPAP in conducting appraisals of agricultural properties with and without conservation easements of the requested type.

If the contractor wishes to change personnel or subcontractors, the contractor must submit the same proof of qualifications and licensing. Approval must be obtained from the contracting officer prior to assigning appraisal work to such individuals. Failure to obtain such approval may invalidate the award and cause termination of the contract in accordance with Federal Acquisition Regulation 52.249-8.

C. Appraisal Reports

The authorized official must request all appraisal reports or appraisal services in writing from the appraiser by using the mandatory WRP Appraisal Specifications. No changes are permitted in the WRP Appraisal Specifications without prior written approval from the Director, Easement Programs Division.

Note: The authorized official will determine who will conduct the technical or administrative appraisal review when ordering the appraisal. The technical review appraiser will be available to answer any questions of a technical nature related to the appraisal process, and will work with the appraiser during the appraisal process to ensure that an acceptable work product is received. The assigned technical review appraiser must discuss the scope and timing of the assignment with the requesting authorized official, as necessary.

D. Information Provided by NRCS to the Appraiser

- 1) Aerial photograph of the subject property that identifies the following:
 - a. Location and boundary of the proposed easement area
 - b. Access to the easement area
 - c. Estimate of the acres in the proposed easement
 - d. Location and acreage of any conservation agreement, contract, or easement of any type associated with the subject property

- 2) Legal description of subject property from landowner deed or other document
- 3) Preliminary legal description of the proposed easement area (survey to be completed later)

Example: "On attached aerial photograph, approximately 10.5 acres (outlined in dark ink) are located in the NW 1/4 NW 1/4 of Section 10 T55N R20W of 5th PM"

- 4) Recorded landowner's name, address, and telephone number
- 5) Written permission from the landowner or an authorized representative to allow the NRCS-assigned appraiser to enter the property for appraisal purposes

- 6) Current information on status of title of ownership, such as copies of deeds
- 7) Copy of the recorded, written access to the easement area, if available
- 8) Copy of preliminary title search covering the proposed easement area
- 9) Specific details of any existing easements, reservations, or other restriction encumbering the subject property, as provided by the landowner
- 10) When available, a completed preliminary certificate of inspection and possession and the hazardous substance examination checklist and any available information pertaining to the probability of existence of hazardous substances that might be found on the property to be appraised
- 11) Copy of the completed Farm Service Agency (FSA) Form CCC-505, "Voluntary Permanent Direct and Counter-Cyclical Program Base Acres Reduction," signed by the landowner, for crop base and allotments located on the proposed easement area, if applicable. FSA will not process this form until the easement is closed. The appraiser will verify the amount of crop base to be retired or moved on the proposed easement area and if any remaining crop base exists on the easement area. Documentation of production data will be provided to NRCS by the landowner.
Note: Any crop base or allotment acquired by NRCS must be retired from Federal Government programs.
- 12) If irrigation rights are included in the easement area, NRCS documentation will identify the volume of irrigation water rights to be retained for the subject property, as necessary, to ensure the function of the wetland operation and other wetland conservation values. This volume will also be based on the preliminary Wetlands Restoration Plan of Operations (WRPO) and will be documented in the final WRPO.
- 13) Documentation of water rights owned, including the name of the irrigation company, number of shares, or amount of ownership and documentation concerning irrigation wells on the property to be appraised, as provided by the landowner
- 14) Copy of WRP Warranty Easement Deed or 30-Year Contract for Land Use on acreage owned by Indian Tribes.

See Subpart J, "Exhibits," 514.99E for a sample checklist of items provided to appraiser.

E. Appraisal Reviews

All appraisals used for acquisition of WRP easements under this section must undergo either a technical or administrative appraisal review, and the appraisal must be determined acceptable prior to issuing the Form NRCS-LTP-31, "Agreement for the Purchase of Conservation Easement" (APCE) or Form NRCS-LTP-40, "Agreement to Enter Contract for 30-year Land Use"(AECLU).

