

## Part 527 – Easement Common Provisions

### Subpart F – Appraisal Review

#### 527.50 General

A. All appraisals used for acquisition of NRCS program easements must undergo a technical appraisal review (technical review). The timing of this review depends on the program, as follows:

- (1) For ACEP-WRE, WRP, EWPP-FPE, and HFRP, in no case will any offer to purchase be issued before receiving a technical review approving the appraisal. No closing will take place before receiving a technical review approving the appraisal or any supplemental appraisal report.
- (2) For ACEP-ALE and FRPP with noncertified entities, an approved technical review must be completed prior to closing and issuing payment. Eligible entities must submit the appraisal to NRCS at least 90 days prior to the planned closing date.
- (3) For ACEP-ALE and FRPP with certified entities, a technical review will be completed after easement acquisition as part of the quality assurance review process. The certified entity must provide a copy of the appraisal report at the time the payment request is submitted.

B. Technical reviews are performed by a qualified State-certified general real property appraiser, who assesses the quality of the appraisal report based upon compliance with Uniform Standards of Professional Appraisal Practice (USPAP), with Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA, Yellow Book), if applicable, NRCS appraisal instructions, and for ACEP-ALE-only other industry methods approved by NRCS. The technical review appraiser also assesses the appraisal theory, methodology, and support used in completing the appraisal.

C. The technical review does not provide an opinion of value. The technical review determines that the documentation and analysis in the appraisal support the conclusion of value. The technical review approves the appraisal for use by NRCS. All technical reviews are desk reviews. Field reviews are not authorized for NRCS easement appraisals with one exception, as follows:

For ACEP-ALE parcels acquired by certified entities under a grant agreement only, if the appraisal completed by the certified entity lacks sufficient information for a desk review to be completed, NRCS may obtain a field review of the appraisal or request the appraiser's work file from the certified entity for review by the review appraiser.

D. Upon receipt of a technical review approving the appraisal report, a copy of the technical review and appraisal report must be sent to the National Headquarters (NHQ) national appraiser within 14 business days of receipt. Electronic copies are to be uploaded to the Easement Program Division (EPD) Appraisal SharePoint site.

#### 527.51 NRCS National Appraiser Duties and Responsibilities

A. The NRCS national appraiser is the NRCS valuation authority for all NRCS easement programs. The NRCS national appraiser and staff provide leadership on the easement valuation processes. Easement valuation products include appraisals, areawide market analysis (AWMA), technical reviews, and, for ACEP-WRE, and EWPP-FPE only, geographic area rate caps (GARCs).

B. In addition to the NRCS national appraiser duties and responsibilities listed in subpart E, section 527.41, the NRCS national appraiser is the program point of contact for the national technical appraisal review blanket purchase agreements (BPA) and other technical appraisal review contracts.

C. The NRCS national appraiser must concur with the technical review appraiser's approval of an appraisal that does not comply with NRCS specifications in ways that are not fatal and do not affect the conclusions of value.

### **527.52 Technical Review Appraiser Qualifications**

A. A technical review appraiser must meet the following qualifications to complete technical reviews for NRCS:

- (1) State-certified general real property appraiser in conformance with title XI of FIRREA and be in good standing with the licensing authority where the credential was issued
- (2) No disciplinary action taken by the licensing authority that resulted in suspension of the credential
- (3) Demonstrate competency in compliance with USPAP in conducting and reviewing appraisals of properties with and without conservation easements of the requested type of easement or property type
- (4) Demonstrate competency in compliance with UASFLA in conducting and reviewing appraisals completed under UASFLA
- (5) Meet the minimum education requirements established by NRCS:
  - (i) A conservation easement valuation or eminent domain course.
  - (ii) At least 40 classroom hours of training in performing technical appraisal reviews.
  - (iii) If conducting USAFLA (Yellow Book) appraisal reviews, a UASFLA course must be included in the qualifications section of the technical review report.

