

**MN STATEMENT OF WORK
FARM REAL ESTATE APPRAISAL**

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1. BACKGROUND

The Farm Service Agency (FSA), an agency of the U. S. Department of Agriculture (USDA), makes and services loans secured by real estate. FSA needs appraisal reports to complete various direct loan making and loan servicing responsibilities. This Statement of Work (SOW) addresses FSA's requirements for farm/ranch, other than residential, real estate appraisal services.

2. OBJECTIVE

FSA intends for the Vendor to perform a real estate appraisal and to provide appraisal reports in a PDF version to FSA by the specified completion date. Timely delivery of the appraisal report is critical to the success of FSA meeting their mission and funding of the Farm Loan program. The real properties with any described fixtures and chattels are to be appraised on any format allowed by Uniform Standards of Professional Appraisal Practices (USPAP). All appraisals must meet current USPAP's standards as of the effective date of the appraisal.

3. SCOPE

The purpose of this SOW is for FSA to obtain a market value¹ appraisal of a property by the specified completion date. The appraiser is to fulfill the appraisal process and appraisal reporting standards of the USPAP in effect as of the effective date of the appraisal. Farm real estate appraisals shall be completed in accordance with USPAP, Agency Guidelines (1-FLP) and any other appraisal assignment conditions.

The appraiser shall furnish all materials, supplies, tools, equipment, personnel, and travel and shall complete all requirements of the Appraisal Order or Purchase Order by the specified date. This SOW applies to all farm and ranch appraisals for FSA. For Rural Residence, SFR or Hobby Farms the "Non – Farm SOW" will apply.

Typically, the appraisal purpose will be to provide an "Opinion of Market Value" of the property's fee simple interest in the "as is" condition unless otherwise stated in the appraisal order. "As is" condition is the condition of the property as you find it during your inspection. Any additional improvements to the property described in the engagement letter would be considered "as improved", which is typically "new construction". Hypothetical Condition(s) and / or Extraordinary Assumption(s) shall be clearly and conspicuously described and state that their use might have affected the assignment results. For proposed new construction a "Hypothetical Condition" would apply.

FSA defines fee simple interest to include the mineral estate and water rights, if applicable and observed or known easements/encumbrances. As part of the appraisal assignment under USPAP, **characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal** must be considered; the property appraised must be identified **including the property rights**. This typically will include surface and subsurface rights, if the estate of the Subject property is whole. **Consideration of oil, gas, minerals, timber, etc., and their possible influence on the value of the Subject property constitutes good appraisal practice** and should be discussed in the appraisal report. Properties with similar interests to the subject should be selected for comparable sales.

¹ 12 CFR 34.42 (g), see attached Exhibit 1, "Market Value Definition,"

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FSA regulations require that the appraiser take into consideration at a minimum the three approaches to value; Sales Comparison approach, Cost approach and the Income approach. If the appraiser determines that any approach is not applicable, the exclusion of the approach will be adequately explained in the appraisal report as required by USPAP.

USPAP requires Appraisal reports to include sufficient information to enable the intended user(s) to understand the rationale of the opinions and conclusions.

4. PERIOD OF PERFORMANCE

Typically, the period of performance is 30 calendar days from the date of the Engagement Letter or the Purchase Order unless otherwise defined. The vendor should realistically estimate the timeframe to complete the appraisal assignment. The appraisal report must be received by the requesting office described in the appraisal order. A request for an extension of the delivery date must include the reason for the extension and the timeframe that the appraisal report will be completed. Requests for an extension can be submitted via e-mail to the Ordering Official (OO) / Agency Point of Contact (APOC)² or the Contracting Officer (CO) if a purchase order was issued. Written authorization for the extension or modification will be an e-mail response from the Agency contact person or the contracting officer. Any modification or extension requests should be sent to the OO/APOC and/or the Contracting Officer as described in the appraisal order letter.

The appraiser will contact the agency when questions arise, resolve problems and clarify instructions relating to the Real Estate Appraisal Order. The Ordering Official, Agency Point of Contact, Staff Appraiser or Contracting Officer may be contacted for guidance.

5. WORK REQUIREMENTS

The appraiser is to fulfill the appraisal process and reporting standards of the USPAP in effect as of the effective date of the appraisal. Farm real estate appraisals shall be completed in accordance with USPAP and any other assignment conditions as further defined in this SOW or the appraisal order.

5.1 FSA's Appraisal Requirements

In general, FSA has specific appraisal conditions and requirements for completing and reporting the market value of farm or ranch real estate and will be considered as part of the Appraisal Assignment. The specific conditions and requirements are described in this section.

5.1.1 Appraiser

The appraiser conducting the appraisal must have a current Certified General License (or equivalent permit) for the state in which the subject is located or can obtain a temporary license from the State where the Subject property is located. No other individual may provide assistance with the appraisal development process without prior written consent from FSA.

² MN uses the terms OO and APOC interchangeably as they have typically done similar duties.

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5.1.1.1 Notification Requirement of Individual Providing Assistance/Approval

If the appraiser will have an associate or assistant appraiser, who is registered with the State, providing assistance with the development of the appraisal assignment or will visit the subject property the appraiser must notify the APOC in writing to receive prior approval. Clerical support and normal information gathering is an exception for approval. The appraiser will provide FSA information as follows:

- Associate's name
- State license or registration number, if provided by the State
- Length of employment with vendor or explanation of association if not an employee
- If background investigation has been completed by the State. Provide the date that the background investigation information was provided to the State.