Technical appraisal reviews are required in any of the following scenarios:

- 1) The first appraisal of each appraiser each fiscal year
- 2) In 10 percent of remaining appraisals conducted each fiscal year
- 3) Any easement acquisition in excess of \$1 million

4) Any appraisals where an administrative appraisal review indicates concern

Technical appraisal reviews required for all easement acquisitions in excess of \$1 million will be sent to the NRCS staff appraiser with the appraisal and technical appraisal review report for postreview and acceptance prior to issuing the APCE or AECLU.

Funds for the technical appraisal review will not be obligated to the individual application. The technical appraisal reviews will be obtained using an appropriate procurement method, and funds will be obligated to the procurement document. It is recommended that States use a blanket purchase agreement or an indefinite delivery or indefinite quantity contract, with funds then obligated as appraisals are ordered through a task order process. The technical appraisal review must be procured by an authorized official.

States have the option of conducting only technical appraisal reviews or States can opt to conduct administrative appraisal reviews for any appraisal less than \$1 million after the first technical appraisal review of the fiscal year has been approved for any appraiser. For the purpose of NRCS, an administrative appraisal reviewer is an employee who can independently fulfill the requirements of this part and who is not supervised or formally evaluated by any person authorized to process, negotiate, or approve any easement. An administrative appraisal reviewer must not be any person who is authorized to process, negotiate, or approve any easement. The administrative appraisal reviewer must complete the Administrative Appraisal Review Checklist (see Subpart J, "Exhibits", 514.99F).

If the administrative appraisal review indicates areas of concern, a copy of the appraisal and administrative appraisal review checklist will be submitted to the National Headquarters (NHQ) staff appraiser for a determination of action to be taken.

Copies of all appraisals and technical and administrative reviews should be submitted to the NHQ staff appraiser upon completion of the review.

F. Technical Review Appraiser Qualifications

Any technical review appraiser under this program must be a State-certified, general real-property appraiser in conformance with title XI of FIRREA and must 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 of the requested type. The review appraiser must provide documentation of appraisal education courses attended, including at least 40 classroom hours of training in performing technical appraisal reviews to the authorized official.

Prior to issuing any work order to a review appraiser, the authorized official will determine and document in the landowner's file that the review appraiser selected meets the above-mentioned requirements. Assistance in the selection process is available from NHQ.

G. Technical Appraisal Review Requirements

The authorized official must request all technical appraisal review reports in writing from the

appraisal reviewer by using the mandatory Technical Appraisal Review Specifications and Scope of Work (see Subpart J, “Exhibits”, 514.99G). The purpose, intended use, intended users, and scope of work for the technical review will be as stated in the “specifications” section. A technical appraisal review must be requested at the same time the appraisal is ordered. A copy of the appraisal order and all related attachments will be sent to the technical reviewer at the same time it is sent to the selected contractor. No changes are permitted in the technical appraisal review specifications and scope of work without prior written approval from NHQ.

If, in the technical appraisal reviewer’s opinion, the value estimate is strongly supported and complies with all contract specifications, then the appraisal report is approved and the review appraiser will set forth the recommended value in the review.

If the review appraiser determines that the appraisal report is not approved, the State will provide the NHQ staff appraiser with a copy of the appraisal report and the technical appraisal review report. The NHQ staff appraiser will determine if the appraiser or technical reviewer should be contacted, by who, if the appraisal report should be returned for corrections, or if a new appraisal should be ordered. The review appraiser may be instructed to work with the appraiser to obtain an acceptable appraisal in an advisory role.

NRCS will submit revised appraisal reports to the technical appraisal reviewer no more than three times. If, after the third submission, the report remains unacceptable, the report will be rejected or not approved. The review appraiser will clearly show why the appraisal report is inadequate.

