

## **TITLE 43—Public Lands; Interior**

### **Subtitle A – OFFICE OF THE SECRETARY OF THE INTERIOR**

#### **Department of the Interior**

### **PART 100—WAIVING DEPARTMENTAL REVIEW OF APPRAISALS AND VALUATIONS OF INDIAN PROPERTY**

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## Subpart A – General Provisions

### § 100.100 What terms I should know for this part?

*Appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

*Appraiser* means one who is expected to perform an appraisal or valuation competently and in a manner that is independent, impartial, and objective.

*Indian* means:

(1) Any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner as of October 27, 2004, of a trust or restricted interest in land;

(2) Any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder; or

(3) With respect to the inheritance and ownership of trust or restricted land in the State of California under 25 U.S.C. 2206, any person described in paragraph (1) or (2) of this definition or any person who owns a trust or restricted interest in a parcel of such land in that State.

*Indian property* means trust property or restricted property.

*Indian Tribe* means an Indian Tribe under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

*Land Buy-Back Program for Tribal Nations* means the program implementing the land consolidation provisions of the settlement agreement in *Cobell v. Salazar*, No. 1:96CV01285-JR (D.D.C.), as confirmed by Congress in the Claims Resolution Act of 2010 (Pub. L. 111-291).

*Qualified appraiser* means an appraiser that is authorized to prepare an appraisal or valuation of Indian property because he or she meets the minimum qualifications of this part.

*Qualifications statement* means a written overview of an appraiser's education, professional history and job qualifications, providing an indication of an appraiser's competency to perform specific types of assignments. The qualifications may include information regarding education (degrees and educational institutions or programs); professional affiliations, designations, certifications, and licenses; work experience (including companies or organizations, the dates of employment, job titles and duties, and any service as an expert witness); awards and publications; types of properties appraised; types of appraisal and valuation assignments; and clients.

*Restricted property* means lands, natural resources, or other assets owned by Indian Tribes or individual Indians that can only be alienated or encumbered with the approval of the United States because of limitations contained in the conveyance instrument, or limitations in Federal law.

*Secretary* means the Secretary of the Interior or an authorized representative.

*Trust property* means lands, natural resources, or other assets held by the United States in trust for Indian Tribes or individual Indians.

| *Us/we/our* means the ~~single~~ bureau, agency, or entity within the Department of the Interior that administers appraisals and valuations of Indian property.

*Valuation* means all other valuation methods or a market analysis, such as a general description of market trends, values, or benchmarks, prepared by a qualified appraiser.

**§ 100.101 What is the purpose of this part?**

This part describes the minimum qualifications for appraisers, employed by or under contract with an Indian Tribe or individual Indian, to become qualified appraisers who may prepare an appraisal or valuation of Indian property that will be accepted by the Department without further review or approval: when the Indian tribe or individual Indian waives Departmental review and approval.

**§ 100.102 Does this part apply to me?**

This part applies to anyone preparing or relying upon an appraisal or valuation of Indian property.

**§ 100.103 How does the Paperwork Reduction Act affect this part?**

The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned OMB Control Number 1076-~~NEW~~0188. Response is required to obtain a benefit.

**Subpart B – Appraiser Qualifications**

**§ 100.200 What are the minimum qualifications for qualified appraisers?**

(a) An appraiser must meet the following minimum qualifications to be a qualified appraiser under this part:

(1) The appraiser must hold a current Certified General Appraiser license in the State in which the property appraised or valued is located;

(2) The appraiser must be in good standing with the appraiser regulatory agency of the State in which the property appraised or valued is located; and

(3) The appraiser must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) rules and provisions applicable to appraisers (including but not limited to Competency requirements applicable to the type of property being appraised or valued and

Ethics requirements). This includes competency in timber and mineral valuations if applicable to the subject property.

**§ 100.201 Does a qualified appraiser have the authority to conduct appraisals or valuations of any type of Indian property?**

All qualified appraisers of Indian property must meet the Competency requirements of USPAP for the type of property being appraised or valued. Competency can be demonstrated by previous completed assignments on the type of properties being appraised, additional education or training in specific property types, or membership and/or professional designation by a related professional appraisal association or group.

**§ 100.202 Will the Secretary verify the appraiser's qualifications?**

The Secretary will verify the appraiser's qualifications to determine whether the appraiser meets the requirements of § 100.200.

**§ 100.203 What must the tribe or individual Indian submit to the Secretary for a verification of the appraiser's qualifications?**

The tribe or individual Indian must submit the following with the appraisal or valuation:

- (a) A copy of the appraiser's current Certified General Appraiser license;
- (b) A copy of the appraiser's qualifications statement;
- (c) The appraiser's self-certification that the appraiser meets the criteria in § 100.200; and
- (d) If the property contains natural resource elements that contribute to the value of the property, such as timber or minerals, a list of the appraiser's additional qualifications for the specific type of property being valued in the appraisal report.

**§ 100.204 When must the tribe or individual Indian submit a package for Secretarial verification of appraiser qualifications?**

The tribe or individual Indian must submit the package of appraiser qualifications to the Secretary with the appraisal or valuation.

**Subpart C – Appraisals and Valuations; Departmental Review and Waivers**

**§ 100.300 Must I submit an appraisal or valuation to the Department?**

Appraisals and valuations of Indian property must be submitted to us if relied upon or required for transactions requiring Secretarial approval under titles 25 and 43 of the CFR- (other than those under the Federal Land Policy and Management Act).

**§ 100.301 Will the Department review and approve my appraisal or valuation?**

(a) The Department will not review the appraisal or valuation of Indian property and the appraisal or valuation will be considered final as long as:

(1) The submission acknowledges the intent of the Indian tribe or individual

Indian to waive Departmental review and approval;

(2) The appraisal or valuation was completed by a qualified appraiser meeting the requirements of this part; and

(3) No owner of any interest in the Indian property objects to use of the appraisal or valuation without Departmental review and approval.

(b) The Department must review and approve the appraisal or valuation if:

(1) Any of the criteria in paragraph (a) of this section are not met; or

(2) The appraisal or valuation was submitted for:

(i) Purchase at probate under 43 CFR part 30;

(ii) The Land Buy-Back Program for Tribal Nations; ~~or~~

~~(iii)~~(iii) An acquisition by the United States to which the Uniform

Appraisal Standards for Federal Land Acquisitions applies; or

(iv) Specific legislation requiring the Department to review and approve an appraisal or valuation.

**§ 100.302 May I request Departmental review of an appraisal even if a qualified appraiser completed the appraisal or valuation?**

If you do not specifically request waiver of Departmental review and approval under § 100.300(a)(1), the Department will review the appraisal or valuation.

**§ 100.303 What happens if the Indian tribe or individual Indian does not agree with the submitted appraisal or valuation?**

If the Indian tribe or individual Indian does not agree with the submitted appraisal or valuation, the Indian Tribe or individual Indian may request that the Department perform an appraisal or valuation instead of relying on the submitted appraisal or valuation.

**§ 100.304 Is the Department liable if it approves a transaction for Indian property based on an appraisal or valuation prepared by a qualified appraiser?**

The Department is not liable for any deficient or inaccurate appraisal or valuation provided by the Tribe or individual Indian that it did not review or approve, even if the Department approved a transaction for Indian property (including but not limited to a lease, grant, sale, or purchase) based on the appraisal or valuation.

Dated: ~~September 7, 2016.~~

~~Michael L. Connor~~

James E. Cason,  
**Deputy Secretary.**