



Record Keeping Required & Practical

Record Keeping:

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. A workfile must be in existence prior to the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.

The workfile 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 (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire signed report transmitted to the client satisfies the requirement of a true copy.);
- 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 USPAP, or references to the location(s) of such other documentation.

An appraiser must retain the workfile for a period of at least five years after preparation or at least two years after final disposition of any judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.

An appraiser having custody of a workfile must allow other appraisers with workfile obligations related to an assignment appropriate access and retrieval for the purpose of:

- submission to state appraiser regulatory agencies;
- compliance with due process of law;
- submission to a duly authorized professional peer review committee; or
- compliance with retrieval arrangements.

Comment: Care should be exercised in the selection of the form, style, and type of medium for records to ensure that they are retrievable by the appraiser throughout the prescribed record retention period.

A workfile must be made available by the appraiser when required by a state appraiser regulatory agency or due process of law.

A workfile in support of a Restricted Use Appraisal Report must be sufficient for the appraiser to produce a Summary Appraisal Report (for assignments under STANDARDS 2 and 8) or an Appraisal Report (for assignments under STANDARD 10).

Discussion & Comment

There is considerable disagreement on the meaning and application of the requirement of "all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP..."

The comment under this Record Keeping Rule says "a workfile in support of a Restricted Use Appraisal Report must be sufficient for the appraiser to produce a Summary Appraisal Report." This would suggest the minimum required in a workfile is information necessary to comply with the reporting requirements of S.R. 2-2(b). However, most state agencies interpret this provision to require considerably more than just the eleven requirements of S.R. 2-2(b). Iowa wrote a short article that included a number of items that are probably not considered in this clause. The TALCB (Texas) interprets it to require more than the eleven item checklist.

To be safe, an appraiser should have either the following in a workfile, or references to the location of the information in the workfile. (I don't personally agree the following is required by USPAP.)

1. Requirements of the reporting option used. Go down the list of either S.R. 2-2(a) or (b). If you provided a restricted use report the file needs to comply with S.R. 2-2(b). The report, if in compliance with USPAP should already comply with the reporting requirements if a Self-contained or Summary Report.
2. If inspected the subject: (a) photos, (b) sketches, (c) field notes, (d) other information considered.
3. All information related to Defining the Problem & determining the Scope of the assignment including appraisal engagement or request.
4. MLS or other search runs. Make sure NOT to search by price in the search parameters or tell why did.
5. Any other information that is pertinent to special problems such as physical, functional or other external factors that impacted on value.

An appraiser should take as many photos of the subject as possible, both interior and exterior. When something goes wrong with the property often it is in a different condition than when originally appraised. Any loss from condition can be proven with photos.

From Advisory Opinion 31: Assignments Requiring More Than One Appraiser

Either all who sign must be given a copy of the workfile, or the appraisers must agree in writing to an access arrangement.

When an assignment is performed by more than one appraiser, each appraiser is subject to the same obligations regarding the workfile for the assignment, whether or not the appraiser signs the certification. These obligations may be met by creating a copy of the workfile for every appraiser involved in the assignment. Alternatively, the appraisers might agree in writing to an access arrangement whereby the workfile is stored in a single location but access is provided to all appraisers involved. In whatever manner this USPAP requirement is met, all appraisers involved with the assignment must meet it.

If an Appraiser signs any part of the report, they must sign the certification. If an appraiser gets significant professional assistance from someone else, the “exact nature of the assistance must be reported.”

A signed certification is required for all appraisal, appraisal review and appraisal consulting reports. An appraiser who signs any part of a report, including a letter of transmittal, must also sign the certification.

A signed certification provides important disclosures about aspects of the assignment. It provides evidence that the appraiser is aware of the ethical obligations of acting as an appraiser. In single-discipline appraisals, the certification also attests that the analyses, opinions, and conclusions expressed are those of the signatory. The certification is also where significant appraisal assistance from others not signing the certification must be acknowledged. Any appraiser who provides significant appraisal, appraisal review, or appraisal consulting assistance to the assignment must sign the certification or be identified in the certification. When more than one appraiser is involved in an assignment, USPAP allows for certification in a variety of ways, including:

- all appraisers could sign a certification accepting responsibility for the entirety of the analyses and the report if they are all competent to do so; or
- one appraiser could sign a certification and provide the name of each individual who provided significant appraisal, appraisal review, or appraisal consulting assistance. In such a case, the exact nature of the assistance must be reported, but this need not be in the certification; or

It is possible to take responsibility for only part of the report, but that is only if there is multi-disciplines used to develop the appraisal subject to the report.