B. Documentation of these qualifications must be included in the technical review report.

C. The NRCS contracting officer will contact the NRCS national appraiser to resolve any questions on review appraiser qualification prior to issuing the contract award.

### **527.53 Authorized Official**

The authorized official ordering the technical review is an NRCS employee who can independently fulfill the requirements and who is not supervised or formally evaluated by any person authorized to process, negotiate, or approve any easement.

### **527.54 NRCS Check of Appraisals**

A. State program managers or the contracting officer representative must inspect the easement appraisal before sending it to the review appraiser to ensure the easement appraisal meets the basic requirements of the NRCS appraisal specifications for the appropriate easement program.

B. State program managers or the contracting officer representative must be familiar with the appropriate NRCS appraisal specifications in order to locate the areas needed for inspection prior to sending to the review appraiser. Contact the national appraiser for assistance.

C. List of Items to Look for in the Appraisal

- (1) Landowner Name.—Does the landowner name match the application, evidence of ownership documents, and title report, if available?
- (2) Client.—NRCS or the cooperating entity must be the client. The client may not be the landowner. Landowner is defined a person, legal entity, or Indian Tribe having legal ownership of land and those who may be buying eligible land under a purchase agreement.
- (3) Intended User.—Must list NRCS and, for ACEP-ALE or FRPP, the eligible entity. The Internal Revenue Service (IRS) may not be listed as an intended user.

- (4) Intended Use.—Must list the NRCS easement program. The intended use may not be for the IRS.
- (5) Property description.—Does it match what is reflected in the application and title report, if available?
- (6) Acres.—Do the acres in the easement appraisal match the application, work order, and legal survey or title report, if available?
- (7) Appraiser Qualifications
  - (i) Certified General.—Is the appraiser a State-certified general real property appraiser?
  - (ii) Experience.—Does the appraiser have the experience appraising this type of property? Have they appraised conservation easements before?
  - (iii) Education.— If it is a UASFLA appraisal, do they have the UASFLA (Yellow Book) course? Does the appraiser show they have a conservation easement course or eminent domain course (not required for ACEP-WRE or WRP)?
- (8) Are the property rights appraised stated as “Surface Rights...” (see specifications)?
- (9) Is the effective date of value within the required time period described in subpart E, section 527.47C?
- (10) Is the title commitment included as an addendum, if available?
- (11) Is the proposed conservation easement deed included as an addendum to the appraisal (not required for ACEP-WRE or WRP)?

D. Contact the NRCS national appraiser if you answer no to any of the above items. Corrections may be needed before sending the easement appraisal for technical review. Some items will mean a new appraiser, a new appraisal, or both is needed.

E. For ACEP-ALE, if the eligible entity’s use of an AWMA has been authorized by the EPD director or if the use of another-industry approved appraisal method has been authorized by the Chief, contact the NRCS national appraiser for guidance on criteria for the NRCS check of appraisals and specific technical review requirements.

## **527.55 Technical Review Requirements**

A. The technical review provides an opinion regarding the acceptability of the easement appraisals performed. The technical review is completed in accordance with section 527.240 “Technical Appraisal Review Specifications for Appraisals of Real Property.”

B. The preferred method for obtaining technical reviews is through the national technical review BPA. Contact EPD or Acquisitions Division for information concerning the BPA.

C. States may contract directly for technical reviews using the “Statement of Work, Technical Review of Appraisals for NRCS Easement Programs” in section 527.241 and the “Technical Appraisal Review Specifications for Appraisals of Real Property” in section 527.240. No changes are permitted in the technical appraisal review specifications or statement of work without prior written approval from the NRCS national appraiser.

D. All supplemental appraisal reports, updates, and revisions must have a technical review approving the changes made from the original appraisal report. The NRCS national appraiser may conduct the review of minor changes and provide a report supplementing the technical review report.