Note: Date of license or registration certification would meet this requirement with a statement that background information was submitted with application for license/registration.

An individual cannot provide any assistance with the development of the appraisal assignment without prior written approval by FSA. The APOC will respond in writing regarding FSA's consent.

If the State has not completed a background investigation, or the requirement of submitting fingerprints, and it is necessary for the individual to provide assistance with the development of the appraisal assignment, FSA may require their own background investigation. In this case, the APOC will provide additional information.

5.1.1.2 Access to Property

FSA requires the vendor to notify the property owner prior to accessing the property. The vendor shall provide the applicant or the FSA representative the opportunity to accompany the vendor on the property inspection. If the property owner is unavailable or considered uncooperative, the vendor may request assistance/guidance from the APOC to coordinate inspection of the property and/or to obtain assistance from an FSA representative.

The authorization to provide appraisal services is the engagement letter and if requested by the property owner, the vendor shall provide the engagement letter to the owner as justification to inspect the property and to obtain information necessary for the appraisal assignment.

5.1.2 Client and Intended User

Generally, FSA will be named as the Client and Intended User. FSA will advise the vendor if there are additional Intended Users and they will be listed after FSA. The additional intended user may not require the vendor to do more than FSA requirements would have otherwise done, unless directed by FSA. The FSA Borrower/Applicant should not be listed as an intended user. “Intended Users who are federally regulated financial institutions must comply with all applicable federal statutes and regulations related to real estate appraisals”.

5.1.3 Appraisal Process

The appraiser shall follow the real estate appraisal process and reporting standards of the USPAP in effect as of the effective date of the appraisal. The appraiser will need to consider the following requirements of the subject property in the appraisal process:

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5.1.4 Intended Use

The stated intended use of the appraisal may have specific requirements that must be considered. If the intended use is not identified in this section of the SOW then FSA has no additional requirements.

Loan servicing intended uses have additional and specific work requirements and are described in Exhibit 4.

5.1.5 Use of Subject Property as a Comparable Sale

FSA prohibits the use of the subject property's pending sale as a comparable unless prior written consent from the FSA has been obtained. If consent is not granted the Subject properties pending sale cannot be used as a comparable in any of the approaches to value.

5.1.6 Subject Sales History

At least a 3-year sales history of the property will be documented.

5.1.7 Legal and Physical Access to Subject Property

The legal access to the subject property parcel(s) will be considered. The appraiser cannot just assume that there is legal access to all parcels. The appraiser must determine that legal access is a reasonable assumption. If the appraiser cannot make a reasonable assumption of legal access or if there are any individual parcels that appear to be land locked and there is no recorded easement for ingress/egress or access from a publicly owned roadway, the appraiser will contact the APOC for further instructions.

The appraisal report will document in the section that describes the subject property the opinion regarding ingress/egress to all individual parcels. This is applicable for legal and also physical access. If a property has legal access, it may not necessarily have physical access.

The appraiser will document in the appraisal the information provided and the final decision by the APOC regarding any ingress/egress concerns. In this situation, any hypothetical conditions or extraordinary assumptions, as approved by FSA, will be documented as required by USPAP. The appraiser may not unilaterally apply an extraordinary assumption or hypothetical condition to "fix" legal or physical access without the written consent of the OO/APOC.

Estate rights should be consistent with subject and comparable sales.

5.1.8 Approaches to Value

All three approaches to value should be considered and used when necessary for credible assignment results. The report must explain why an excluded approach is not necessary for credible results. Each approach to value will be reconciled with the strengths and weaknesses. "Explained" is not a defined term in USPAP and therefore has no special meaning. A dictionary definition of explain is "to give the reason for or cause of." The USPAP requirement to include an explanation for the exclusion of an approach to value from the analysis is necessary to provide the client and other intended users with insight into the appraiser's decision as to why the analysis was not performed.

Consider the following approaches to value as part of the appraisal assignment. The strengths and weaknesses of each approach must be reconciled. Consider the whole versus the sum of the parts in the reconciliation process.

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5.1.8.1 Sales Comparison Approach

Typical Sales Comparison methodology is defined as “a set of procedures in which the appraiser derives a value by comparing the property being appraised to similar properties that have recently been sold and applying the appropriate units of comparison; identifying elements of comparison, and applying the quantitative or qualitative adjustment of each element of comparison to the sale prices of comparable sales”. Quantitative adjustments are the preferred measure of adjustment.

If the appraiser determines that a different method of analysis, beyond quantitative or qualitative, for the Sales Comparison approach would be appropriate, then the appraiser must obtain prior approval from an area Agency appraiser.

The appraisal report will include:

- Element of comparison - identified and explained
- Market data on each comparable sale used to develop land category ratios or similar methodology recognized by the industry, land values, and land and building adjustments
- The contributory value of all improvements and should be adequately described to include; fences, corrals, irrigation, drainage, tile drainage, ponds, farmstead site improvements, roads, timber, buildings, etc.
- The condition and utility of all improvements
- Where appropriate, the current land category ratio for the area with support and explanation
- A land mix grid or similar method recognized by the industry to support the land adjustments and an improvement mix grid for the building adjustments
- Adjustments and/or non-adjustments to the comparable sales will be fully explained, documented and supported within the appraisal report.
- Income based units of comparison do not qualify for this approach (GIM).

5.1.8.2 Cost Approach

The appraisal report must contain information on how the depreciation was extracted from the market data and used to determine contributory values for the subject property’s improvements. The cost Approach can be excluded for bare land as there are no improvements to depreciate. Provide support for land value and RCN within the appraisal report.