- for assignments involving multiple disciplines (e.g., real property appraisal and personal property appraisal), an appraiser could sign a certification accepting responsibility only for the elements of the certification, assignment results and report contents applicable to the appraiser’s discipline.

Discussion & Comment

When more than one appraiser works on an appraisal, and only one appraiser signs the report, the following applies.

1. It is always safer to have just one signature on an appraisal for liability reasons.
2. If one signature is on the report and someone provided significant professional assistance, the signing appraiser must specifically state what was provided by the appraiser named in the certification.

When more than one appraiser works on an appraisal, and more than one appraiser signs the report, the following applies.

1. All appraisers are responsible for the appraisal and report.
2. The workfile must be in custody of all who signed or there must be an agreement in writing that allows access to the workfile by the one not keeping custody if required by law.
3. The workfile is not required to be given the other signing appraiser, for any reason, depending upon the signed agreement. The appraiser who controls the workfile has a duty to protect confidential information and results and does not have to provide a workfile for just any reason, subject to a written agreement.

Questions & Answers Related to Workfiles

59. CONTENTS OF A WORKFILE

Question: What information must be retained in an appraiser's workfile?

Response: An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment. The Record Keeping section of the ETHICS RULE states:

The workfile 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 (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire signed report transmitted to the client satisfies the requirement of a true copy.);
- 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 USPAP, or references to the location(s) of such other documentation.

The appraiser's assignment workfile serves several purposes. As in many other professions, the discipline of enforcement by public agencies and peer review, together with one's self-discipline and dedication of effort, serves to ensure performance of assignments in compliance with professional standards. In addition to facilitating enforcement, a workfile aids the appraiser in handling questions from the client or an intended user subsequent to the date of the report.

An appraiser's assignment workfile preserves evidence of the appraiser's compliance with USPAP and other information as may be required to support the appraiser's opinions, conclusions, and, in the case of an appraisal consulting assignment, recommendations.

60. TIME PERIOD TO RETAIN WORKFILES

Question: How long do I have to retain a workfile for an assignment?

Response: The Record Keeping section of the ETHICS RULE states:

An appraiser must retain the workfile 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.

61. PHOTOCOPIES OF APPRAISAL REPORTS IN WORKFILES

Question: In order to satisfy the Record Keeping section of the ETHICS RULE, must an appraiser retain a complete photocopy of the finished appraisal report that was sent to the client?

Response: The workfile must contain a true copy of the report. A photocopy or an electronic copy of the entire signed appraisal report transmitted to the client satisfies the USPAP requirement of a true copy.

62. WORKFILES FOR APPRAISAL REVIEW ASSIGNMENTS

Question: I am a manager for an Appraisal Management Company that performs commercial and residential appraisals in various parts of the country. Our company acts as the agent for our clients who consist of numerous regional and national lenders. In that capacity, we take in appraisal orders from our clients and order those appraisals from fee appraisers on our approved list of appraisers. We also perform STANDARD 3 compliant reviews on those appraisals. We forward the appraisal and appraisal review reports to our client. Are we required to keep a file of the appraisal reviews?

Response: Yes. The Record Keeping section of the ETHICS RULE requires, in part:

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment.

The workfile 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 (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire signed report transmitted to the client satisfies the requirement of a true copy.);
- 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 USPAP, or references to the location(s) of such other documentation. (Bold added for emphasis.)

Further, it is important to note that the requirement under USPAP is for the appraiser to retain a copy of:

the workfile 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.

Therefore, it is incumbent upon the appraiser, not his or her employer, to ensure that a copy of the workfile is available for the time periods stipulated.

Q&A 59 merely restates the requirements of the Record Keeping Rule.

Q&A 60 does the same. It restates the rule.

Q&A 61 says the workfile must contain a "True Copy" of the appraisal report. This is one that is signed. An appraiser who turns an unsigned report from the workfile into a state agency for experience or enforcement is proving a violation of USPAP Record Keeping unless the appraiser can show their records include a signed copy.