E. The technical review scope of work is a desk review. It ensures that the easement appraisal meets applicable appraisal requirements, which include USPAP, UASFLA (if applicable), and NRCS appraisal specifications.

- (1) If multiple appraisals are submitted on a property, a technical review is required for each appraisal.

- (2) The technical review report must comply with USPAP Standard 3, be typewritten and dated, be signed by the reviewer, and comply with the “Technical Appraisal Review Specifications for Appraising Real Property.” A signed digital copy of the report is required.
- (3) The review appraiser determines the acceptability of the appraisal in accordance with instructions provided to the appraiser, NRCS appraisal specifications, and USPAP and UASFLA, if applicable.
- (4) With prior written concurrence (email acceptable) from the NRCS national appraiser, the review appraiser may approve an appraisal that has some items that do not comply with NRCS specifications in ways that are not fatal and do not affect the conclusions of value. The noncompliant items and concurrence must be documented in the technical review report.
- (5) The review appraiser may return an appraisal without a technical review report when they have determined upon initial review of the appraisal report that it does not meet the NRCS appraisal specifications. The review appraiser must receive written concurrence (email acceptable) from the NRCS national appraiser.

F. The technical review report must be attached to the appraisal.

G. After an approved technical review is received, a review of the appraisal report and the technical review report by the NRCS national appraiser is required when the easement amount exceeds \$1 million.

- (1) For ACEP-ALE, FRPP, HFRP and EWPP-FPE, the easement value is the difference between the before value and the after value reported in the appraisal. The NRCS national appraiser must review and approve the appraisal and technical review—
  - (i) For HFRP and EWPP-FPE, prior to making an offer to the landowner.
  - (ii) For ACEP-ALE and FRPP with noncertified entities, prior to closing on the easement and prior to issuing payment.
  - (iii) For ACEP-ALE and FRPP with certified entities, as part of the quality assurance review conducted after the easement closes.
- (2) For ACEP-WRE and WRP, the easement value is calculated by multiplying the percentage GARC by the market value in the appraisal. The State must have an approved GARC and the NRCS national appraiser must review and approve the appraisal and technical review prior to making an offer to the landowner.

### **527.56 Technical Review Appraiser Responsibilities**

A. The review appraiser determines whether or not to approve use of the appraisal as the basis for establishing the amount of the easement offer. The technical review confirms if the easement appraisal report complies with the assignment standards and adequately supports the value estimate.

B. If the review appraiser approves the appraisal report, the review appraiser completes the technical review report in accordance with the “Technical Appraisal Review Specifications for Appraisals of Real Property” template in section 527.240.

C. If the review appraiser determines that the appraisal report cannot be initially approved, the review appraiser will contact the appraiser and provide the appraiser the reasons the easement appraisal is not approved and permit the appraiser to make the necessary corrections or provide additional documentation to the review appraisal. Minor typographical errors or issues that affect a few pages may be corrected through replacement pages. The review appraiser will determine if the report can be corrected without having to disapprove the appraisal.

If the appraisal report clearly does not meet the NRCS specifications and the review appraiser determines it cannot be easily corrected, the review appraiser must contact the NRCS national

appraiser to determine if the appraisal report can be disapproved without first contacting the appraiser or without completing a technical review report.

D. If the review appraiser does not approve the appraisal report, the review appraiser must provide the NRCS State office with the reasons the appraisal report was not approved. The review appraiser may consult with the NRCS national appraiser before making this determination. The technical review report will include the reasons for not approving the appraisal report. The technical review report is submitted to the NRCS State office. The NRCS State office will return the easement appraisal and technical review report to the appraiser for corrections. For easement appraisals obtained by an eligible entity under ACEP-ALE or FRPP or the project sponsor for EWPP-FPE the NRCS State office will return the easement appraisal and technical review report to the eligible entity or project sponsor to obtain the corrections. The NRCS State office may consult with the NRCS national appraiser.

E. The corrected appraisal report is returned to the review appraiser to determine if the required corrections were made.