5.1.8.3 Income Approach

The analysis must clearly show calculations of the capitalization rates or discount rates of each comparable sale and the calculations on the subject property’s net income and value. A summary of the rates should include pertinent factors to illustrate the basis for the rate selection. Cash rent is the recommended approach. Crop share, and owner-operator may also be applicable, depending on the subject’s market.

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5.1.9 Hazards

Appraisers are asked to be alert to stored chemicals, hazardous wastes, underground storage tanks, etc., which may be found on the property being appraised and document these observations and/or concerns in the appraisal report. The appraiser will advise the APOC of any hazards that will impact value before proceeding any further in the appraisal process. Hazards that impact value will be adequately documented in the appraisal report.

Any **Underground Storage Tank (UST), Meth Lab, or other Hazard endangering your safety** will require the appraiser to **immediately** contact the APOC or Ordering Official (OO) for further direction. FSA will compensate you for the work that has already been completed if we are unable to continue.

Safety: During your viewing (inspection) of the subject property **obvious** safety issues that you see **must** be reported to the FLM / FLO that ordered the Appraisal report. Some **examples** of obvious safety issues would be:

Electrical

- Loose hanging electrical wires.
- Electrical wiring spliced but not in a wiring box.
- No covers on the main box, electrical outlets or switches.
- Bare wires.
- Knob and tube wiring where the wires have come off the insulators.

General

- Lack of railings and rails on decks or porches that are 2 ½ feet or more off the ground.
- Lack of railings on steps.
- No fire wall between garage and house extending to ceiling or roof sheathing.
- Broken steps.
- Holes in the floor.
- Holes in the ground.
- Lack of fire or carbon monoxide alarms.
- Lack of proper egress windows in bedrooms.
- Obvious unsafe heating and furnace situations.
- Obvious hazards that could endanger life or cause serious injury.

The intent is to look for obvious safety issues that may endanger life or property. For property purchases obtain the seller disclosure form and review it to assist you in screening for safety issues. An appraisal report is not a “property inspection” for code issues, etc. but **obvious** safety issues should be noted.

5.2 REPORTING REQUIREMENTS

Reporting requirement of information should be sufficient in detail to answer all important questions that the client or reader might pose as to the physical characteristics of the property. Vendor may use judgement in providing information in this section when the word, “should,” is stated. The report will include relevant information that supports a credible report, value, assumptions, conclusions and methodology.

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5.2.1 Legal Characteristics

Any impacts of legal characteristics shall be summarized such as; zoning, easements, contracts, entitlements, encumbrances, water rights, irrigation, wind rights/easements, partial interests, permits, etc. Legal characteristics should be supported from the market if value adjustments are required. Adequately “describe” (not state) zoning to include building eligibility, minimum lot size, and other pertinent factors when applicable for the market area.

5.2.2 Physical Characteristics

Physical characteristics shall be adequately described and discussed so the reader has a clear understanding of what they are and their impacts. These characteristics may include; access, soil characteristics, water features, view, topography, drainage, climate, configuration, site and structure improvements, permanent plantings, etc. Physical characteristics adjustments should be supported from the market if they affect the subject’s value. Land classification should be based on the market of the subject and sales. Address fixtures and personal property and ensure there is adequate justification for classification and valuation of personal property and fixtures.

5.2.3 Irrigation Equipment and Other Personal Property

Fixtures or personal property, as described by the Appraisal Order form, should be described in the appraisal report in detail with model and serial number as appropriate. The classification and the valuation of the personal property should be adequately justified. If the model and/or serial numbers are not available the appraisal should disclose this in the appraisal report and document the steps taken to obtain the model and serial numbers.

Any fixtures for the irrigation system should be included in the appraised value unless the fixture is considered to be personal property that are not part of FSA’s security and should not be appraised with the real property.

5.2.4 Economic Characteristics

Any impacts of economic characteristics shall be discussed such as; productivity, production and ownership costs, rents, gross and net income, etc. Economic characteristics should be supported from the market if value adjustments are required. Review and summarize production contract(s) for specialized agricultural facilities. Discuss the general market economics and/or the economics of the specialized agricultural facilities.

The market area and boundaries, demographics, community assets, market influences, economic, industry and market trends should be discussed as applicable for the subject.

5.2.5 Highest and Best Use

The appraiser shall distinguish between the Highest and Best Use (H&BU) of the property as if it were vacant and as currently improved. All four tenets of H&BU (legally permissible, physically possible, financially feasible and maximally productive) will be adequately discussed in the H&BU analysis. The report will clearly identify, explain, and justify conclusions for each use. Land and improvements must be valued with a “consistent use” concept. The H&BU determination will determine what appraisal reporting format is acceptable.

The appraiser will use the H&BU as the basis of the appraisal valuation process to determine market value.

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5.2.6 Approaches to Value

FSA regulations require that the appraisal will document the results when considering the three approaches to value, as determined to be applicable and necessary, except as provided in the scope of work as defined by USPAP.