Q&A 62 says the appraiser must have a workfile for reviews. The appraiser who works for a bank, taxing authority, appraisal district, condemnor, city, county or state agency who provides appraisals reviews must comply with USPAP Record Keeping if state licensed or certified depending upon state law related to certification or licensing and depending upon any potential jurisdictional exception to staff related to Record Keeping.

Q&A 63 says an appraiser cannot purge files at the client's request. However, it is good practice to manage files and information kept as an appraiser conducts an appraisal and subsequent report and workfile. There is no requirement the appraiser keep information that does not support the appraiser's opinions and conclusions. The appraiser should consider keeping what would help the appraiser in any potential subsequent lawsuit with a client or third party and purge anything else. The same is true about subsequent potential Board Enforcement. The appraiser should purge what would not help the appraiser and keep all else. This does not mean that once there is a legal requirement of providing file information, the appraiser should start purging files.

Q&A 64 again says that two appraisers do not each have to keep a workfile.

Q&A 65 addresses the responsibility of both appraisers related to workfiles when there are two signatures on a report. The appraiser, not the appraiser employer is ultimately responsible for the workfile. It has also been my experience that files lost by computer glitches are considered a violation of the Record Keeping Rule of USPAP. The appraiser should take care to protect files against loss. The easiest way to do this with digital files is to back-up the files with internet based file storage or put a hard drive in a safe deposit box of a bank.

This Q&A also reminds the appraiser the file format is not important. It can be digital or hard copy.

If the client requests "the workfile" and it is provided, make sure you have a copy, give them the copy, or be able to retrieve it. When being deposed, know that the workfile will often be marked as an exhibit and you may not get it back. It is better practice to bring a copy and let them mark the copy after you authenticate it.

63. PURGING WORKFILES AT A CLIENT'S REQUEST

Question: If requested by a client, can I purge my appraisal files and records of an appraisal that was not utilized in loan underwriting or in any other manner by the client?

Response: No. USPAP does not permit appraisers to destroy records prior to five years after preparation for any reason, including a client's request to do so or the fact that an appraisal is not utilized by the client. The Record Keeping section of the ETHICS RULE states, in part:

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment.

An appraiser must retain the workfile 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.

64. WORKFILE RETENTION WITH MORE THAN ONE APPRAISER

Question: If two appraisers sign an appraisal report, what are the obligations related to record keeping? Specifically, must both appraisers keep a copy of the workfile?

Response: No. It is not necessary for both appraisers to have a copy of the workfile.

The Record Keeping section of the ETHICS RULE states, in part:

An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile.

Neither appraiser is required to have custody of the workfile. However, an appraiser who does not have custody must make appropriate arrangements for retention, access, and retrieval.

See Advisory Opinion 31, *Assignments Involving More than One Appraiser* for further guidance.

65. RESPONSIBILITY FOR WORKFILE RETENTION

Question: (1.) **Jim, an independent contractor, works for my appraisal company on a regular basis. I have always kept all appraisal file documentation (including hard copies of appraisal reports, field notes, drawings, photographs, and data) at my office. Now Jim wants to keep the files relating to his work in his own possession. Under USPAP, which appraiser should keep the workfile?**

Question: (2.) **Is the Record Keeping section of the ETHICS RULE upheld if an institutionally employed appraiser ensures that his organization retains copies of his appraisal work for five years? Or, must the appraiser also maintain a personal file of all work performed?**

Question: (3.) **A client's attorney requested that I supply all of my files/records regarding an assignment. Can I do this and still be in compliance with the record keeping requirements for USPAP? Also, what must I retain in my files as proof that the files are now the responsibility of the attorney? Will a simple letter from the client be sufficient?**

Response: In responding to each of the three preceding questions, what should be considered is that, according to USPAP, the appraiser, not the appraiser's employer or client, is ultimately responsible for the retention of the workfile for the prescribed period. (Bold added for emphasis) (See Record Keeping section of the ETHICS RULE)

An appraiser who is employed by, or works in conjunction with, another party must make arrangements with that party to protect and preserve the workfile, and to allow the appraiser to make the workfile available to other parties such as state appraiser regulatory agencies, professional peer review committee, or when required by due process of law.