F. If the review appraiser does not approve the corrected appraisal report, the NRCS State office will submit the easement appraisal and technical review report to the NRCS national appraiser. The NRCS national appraiser will consult with the review appraiser and determine if the appraiser can successfully complete the easement appraisal. The NRCS national appraiser will determine if the appraisal report should be returned for corrections or if a new appraisal must be ordered.

G. Corrected appraisal reports may only be resubmitted to the review appraiser a maximum of three times. If the appraisal report is still found to be unacceptable after the third submission, the appraisal report will be rejected. The review appraiser must clearly show why the appraisal report is inadequate. The NRCS national appraiser may allow an additional correction after consultation with the review appraiser if it is determined that the appraisal can be corrected.

H. Minor technical nonconformance with USPAP, or UASFLA, if applicable, should not be the cause of disapproval of an appraisal report unless the deficiencies affect the reliability of the value estimate.

I. The review appraiser must clearly identify the timeframe, not to exceed 12 months, within which the appraisal report is usable for the intended purpose. The expiration date of all NRCS-approved appraisals is identified in subpart E, section 527.47.

### **527.57 Technical Review Appraiser Determinations**

A. Approved.—In the technical reviewer’s opinion, the value estimate is strongly supported and complies with all applicable standards and contract specifications. Possible corrections or revisions by the appraiser are deemed insignificant in the technical reviewer’s opinion and will not affect the values identified in the appraisal report. For all easement appraisals, a copy of the appraisal report and the technical review report will be submitted to the NRCS national appraiser within 14 business days of completion.

B. Disapproval.—If the appraisal report does not meet applicable standards and contract specifications, or the value estimate is not adequately supported, and after documented efforts were made to get the needed support and corrections, then the review appraiser may disapprove or reject an appraisal report. If the appraiser does not meet the NRCS appraiser qualifications the easement appraisal must be disapproved. The review appraiser must clearly show why the appraisal report is inadequate.

C. For ACEP-WRE, WRP, EWPP-FPE, or HFRP appraisals procured by NRCS, the ultimate disapproval of an appraisal report because the value estimate is, in the review appraiser’s opinion,

unsupported or not supported strongly enough, does not constitute “rejection” for contract payment purposes if the contracted appraiser has complied with the contract specifications. Recommending a second appraisal to confirm, support, or replace an unapproved appraisal report does not constitute rejection.

### **527.58 Limitations**

- A. The technical review appraiser may not change an appraisal report except to fix minor mathematical or typographical errors. Any minor changes must be called to the original appraiser's attention. Only the original appraiser is permitted to edit or otherwise revise the original appraisal report.
- B. The review appraiser must not attempt to influence the appraiser's judgment or direct the appraiser toward a value estimate. The review appraiser's goal is to obtain a properly supported value estimate based on factual evidence and valid analysis through use of approved appraisal approaches and techniques. Minor technical nonconformance with the NRCS appraisal specification, USPAP, or UASFLA (if applicable), should not be sufficient to reject an appraisal report unless the deficiencies affect the reliability of the value estimate.
- C. The review appraiser may not substitute his or her personal judgment for that of the appraiser 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 when it is illogical, unreasonable, not supported by data cited, or inconsistent with other data.
- D. The review appraiser must not allow agency goals or adversarial pressure to influence his or her opinion of an appraisal report's value estimate. Likewise, the review appraiser's personal opinion regarding the proposed action must not be allowed to influence the review process.
- E. NRCS must not place pressure on the review appraiser to influence the review appraiser to approve or disapprove an appraisal report.

### **527.59 Technical Review Appraiser Independence**

The review appraiser may not become an advocate. The appraisal review is done independently to ensure objectivity and independence in the review process. This precludes the appearance of conflicts of interest or wrongdoing. The review appraiser's task is to evaluate the technical aspects of the appraisal. Review appraisers may 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 where possible conflicts of interest may exist.