5.2.7 Subject property

All structural improvements shall be inspected including the interior of major buildings. If physical inspection is not possible the vendor should contact the APOC. The report will document the following on the subject property:

- Identify the subject property with a legal description, tax identification number(s), street address or other applicable means.
- Include and review the legal description provided by FSA (APOC / OO). If a current legal description is not available (split, new construction) to appropriately describe property, then requirements in USPAP to adequately describe the property must be met. Description of the area should be provided by the Client if there is no legal description. A plat map that clearly identifies the property boundaries should be provided in the report.
- A GPS reference should be included.
- Improved properties **will** have a 911 street address
- Colored and labeled aerial photos of the subject property that identifies the cropland or other important physical characteristics
- Property plat or aerial map showing roads (public and private), field layout, building location, topography, present cropping use, etc. Major improvements should be labeled.
- Soils map, description and capabilities analyzed for the major soils groups. If unavailable please note.
- FSA Form-156EZ, (Abbreviated 156 Farm Record), if provided
- FSA Form-578, "Report of Acreage," if provided
- Clear and labeled color photographs of the significant improvements, land types, all permanent plantings, pumping stations, filter systems, effluent handling systems, timber resources, and other notable features.
- Improvements that have contributory value shall be measured and dimensions verified.
- If there is a dwelling(s), a legible sketch of the dwelling's room layout. Sketch should provide basis for determining structure size. May be hand drawn.
- New Construction documentation in the appraisal report shall include a copy of a blueprint, draft, and/or sketch, provided to the Appraiser. Summarize cost estimates for the project.
- Include information concerning leasehold interests.
- Discuss the domestic water source and the location of the source.
- FEMA Floodplain and Mudslide Hazard map with the subject property boundaries marked, location of dwelling(s) and major structures identified and provides the FEMA map number,

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zones identified and FEMA map date:

- with determination report (FEMA 81-93) if requested in work order or engagement letter
- if subject is within a flood plain
- if improved with structures

- Water Rights

See Exhibit 5 for information for reporting requirements on water rights.

- Minerals, Oil, Gas, Timber, Wind

Consideration of oil, gas, minerals, timber, wind, etc., and their possible influence on the value of the subject property and should be discussed in the appraisal report. The appraiser will contact the APOC for further guidance.

Minerals that are present and have market value, the vendor shall contact the APOC to receive further guidance. The Appraisal for Mineral Rights (FSA 2164) form may be used or other applicable method or technique that meets USPAP requirements.

- Market/Production Contract

If a market/production contract is in place or will be in place (for new construction) in which the value of the subject property is dependent upon the contract (i.e. poultry contract), then an analysis of the relationship of the contract to the subject's real property and how the contract impacts the value of the real property must be explained in the appraisal report, as well as how the market treats the contracts and the contract operations. A copy of the contract will be attached in the addenda of the report if in place or a letter of intent from the integrator. Similar sales with similar contracts should be used to value the subject. If producer / owner contracts are to be relied upon for value they must have the ability to be replicated in the market, so they must be similar to "fee simple" value. If they can't be replicated in the market (then they are leased fee or leasehold contracts) then market rates and standard contract terms should be used. If there are questions contact the Staff Appraiser.

5.2.8 Comparable Sales

Sales should be selected that have similar attributes of the subject and should be adequately analyzed. Provide an adequate sales base and sales analysis within the report so the reader can understand how the appraiser has supported each approach to value and opinion of value of the subject. The appraiser must provide a comparable sales card in the report with adequate description and analysis. An Assessor Sales Card could be provided as supplemental information but is not appraiser analysis. Bracket the sales to the subject, if unable to bracket the subject with sales, address the lack of a lower or upper end in the market. The minimum comparable sales data will be documented:

- Aerial photo with the property boundaries marked
- Site aerial or sketch with building labels, i.e. dairy, hogs, feedlot with multiple buildings
- Soils map with the property boundaries marked
- Soils Information. Provide information as to the soil symbol, soil name, if possible the estimated percentage of soil type, soil classes and if possible the estimated percentage of each class.
- Plat map that clearly identifies the location of the comparable sale within a section or provides an identifiable road to the location of the property. The aerial photo may be adequate.

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- Color photographs, labeled, that clearly illustrate the comparable sale's improvements, land, and other items of significance. Bare land photos with no discerning characteristics (flat and tillable) may be kept in the appraiser's work file and not provided in the appraisal report, however, will be provided upon request.
- Sale data information that is required, unless otherwise noted, will be provided on the sales data sheet for each comparable are:
 - sales/transfer date
 - buyer/seller, if not confidential
 - terms
 - sale price and any concessions
 - 911 street number and street name, if improved
 - legal or location (T-R-S and tax lot(s)), etc.
 - size
 - highest and best use and / or current use consistent with subject
 - motivating factors of the buyer, if possible
 - utilities, if appropriate
 - water resources associated with the property.
 - land categories with acres, \$/acre and land contributory values
 - zoning
 - farm ability factors
- listing of improvements with description, size, condition, utility, replacement cost new (RCN), effective age, remaining economic life, total depreciation, including physical, functional, and external and contributory value. If there are no improvements, then state as such
- income analysis, if applicable, that provides itemized income by description, unit, yield/production, price/rate and gross income. Itemize expenses, by description and cost amount, net income and cap rate. If income analysis isn't appropriate, then so state.
- Comments summarizing the sale, inspection and verification.

5.2.9 Location map

A map will clearly delineate the location of the subject and all comparable sales that were used in the appraisal report. Map will include labels to identify the subject and each comparable sale, roads and cities. More than one map may be used, if needed.

5.2.10 Summary of Salient Facts or Executive Summary

Summary of Salient Facts, Executive Summary or similar format shall be provided in the appraisal report that provides the minimum information. At a minimum the Summary **shall** contain the following information:

- Ownership

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- Location
- County, Borough or Parish
- Property Type
- Property Rights Appraised
- Size
- Improvements (listed)
- Zoning
- Highest and Best Use
- Special Assumptions
- Hazards
- Market Value Conclusion (beneath concluded market value provide Land Value and Contributory Value of Improvements)
- Inspection Date of the Subject Property
- Effective Date of the Appraisal
- Date of the Report
- Appraiser

5.2.11 Table of Contents

5.2.12 Legal description

Include and review the legal description provided by FSA (APOC / OO). If a current legal description is not available (split, new construction) to appropriately describe property, then requirements in USPAP to adequately describe the property must be met. Description of the area should be provided by the Client. A plat map that clearly identifies the property boundaries should be provided in the report.