There are a number of ways an appraiser who works for or with another party can ensure that files are retained so that the appraiser can have access to the files to meet the requirements of the ETHICS RULE. For example, an appraiser and his employer or colleague may agree that the files will remain in the employer's or colleague's custody for the duration of the requisite retention period and that the appraiser will have access to those files, if needed.

USPAP does not dictate the form or format of workfile documentation. It is not necessary to include original documents in the file; photocopies and electronic copies are acceptable as true copies. Because there have been cases where employers and others have denied appraisers access to workfiles, an appraiser may wish to make and retain copies of workfiles. However, USPAP does not address any specific manner by which an employer or contractor and appraiser should handle record retention. This is a business matter which should be arranged in the context of the employer- or contractor-appraiser relationship.

By the same token, providing the workfile to a duly authorized party, such as a client's attorney, is permitted by USPAP. However, this does not relieve the appraiser of the responsibility for that workfile. At no time may an appraiser abdicate his or her responsibility for a workfile. Therefore, when an appraiser relinquishes possession of a file to a client or the client's representative, the appraiser should retain either a copy of the workfile or a written reference to an agreement with the client that the appraiser will have access to the workfile, if the need arises.

66. TRAINEE ACCESS TO WORKFILES

Question: I am a trainee appraiser and have been working with the same supervising appraiser for some time. Recently, my supervising appraiser told me that since I was only a trainee, I had no right to access workfiles on appraisals where I provided significant professional assistance. Is my supervising appraiser correct? Do trainees have no rights regarding access to workfiles?

Response: As background, USPAP places workfile retention requirements on the appraiser. In assignments where more than one appraiser is involved (e.g. a trainee appraiser and a supervising appraiser) each appraiser shares responsibility for complying with the Record Keeping section of the ETHICS RULE.

Supervising appraisers should be aware that all appraisers, including trainee appraisers, must maintain access to workfiles for a minimum of five years. A supervising appraiser must not

impede a trainee appraiser's ability to access workfiles. Denying access to workfiles is a violation of the ETHICS RULE.

An appraiser having custody of a workfile must allow other appraisers with workfile obligations related to an assignment appropriate access and retrieval for the purpose of:

- submission to state appraiser regulatory agencies;
- compliance with due process of law;
- submission to a duly authorized professional peer review committee; or
- compliance with retrieval arrangements.

See Advisory Opinion 31, *Assignments Involving More than One Appraiser*, for further guidance.

67. APPROPRIATE WORKFILE RETENTION AND ACCESS ARRANGEMENTS (NEW)

Question: USPAP requires an appraiser who is not in custody of his or her workfile to make appropriate retention and access arrangements; what does this mean?

Response: The Record Keeping section of the ETHICS RULE states, in part:

An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access, and retrieval arrangements with the party having custody of the workfile. (Bold added for emphasis)

There are a number of ways an appraiser who works for or with another party can ensure that the assignment workfile is retained so that the appraiser may access the workfile. (The following is a common example: an appraiser and his employer or colleague agree that the workfile will remain in the employer's or colleague's custody for the duration of the requisite retention period and that the appraiser will have access to the workfile. In practice, having such an agreement in writing could prove beneficial to all parties if access and retrieval arrangements are subsequently called into question.)

68. MAY ACCESS TO A WORKFILE BE DENIED? (NEW)

Question: Two appraisers perform an appraisal assignment together. Appraiser A retains the workfile and Appraiser B has made access and retrieval arrangements. Are there any conditions under which USPAP allows Appraiser A to deny Appraiser B access to the workfile?

Response: Yes. USPAP does not set conditions for workfile access and retrieval. However, the Record Keeping section of the ETHICS RULE states:

An appraiser having custody of a workfile must allow other appraisers with workfile obligations related to an assignment appropriate access and retrieval for the purpose of:

- submission to state appraiser regulatory agencies;
- compliance with due process of law;
- submission to a duly authorized professional peer review committee; or
- compliance with retrieval arrangements. (Bold added for emphasis.)

In this scenario, if Appraiser B is seeking access for purposes outside those specified, access may be denied.

69. SIGNED CERTIFICATION IN TRUE COPIES

Question: The Record Keeping section of the ETHICS RULE states, in part:

The workfile must include...true copies of any written reports...

Does a true copy have to include a signature on the certification?