When the appraisal report violates appraisal principles and standards, or agency or departmental regulations or directives, is inconsistent with facts, or asserts unsupported conclusions, the report will be rejected. If the technical review appraiser finds the appraisal report to be illogical, unreasonable, not supported by data cited, or inconsistent with other data, the report will be rejected. Rejection indicates particular problems of integrity. Minor, technical nonconformance with USPAP should not be the cause of rejection of an appraisal report unless the deficiencies affect the reliability of the value estimate. Fees will be withheld if the report clearly and flagrantly does not comply with contract specifications.

If, in the technical appraisal reviewer’s opinion, the value estimate is unsupported or not supported strongly enough, then the report is not approved. NRCS reserves the right to order a second appraisal to confirm, support, or replace the original appraisal report. If the second report supports a significantly different value estimate, and the second report is ultimately approved, this determination effectively rejects the original appraisal report and NRCS will withhold payment.

If the technical review appraiser does not approve the appraisal report, an APCE or AECLU will not be provided to the landowner until an approved appraisal report is obtained for the offered property.

H. Limitations

The technical review appraiser may not change an appraisal report, except for minor mathematical or typographical errors, and must call those minor changes to the appraiser's attention. No one, except the original appraiser, is permitted to edit or revise the original appraisal report.

The technical review appraiser may not substitute personal judgment for the appraiser's judgment, or dismiss careful appraisal judgment, solely because it cannot be supported by conclusive market data. However, the review appraiser may question the appraiser's judgment that is illogical, unreasonable, not supported by data cited, or is inconsistent with other data.

The technical review appraiser must not allow agency goals or adversarial pressure to influence his or her opinion of an appraisal report's value estimate. The technical review appraiser's personal opinion regarding the proposed action also must not influence the review process.

The technical 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 using approved appraisal approaches and techniques. Minor technical nonconformance with USPAP or appraisal instructions should not cause nonapproval of an appraisal report unless the deficiencies affect the reliability of the value estimate.

I. Reviewer Independence

To ensure objectivity and independence in the review process, and to preclude the appearance of conflicts of interest or wrongdoing, review appraisers must not—

- 1) Be responsible for case processing or negotiating the acquisition, disposal, authorization, or exchange of any appraised property.
- 2) Review an appraisal prepared by the reviewer's immediate supervisor.
- 3) Review an appraisal for a property they personally and recently appraised.
- 4) Review an appraisal prepared by an appraiser when possible conflicts may exist.

As with appraisers, the review appraiser must not become an advocate of the project. The review appraiser's task is to evaluate the technical aspects of the appraisal.

J. Maintaining Current Appraisals

When an individual USPAP appraisal is used to determine fair market value for the proposed easement or 30-year contract offering, the appropriate Geographic Area Rate Cap (GARC) will be applied to the approved appraised value. The APCE or AECLU must be provided to the landowner within the useful life of the appraisal. The useful life of the appraisal can be determined based on the date stated in the technical appraisal review report accepting the appraisal or up to 12 months from the effective date of the appraisal in the case of an administrative review accepting the appraisal report. In no case will an APCE or AECLU be provided to the landowner if the appraisal is more than 12 months old from the effective date of the appraisal to the date of the proposed offer.

If the appraisal report has exceeded the useful life of the appraisal before an APCE or AECLU has been provided to the landowner, the appraiser who conducted the original appraisal will be contacted to determine a more current date of value in compliance with USPAP and NRCS appraisal instructions in a supplemental format as stated in section L below. If necessary, additional appraisal instructions may be provided. After receipt of this new appraisal with a more current date of value, an appraisal review will be conducted in accordance with these policies, and an acceptability determination of the appraisal report will be made prior to making an offer to the landowner.