5.2.13 Final market value

Stated as a whole dollar amount and, if the subject is improved or personal property is appraised, from the final value an allocated value will be stated for:

- Land
- Improvements, if applicable
- Equipment/Fixtures, if applicable
- Personal property, if applicable
- Timber/Mineral Rights/Other, if applicable.

5.2.14 Appraisal Order

A copy of the appraisal order will be provided in the addendum of the appraisal report.

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5.2.15 *Qualifications of the Appraiser*

Resume listing applicable appraisal education and experience must be included. FSA does not require a copy of the appraiser's license or E & O Insurance in the appraisal report.

5.3 **Personal Identifiable Information (PII)/FSA Program Information**

The vendor will comply with the intent of the Privacy Act of 1975 to protect the individual's privacy from unwarranted invasion, to make sure that personal information in their possession, if provided by the federal agency, is properly used, and will prevent any potential misuse of personal information in their possession.

The vendor is contractually bound by the same requirements of information confidentiality as are Government employees.

Reference to FSA applicant, producer or borrower's personal identifiable information other than name, address or is of public record shall be considered confidential and not disclosed in the report.

The following reporting restrictions only apply to FSA and information FSA has provided to the vendor.

Since FSA is the client, FSA may provide more specific information regarding FSA programs associated with subject or comparable sale properties such as agricultural use acres and cropland acres (Common Land Unit (CLU) acres), digital imagery, Conservation Reserve Program (CRP) contract acres, highly erodible land delineations and wetland classifications. Any information provided by FSA on CRP payments per contract, per acre basis or on Direct and Counter-Cycle Payment (DCP)/Average Crop Revenue Election (ACRE), Agriculture Risk Coverage (ARC), Price Loss Coverage (PLC) or related program commodity yield per acre basis is confidential and is protected in accordance with Uniform Standards of Professional Appraisal Practices (USPAP) confidentiality ethics rule and shall not be available to the general public. This information can only be retained in the appraiser's working file and to be identified as confidential.

However, if the owner provides written consent to share FSA program information and to allow such information to be shared in the appraisal report the vendor may report the information.

FSA program information may be reported only as Government payments, on total payment, total acres and in generic terms in the appraisal report. The appraisal report shall not contain reference to any specific FSA program, tract or farm identification.

In accordance with Section 1619 of the Food, Conservation and Energy Act of 2008, FSA is prohibited in the sharing of the geospatial data including the common land unit (CLU) information that is specific to a producer. The FSA CLU information will not be shared with contract appraiser unless the applicant/producer provides written consent that allows FSA to release the information.

The appraiser understands that FSA program information will only be used for the purposes for which the data was intended, namely only being used for the specific appraisal for which the information was requested, such data will not be used or shared in other appraisals and the data will be destroyed at the end of the work file retention period as defined by USPAP or State licensing board requirements.

The appraiser will comply with Section 1619 of the Food, Conservation and Energy Act of 2008, and is responsible to protect FSA program information as described by Section 1619. Section 1619 of the Food, Conservation and Energy Act of 2008 is Exhibit 2 of this SOW.

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5.4 Expert Witness/Testimony

5.4.1 Request for Expert Witness

If needed by FSA, the appraiser agrees to be an expert witness for FSA concerning the appraisal in an appeal hearing or in court. FSA will issue an engagement letter or work order for expert witness services providing the location, date and time the appraiser will be required to provide expert witness testimony and an estimated cost for such services.

5.4.2 Documentation of Services

The appraiser will be expected to maintain itemized documentation of prep work time, actual expert witness time, mileage and per diem that was incurred.

5.4.3 Fee

The appraiser will provide an hourly rate fee for expert testimony upon registration as the contract appraiser. Additionally, appraisers are encouraged to state an hourly rate for expert witness prep time. Typically, FSA expects the prep rate to be less than expert witness hourly rate.

The expert witness rate will cover the appraiser's time from the time of departing his/her office until the appraiser returns to his/her office. The hours will be rounded to the nearest one-quarter hour.

FSA will reimburse the appraiser for prep time necessary to prepare for the appeal hearing or court action. The prep hourly rate will be the rate indicated on the appraiser's FSA Vendor Appraiser Registration form. If no hourly rate is indicated for the prep time then the rate will be 50 percent of the expert testimony rate.

5.4.4 Per Diem

FSA will reimburse the appraiser for domestic per diem and personal car use, at the rate paid to FSA employees as published by the United States General Service Administration (GSA). Current Per Diem rates and reimbursement for personal automobile can be obtained from the web site:

<http://www.gsa.gov>

You will need to select URL reference: "[Per Diem Rates](#)," or select, "[POV Mileage Reimbursement Rates](#)."

There is a basic per diem for lodging and for meals and incidental expenses (M&IE) (subject to change without notice) unless otherwise stated for specified areas that have higher per diem rates. The appraiser should refer to the appropriate web site or contact the FSA office for this information. Per Diem is only authorized and paid if the appraiser is required by FSA to be away from their office area that exceeds 50 miles and for overnight. The maximum hours per day for reimbursement are eight hours if the appraiser is on per diem. The personal automobile reimbursement may be requested in all cases for expert witness travel needs.