Response: Yes. A true copy is a replica of the report sent to the client. Any signatures that were affixed to the original report must also exist on the copy for the workfile.

70. CREATING A WORKFILE AFTER REPORT DELIVERY

Question: I was recently told that USPAP allows appraisers to wait and create a workfile after the report has been delivered to the client for an appraisal, appraisal review, or appraisal consulting assignment. Is this true?

Response: No. The Record Keeping section of the ETHICS RULE states:

A workfile must be in existence prior to the issuance of a written or oral report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report. (Bold added for emphasis)

It is advisable to create a workfile as soon as an agreement between an appraiser and a client results in an assignment.

The trainee must be allowed either a copy of the file or access to the file (if there is a written agreement) for submission to state agencies, as required by law, for peer review, or compliance with contractual retrieval arrangements.

Q&A 67 again states the need for an arrangement between an appraiser and employing appraiser as to workfile rights.

Q&A 68 says that access can be denied a signing appraiser by the employer.

Q&A 69 restates the need for a signed "true" copy be retained in the file. [This is a strange rule. I don't know another profession that requires this.]

Q&A 70 says the workfile must be created prior to delivery. In Board enforcement appraisers often go do another run for comparable data to support what was done. The MLS run often has a date after the delivery date and often subsequent to the complaint date. The appraiser should let the state agency know of all support that was prepared subsequent to the transmittal of the report and what was actually the workfile.

Q&A 71 - 75: The appraiser who testifies must have either a summary of the testimony or the transcript. I ask for either digital transcripts or four pages per one page of transcript with double-sided printing. The transcripts are more manageable in either digital or four per page, double-sided formats. The entire transcript is not required, only that oral testimony of the appraiser.

Q&A 76 again says the workfile can be digital. As previously stated, make sure you back up the workfiles.

71. IS A TRANSCRIPT REQUIRED FOR ORAL REPORT AND TESTIMONY? (NEW)

Question: Is a transcript of an oral report or testimony required for the workfile when an appraiser testifies about an appraisal assignment?

Response: No. There is no absolute requirement to have a transcript of the appraisal oral report testimony. The Record Keeping section of the ETHICS RULE requirement is for the workfile to contain summaries (which are typically prepared by the appraiser) or a transcript. In cases where summaries are retained, a transcript is not required.

72. IS A TRANSCRIPT REQUIRED IF A WRITTEN APPRAISAL REPORT WAS PREPARED? (NEW)

Question: Does the requirement to have a transcript or summary of testimony apply if the appraiser has a written appraisal report and testifies only to the information contained in that report?

Response: Yes. A transcript or summary of the testimony must be included in the workfile when the appraiser testifies about a written report. While the report that is the subject of the appraiser's testimony must also be included in the assignment workfile, it does not replace a summary of the testimony.

73. RECORD KEEPING REQUIREMENTS FOR ORAL REPORTS AND TESTIMONY (NEW)

Question: Does the requirement to have a transcript or a summary of the appraiser's testimony apply only in assignments when an appraiser provides an oral report?

Response: No. The requirements identified in the Record Keeping section of the ETHICS RULE apply to both oral reports and testimony in an appraisal, appraisal review, or appraisal consulting assignment.

74. IS A SEPARATE CERTIFICATION REQUIRED IF A WRITTEN APPRAISAL REPORT WAS PREPARED? (NEW)

Question: If an appraiser prepares a written appraisal report, is the workfile required to contain a separate signed certification for any testimony the appraiser provided in support of that report?

Response: In cases where testimony is provided about information contained in a written appraisal report,

appraisal review, or appraisal consulting report, a signed certification is required to be included in the written report. The requirement to include a signed certification is satisfied by including a true copy of the report in the workfile, consistent with the Record Keeping section of the ETHICS RULE.

75. IS A TRANSCRIPT OF THE ENTIRE PROCEEDING REQUIRED? (NEW)

Question: Must the workfile contain a transcript or summary of an appraiser's testimony for the entire proceeding, or only for that portion that contains the appraiser's testimony?

Response: The appraiser's workfile must contain a summary or a transcript of the appraiser's testimony in an appraisal, appraisal review, or appraisal consulting assignment. The appraiser is not obligated to retain summaries or transcripts for other segments of the proceedings in which testimony was provided by individuals other than the appraiser.