K. Changes in Acres, or Substitution of Land or Title Conditions from Original Appraisal

In cases in which the appraisal was completed without the benefit of a legal boundary survey, if the surveyed acres are within 5 percent of the acreage estimated in the appraisal, the acres and appraised fair market value may be administratively reconciled. The fair market value is administratively reconciled by dividing the appraised value by the originally estimated acres to determine a per-acre value, which is then applied to the adjusted acreage amount. The appropriate GARC will be applied to the administratively reconciled value, and the easement compensation value will be adjusted accordingly.

A revised appraisal report and appraisal review report will be required with a new effective date of value in a supplemental format as stated in section L below is required for changes in composition or condition of the proposed easement or 30-year contract area, including, but not limited to—

- If the difference in acreage between the appraisal and the actual survey is greater than 5 percent.
- Substitution of land proposed for the easement that is significantly different from the proposed area stated in the appraisal.
- Change in access.
- Change in title conditions, including reservations, encumbrances, easements, conveyances, and other conditions different than what was stated in the appraisal.
- Changes in acreage that cannot be administratively reconciled.

The original appraiser will be contacted and provided the information that has been changed from the original appraisal. The appraiser will provide a supplemental appraisal report, as stated in the WRP appraisal specifications, considering the changes to reflect a different value opinion as of the effective date of the original appraisal. This supplemental appraisal will have a review completed in accordance with this section, as stated above, and a new determination on acceptability of the appraisal will be made in accordance with this section.

L. Format for Supplemental Appraisal Reports

Supplements or amendments to appraisal reports, such as for updating value estimates, changes in acreage, substitution of land, changes in title conditions, additional support or explanation, or to correct a previous appraisal report, must follow the format required by the WRP appraisal specifications section for supplemental appraisal reports. All items must be addressed.

M. Confidential Nature of Appraisals

Appraiser's valuations and supporting reports are confidential information, and the appraiser must strictly abide by the confidentiality provisions of USPAP's ethics rule, which provides that—

- 1) An appraiser must protect the confidential nature of the appraiser-client relationship.
- 2) An appraiser must act in good faith regarding the legitimate interests of the client in using confidential information and communicating assignment results. Any information that falls under the Privacy Act that is identified and provided to the appraiser and that is confidential in nature must be clearly marked as confidential by the appraiser. Any release of the appraisal can only be made after all information contained in the appraisal report labeled or identified as confidential has been redacted.
- 3) Work performance required by this contract will involve access to potentially sensitive information about governmental and landowner issues. All contractor personnel must comply with the terms of Agricultural Acquisition Regulation 452.224-70, "Confidentiality of Information," as well as provisions of the Privacy Act of 1974, 5 U.S.C. Section 552a. Additionally, the contractor and the contractor's employees must comply with the privacy requirements of personal information that relates to natural resources conservation programs, in accordance with section 1244 of title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171) and the prohibition on disclosing geospatial information or information provided by a landowner or agricultural producer, as required by section 1619 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246).
- 4) An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than—
 - The client and persons specifically authorized by the client.
 - State enforcement agencies and such third parties as may be authorized by due process of the law.
 - A duly authorized professional peer review committee.

For appraisals conducted for proposed enrollment in WRP, the client referred to above is NRCS.

Program regulations (7 CFR Section 1467.18(c)) provide that "any appraisals, market analysis, or supporting documentation that may be used by the NRCS in determining property value are considered confidential information, and shall only be disclosed as determined at the sole discretion of the NRCS in accordance with applicable law."

According to Department of Justice appraisal policy, utmost caution must be exercised before permitting any Government appraisals to be examined by a landowner or his or her attorney. **NRCS will not provide a copy of the appraisal report to the landowner prior to recording**

the easement. However, agency personnel may discuss and explain the rationale and basis on which the appraisal value was established.

N. Appealability of Appraisals

Real estate appraisals that are used to establish the basis for the agency easement offer are expressly final when completed by a qualified contract appraiser and accepted by NRCS in accordance with 7 CFR Section 614.4(a)(3) and, therefore, are not appealable.