5.4.5 Submitting Expert Witness Invoice

The appraiser must submit an itemized invoice to be paid. The invoice will itemize the time that was required for preparation for the expert witness with a brief explanation of prep work completed, the time involved for actual expert witness testimony, mileage incurred on a daily basis and any per diem requested. The invoice should be submitted in accordance with section 5.8, Invoicing.

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5.5 Timber and Timber Cruise

If FSA does not describe timber to be appraised in the appraisal assignment and timber exists, and the appraiser believes that the timber value is significant the vendor appraiser will contact the APOC for further guidance.

If the timber is to be valued, the timber cruise should be a variable plot timber cruise with a standard error of not to exceed (plus or minus) 10%. The value should be a market value of the timber, as is, based on either sales or mill price. If market sales are used, then the adjustments need to be shown and if mill prices are used, the deductions need to be shown in the cruise report. The APOC may provide further instructions regarding the valuation of the timber.

5.6 Use of / and Release of the Report

FSA's primary intended use of the appraisal will be stated in the appraisal order. However, FSA may use the appraisal in other loan making and servicing actions, as FSA needs to do in carrying out requirements in government regulations. FSA does have need from time to time to release a copy of the report to the applicant, borrower, their representatives, and to other parties under the different regulations that FSA conducts business. These other parties may include peer groups, such as an appraiser organization that the appraiser is a member of, or the State Appraiser Certification and Licensure Board (ACLB). Any request from outside the agency, other than the applicant or lender, will need consent by the Agency Chief Appraiser.

5.7 Acceptance Criteria

Delivery of the appraisal report will include a properly executed invoice. Invoice for payment will be processed when the appraisal is determined acceptable by FSA. An acceptable product will include:

1. Appraisal report must be delivered by the completion date stated on the appraisal work order (plus any extension of time granted by FSA)
2. Appraisal report is completed in accordance with current USPAP requirements and meets the work requirements of this SOW that are applicable and any other requirements for a specific property which will be found in the appraisal order for each appraisal order.
3. An administrative appraisal review or a technical appraisal review accepts the appraisal report by an FSA representative.

If the administrative appraisal review indicates that the appraisal report may not be acceptable, the FSA representative will request a technical appraisal review. If the Review Appraiser requires additional information to support the adjustments, explanation of the process, or SOW requirements that must be met, the invoice approval and payment of the appraisal fee will be held until the appraisal is found acceptable to FSA.

The request for additional information will provide a specific timeframe for the information to be delivered and the criteria for the updated material to be added to the appraisal report. Typically, the timeframe to update the appraisal would be not more than 7 calendar days or as specified by the request letter. If the appraiser determines that a completed appraisal report will need to be reissued the contract appraiser will need to have approval from an Agency appraiser.

The appraisal report must be delivered by the completion date stated on the appraisal order (plus any extension of time granted by FSA or requested by additional information by the review appraiser) in order for the contract terms to be met.

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5.8 Invoicing

5.8.1 Invoice Information

A properly executed invoice for payment should be submitted to the APOC as directed in the engagement letter or work order. The invoice will include the appraiser's name, address, invoice number, DUNS number, name of the applicant/borrower as identified in the engagement letter or work order, county / city name that the appraisal was completed in and the amount.

5.8.2 Invoice Approval

The invoice will be processed for payment when the appraisal is determined acceptable by FSA. If the appraisal is not acceptable the appraisal fee will be held until the appraisal is found acceptable to FSA.

5.8.3 Final Payment

Federal Acquisition Regulations provide the U.S. Government 10 business days from receipt date of the appraisal to determine if the appraisal is acceptable. The invoice will be processed for payment within 30 calendar days or less from the date the appraisal was accepted. The appraiser will be notified in writing if the appraisal is unacceptable and at the discretion of the Government will be requested to make changes to the appraisal report in order to meet FSA SOW requirements. An unacceptable appraisal will be considered as in default and at the discretion of the Government the micro purchase/purchase order may be terminated.

The USDA procurement procedures now require that ALL vendors be paid using Electronic Fund Transfer (EFT) system. The Debt Collection Improvement Act (DCIA) of 1996 requires that federal payments of invoices for goods and services received to be paid by EFT. Therefore, each vendor must be registered in the System for Award Management (SAM) system that is available at: www.sam.gov

The vendor will be required to update the SAM data annually. FSA cannot update a vendor's information in the SAM system. For guidance on updating the SAM system please see the help links on the SAM web site.

FSA will only be able to process the invoice when the appraisal is determined acceptable and the appraiser is properly registered in the SAM web site.

6. DELIVERY

Vendor is expected to deliver to the APOC an appraisal report that meets USPAP requirements by the accepted delivery date as stated in the Vendor's quote or authorized extension.

FSA has additional requirements related to appraisal report.

6.1 REPORT TYPE

Narrative appraisal reports are acceptable. However, form reports are acceptable and preferred as long as the report form is approved by FSA. For approval please contact the staff appraiser.

For general AG, farm, ranch, specialty, highly improved, CAFOs or bare land tracts the URAR **shall not** be acceptable. The Uniform Residential Appraisal Report (URAR) **may be** used for a Rural Residence with small acreage and / or Hobby Farms with limited outbuildings of 40 acres or less and the "Non-Farm SOW" will apply.

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6.2 REPORT CONTENT

The content of an Appraisal Report must be consistent with the intended use of the appraisal and, at a minimum follow USPAP. Restricted reports are not authorized.