76. ELECTRONIC WORKFILE STORAGE

Question: Recently I have considered maintaining only electronic workfiles (i.e., saving only electronic versions of my reports and supporting data, and scanning any paper documents used so that copies may be stored on electronic media). Is this prohibited by USPAP?

Response: No. There is nothing in USPAP that would prohibit an appraiser from maintaining only electronic versions of workfiles.

The Record Keeping section of the ETHICS RULE states, in part:

An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting assignment.

The workfile 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 (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire signed report transmitted to the client satisfies the requirement of a true copy.);
- 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 USPAP, or references to the location(s) of such other documentation. (Bold added for emphasis.)

As long as an electronic workfile contained these items, it would be sufficient.

Care should be exercised in the selection of the form, style, and type of medium for records to ensure that they are retrievable by the appraiser throughout the prescribed record retention period. The appraiser must ensure that the proper software is maintained to allow access to the electronic files

77. PAPER COPIES OF ELECTRONICALLY TRANSMITTED REPORTS

Question: Are appraisers required by USPAP to retain a paper copy of electronically transmitted appraisal reports?

Response: No. The Record Keeping section of the ETHICS RULE requires appraisers to prepare and retain written records of appraisal, appraisal review, and appraisal consulting assignments.

A photocopy or an electronic copy of the entire signed report transmitted to the client satisfies the requirement of a true copy.

Therefore, a paper copy is not required.

78. ADEQUACY OF WORKFILE DOCUMENTATION (NEW)

Question: In the course of preparing my appraisals, I often research Multiple Listing Service (MLS) and other data sources. I use this information to develop conclusions regarding neighborhood value ranges and market trends. Is it necessary for me to include copies of this information in my workfile? Alternatively, can I simply reference the data sources in my workfile?

Response: References in the workfile to the location of documentation used to support an appraiser's analyses, opinions, and conclusions can be adequate. It is not always necessary for the appraisal workfile to include all the documentation provided the referenced material is retrievable by the appraiser throughout the workfile retention period. Care should be exercised in the selection of the format and location of documentation.

The Record Keeping section of the ETHICS RULE states that the workfile must include:

...all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other documentation. (Bold added for emphasis.)

79. JURISDICTIONAL EXCEPTION AND WORKFILE RETENTION

Question: My state law requires an appraiser to retain workfiles for three years after the valuation date. Is this an example of a jurisdictional exception?

Response: No. The JURISDICTIONAL RULE states

If any applicable law or regulation precludes compliance with any part of USPAP, only that part of USPAP becomes void for that assignment.

In the scenario described in question, complying with the Record Keeping section of the ETHICS RULE would exceed the requirements of the law, but it would not be precluded by the law.

By retaining access to workfiles for the longer period required by USPAP, the appraiser would also be in compliance with the law. Therefore, this would not be a jurisdictional exception.

80. MINIMUM WORKFILE RETENTION

Question: My state appraisal board is asking me to send a copy of the workfile for an appraisal I performed eight years ago. Since I provided no testimony in the assignment, I was only required to maintain access to the workfile for five years. Given that this time period has expired, can the state board still take action in this case?

Response: Yes. The time frames referenced in the Record Keeping section of the ETHICS RULE are only minimums. Nothing in USPAP would prevent an enforcement proceeding from taking place after the applicable time period had expired.

Q&A 77: No paper required.

Q&A 78: This is an important Q&A. The AF is saying that the support needs to be either in the workfile or references to the support are in the workfile. An appraiser who does not include the MLS search run should reference the run and be able to show the support to a state board if requested.

Q&A 80 says the state board can take action past the required retention of a workfile and that USPAP does not address this. Most states have limitations and hopefully this would not be a major problem.

The appraiser should know, outside USPAP, the liability to a client or potentially third party could extend past the 5 years required of record retention. Limitations on lawsuits often run from the time of discovery of a problem or when it should have been discovered. It is possible that negligence in an appraisal could be discovered a considerable time after the report date, and then limitations begins. For example, assume there was a negligent act that was in an appraisal and the loss and act were discovered four years after the appraisal report date. Further assume, a party has two years to file a lawsuit and does so with one and one-half years of discovery. The appraiser may have thrown the workfile out and yet the lawsuit continues. There would be no violation of USPAP, but there would be a problem with having information that could help in the lawsuit. An appraiser was investigated by the FBI for fraud. The appraisal was conducted past 5 years, but since the file was retained the appraiser could show the FBI that the report was tampered with and this helped convict the developer. The appraiser may want to keep workfiles past the minimum required by USPAP. Some appraisers like to purge files every 5 years to avoid discovery in lawsuits they are experts in. This would be a counter-reason to throw files away. It is safer to keep them beyond a 5 year time period.