In addition to USPAP real estate reporting requirements, FSA requests that the appraisal report includes the requirements as defined by section 5.2 (Reporting Requirements).

6.2.1 *Layout/Formatting*

The report must be in portrait layout with an 8 1/2" x 11" page size. Font size of text will be 11 or larger in upper and lower case. Photos, maps or diagrams should allow the user to clearly view the contents of the image including labels. The report will have a cover page, Table of Contents, and the body of the appraisal. All pages of the report will have page numbers. Transmittal letter and Summary of Salient Facts or Executive Summary should be included in the report.

6.2.2 *Reporting Requirements*

Reporting requirements are items as addressed in paragraph 5.2 (Reporting Requirements) of this SOW.

6.2.3 *Personal Property to be appraised*

All personal property or fixtures included in the appraised property will be listed and described in the report with the legal description. This personal property must be identified with serial number, make, model, size, etc.

6.3 REPORT FORMAT

6.3.1 *Electronic Copy of Appraisal Report*

An electronic copy of the appraisal report is the preferred format. If the appraiser is unable to provide a PDF version of the appraisal report the appraiser may provide two hard copies of the appraisal report. The electronic copy will be acceptable to FSA if:

- Received via e-mail to the APOC's e-mail address or other e-mail address identified in the appraisal order, as well as to the Ordering Official's (OO) e-mail address.
- Electronic format allowed is Acrobat Adobe or PDF format. If vendor does not have software available to create a PDF format document the vendor should contact the APOC for approval to use other software application.

The PDF file must contain the complete appraisal report, the transmittal letter, signature of the appraiser must be contained within the report as required on all appropriate pages, i.e. certification, final value page, etc., and all pages are formatted appropriately with sequential page numbers.

- Size of the file may not exceed 20 Gigabyte (GB). If the appraisal report file is larger than 20 GB, the appraiser will need to contact the APOC to make other arrangements to deliver the electronic file to FSA by the delivery date.
- Send a follow up e-mail to the APOC identified in the engagement letter that the electronic report was transmitted via e-mail providing recipient, date, subject line and time of transmittal.
- Hardcopy report may be provided per section 6.3.2, if electronic report option is not used

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6.3.2 Hard Copy Report

Upon approval by the APOC, the vendor may provide a printed appraisal report to FSA in lieu of a digital copy. Two (2) copies of the appraisal report are to be delivered to FSA unless otherwise stated in the engagement letter. At a minimum one copy must be the original report with color photographs, etc., One (1) copy can be black and white. The original report must be delivered to the Ordering Official. The second original report may be delivered to the APOC, as stated in the engagement letter. The report shall not be bound.

7. PLACE OF PERFORMANCE

Typically, the location of the appraisal assignment may be any location as further described by the appraisal order.

Appraisers that request to be added to FSA appraiser vendor register must demonstrate with one appraisal each of bare land property and improved property that meets FSA SOW, USPAP requirements and is delivered by the due date. The appraiser may contact the agency point of contact for further information as provided by Exhibit 3. Vendor currently on the registry are assumed to have already met a similar requirement and will not be required to provide reports, and the regular technical review schedule will apply.

When the appraiser has been added to FSA's appraiser vendor register the appraiser will be notified in writing. The performance period for appraisal services is indefinite unless FSA informs the vendor that they are no longer on the registry or the vendor requests to no longer provide appraisal services to FSA. A request to no longer provide appraisal services to FSA will be in writing.

An appraiser will be maintained on the FSA's vendor appraiser registry as long as the individual:

1. Has a current license with the State's Appraiser Certification and Licensure Board (ACLB) where the subject property is located.
2. Delivers all appraisal reports by the delivery date described by FSA appraisal order unless an extension is provided by FSA in writing
3. Attends FSA Vendor Appraiser meetings when requested by FSA
4. Completes and signs the Vendor Appraiser Registration form when requested by FSA
5. Appraisal reports continue to meet USPAP and FSA SOW requirements.

If FSA removes an appraiser from the list, the appraiser will receive written notification.

Typically, at the end of each fiscal year each appraiser will be given the opportunity to update their appraisal services with FSA by completing a Vendor Appraiser Registration form.

8. LATE DELIVERY PENALTY FEE OR CANCELATION OF ASSIGNMENT/CONTRACT

Communication with FSA regarding timely delivery of appraisal report is important. If the vendor is unable to deliver the appraisal report by the due date the vendor should request an extension in writing prior to the delivery date.

Liquidating damages will not be assessed if the vendor has received written authorization from the APOC or the CO for an extension.

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If the vendor does not deliver the appraisal report or an electronic version by the authorized due date, the contract is in default and FSA may cancel the purchase/purchase order with notice to the vendor or assess a liquidated damages fee.

If the Vendor fails to perform the services, within the time specified in the appraisal order or extension authorized by the CO or APOC, following proper notification the Vendor shall, in the place of actual damages, pay to the Government liquidated damages of 3 % **of the accepted quote amount per calendar day** from the date of notification for failure to deliver the appraisal report.

Liquidated damage percentage will not exceed 25 % of the accepted quote amount if delivered within 10 calendar days of the date notification. Liquidated damage fees will continue to be accessed at the stated percentage and 30 calendar days beyond the date of notification the appraisal order will be terminated with no payment. The vendor will be notified in writing if appraisal order is terminated.

The appraisal report shall be delivered to the Ordering Official and the APOC as described in the appraisal engagement letter or work order. A request for an extension must include the reason for the extension and the timeframe that the appraisal report will be delivered and can be submitted via e-mail. The request for an extension should be sent to the APOC or the CO if a purchase order was issued as described in the appraisal order letter.