Record Keeping Policy

1. A workfile will be maintained for a minimum of 5 years from preparation of the appraisal report or two years after final disposition of any case testified or involved in.
2. If one appraiser signs a report and an employee or other merely provides administrative or non-technical functions, the appraiser who appraises the property will sign the report and no person will be named in the certification as contributing “significantly” to the appraisal. Examples of administrative functions include some research that does not require judgment such as running maps and data as instructed or writing descriptive areas of appraisal reports not requiring judgment. Administrative assistance could be in writing reports as directed including transcription services. “Significant” professional assistance relates to providing technical advice, making judgment calls related to data selection, measuring or inspecting the subject or comparables, or writing analysis sections of appraisal reports. When “significant professional assistance” is provided the appraiser must exactly state in the certification what was provided.
3. If more than one appraiser signs a report, all appraiser who sign the report are responsible for all contents of the report and the appraisal that was conducted.
4. If an appraiser signs any part of a report, the appraiser must also sign the certification.
5. The ownership of the appraisal and subsequent report and workfile rests solely with the company. The individual appraiser will not make an unauthorized copy of the appraisal report or workfile without written consent of the company or owner of the company. The appraiser has no rights to data, analysis, appraisals, workfiles or client information except as provided in this agreement.
6. All appraisers must comply with the signature policy of this company and any overlapping workfile requirement from that policy.
7. The company or owner agrees to maintain the workfiles for a period of time to be at least the minimum required by USPAP. If there is no signature, the owner has no duty to provide copies unless required by state law for experience or enforcement reasons. The owner also agrees to provide a copy of the workfile for the following reasons to a signing appraiser.
 - **submission to state appraiser regulatory agencies;**
 - **compliance with due process of law;**
 - **submission to a duly authorized professional peer review committee; or**
 - **compliance with retrieval arrangements.**
8. The workfile must contain the following.
 - a. The report that complies with Standard Rule 2-2(a) if self-contained or Standard Rule 2-2(b) if a summary report. If a summary report, make sure the report complies with the eleven item checklist in USPAP and contains the following as a minimum.
 - i. Support for any land value estimate is in the report or is referenced back to the file and the file has the support. If land comparables or other information that supports land value is kept in one file, then the workfile for the specific appraisal should reference that file.
 - ii. Support for any cost approach is either in the report or referenced back to the

workfile and the workfile has the support. If Marshall & Swift is referenced, then either a worksheet is contained in the report or the workfile contains the worksheet specific to that appraisal.

- iii. The report MUST have not a statement of Highest & Best Use but instead must have a summary of the ANALYSIS to the Highest & Best Use assumed for the appraisal.
- iv. Any search criteria and subsequent search results should be saved as a digital copy or printed as a hard copy.
- v. If an inspection of the subject and/or comparables was conducted, significant photos and record of the photos will be kept in a workfile either digitally or hard copy. If there is a hard copy workfile, the workfile will contain references to where the digital copies are kept.
- vi. The following should be included in all workfiles since incorporation by reference is allowed. "MLS, Marshall Swift, property tax and other sources of data were used (be specific) to conduct this appraisal and subsequent report. All of these sources are incorporated by reference to support what was done by the appraiser(s) in the conduct of the appraisal and subsequent writing of the report. Also included by reference is the support for land value included in a master file within the appraiser's office."
- vii. Any abnormal feature of the property, market or comparables should be supported or retained in the workfile.
- viii. Any provided plans, surveys, title reports, or other information pertaining to the subject property should be retained in the workfile.
- ix. Any client correspondence or references to where the correspondence is kept should be retained in the workfile.

All appraisers who sign agree to adhere to the company policy as stated above related to workfile development and retention. The above policies may be changed and this agreement may be modified upon any change.

_____ **Date** _____
Employee or contractor

_____ **Date** _____
Owner