All written authorizations and delinquency requests will be an e-mail response.

The Vendor is aware that failure to deliver appraisal reports twice during a fiscal year, October through September period, within agreed upon timeframe could result in FSA no longer requesting appraisal services from the vendor.

For other non-performance issues the vendor will be notified in writing and the issue will be referred to the Contracting Officer.

9. EXCEPTIONS

Any exceptions to the appraisal requirements in this SOW, may be made on a specific appraisal assignment by the APOC, in consultation with an Agency appraiser. Exceptions may be granted if warranted and justifiable. Exceptions are to be made in writing, detailing the reasons the exception is being requested. The APOC may grant or deny the request and will reply in writing. The exception authority is only to be used on rare occasions and when deemed necessary by the Agency.

10. EXHIBITS

Exhibits that are included with the SOW are categorized into two groups; general or specific work requirements. General exhibits provide more specific information related to the SOW. Work requirement exhibits specifically address additional work requirements that may be specific to the state, region or specialized real estate as defined by the exhibit.

Vendor acknowledges that exhibits may be added to this SOW and that the vendor accepts the new or modified exhibit by acceptance of the assignment. An exhibit may be provided to the vendor through the appraisal order and does not require the vendor to accept a new SOW with the modified exhibit. Vendor should direct their questions regarding added exhibits or modified exhibits received with appraisal order to the APOC or Agency Appraiser as noted in the appraisal order.

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10.1 General Exhibits

10.1.1 Exhibit 1, "Market Value Definition"

10.1.2 Exhibit 2, "Section 1619 of the Food, Conservation and Energy Act of 2008"

10.1.3 Exhibit 3, "Agency Statement of Work Contact Information"

10.2 Specific Work Requirement or Reporting Exhibits

10.2.1 Exhibit 4, "Loan Servicing Work Requirement"

10.2.2 Exhibit 5, "Subject Property or Comparable Sale Water Right Reporting Requirements"

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11. ACCEPTANCE

FSA may at times update the SOW with minor changes. Vendor will be notified of the changes via e-mail providing a summary of changes that have occurred, date of change, version number. Vendor's signature will remain and the previous SOW signature page will be added to the revised SOW. In this situation, a vendor may request or provide a new SOW acceptance with a signature.

If FSA makes major changes to work or reporting requirements, late delivery penalty fee, acceptance or delivery requirements within this SOW, FSA will notify the vendor via e-mail and request the vendor to sign a new SOW. The vendor will be required to return a copy of the complete SOW with a signed signature page to the APOC. Digital signatures on a locked (secured) Portable Document Format (PDF) document are acceptable and may be transmitted to FSA to APOC via e-mail.

Failure to return a signed SOW and/or vendor registration form upon request by FSA may result in vendor to be removed from the vendor registry.

The Vendor has reviewed, understands and agrees to the term and requirements of the SOW.

Approved by:

Signature

Date

Print Name

Address

City, State and Zip Code

Phone Number

e-mail Address

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EXHIBIT 1

12. Exhibit 1

12.1 Market Value Definition

Source: 12 CFR 34.42 (g)

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- (1) Buyer and seller are typically motivated;
- (2) Both parties are well informed or well advised, and acting in what they consider their own best interests;
- (3) A reasonable time is allowed for exposure in the open market;
- (4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- (5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

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EXHIBIT 2

13. Exhibit 2

13.1 Section 1619 of the Food, Conservation and Energy Act of 2008

SEC. 1619. INFORMATION GATHERING.

(a) GEOSPATIAL SYSTEMS.—The Secretary shall ensure that all the geospatial data of the agencies of the Department of Agriculture are portable and standardized.

(b) LIMITATION ON DISCLOSURES.—

(1) **DEFINITION OF AGRICULTURAL OPERATION**.—In this subsection, the term “agricultural operation” includes the production and marketing of agricultural commodities and livestock.

(2) **PROHIBITION**.—Except as provided in paragraphs (3) and (4), the Secretary, any officer or employee of the Department of Agriculture, or any contractor or cooperator of the Department, shall not disclose—

(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department; or

(B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.

(3) AUTHORIZED DISCLOSURES.—

(A) **LIMITED RELEASE OF INFORMATION**.—If the Secretary determines that the information described in paragraph (2) will not be subsequently disclosed except in accordance with paragraph (4), the Secretary may release or disclose the information to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in any Department program—

(i) when providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices; or

(ii) when responding to a disease or pest threat to agricultural operations, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist the Secretary in responding to the disease or pest threat as authorized by law.

(4) **EXCEPTIONS**.—Nothing in this subsection affects—

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EXHIBIT 2

(A) the disclosure of payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law;

(B) the disclosure of information described in paragraph (2) if the information has been transformed into a statistical or aggregate form without naming any—

(i) individual owner, operator, or producer; or

(ii) specific data gathering site; or

(C) the disclosure of information described in paragraph (2) pursuant to the consent of the agricultural producer or owner of agricultural land.

(5) **CONDITION OF OTHER PROGRAMS.**—The participation of the agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the

Secretary may not be conditioned on the consent of the agricultural producer or owner of agricultural land under paragraph 4(c).

(6) **WAIVER OF PRIVILEGE OR PROTECTION.**—The disclosure of information under paragraph (2) shall not constitute a waiver of any applicable privilege or protection under Federal law, including trade secret protection.

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EXHIBIT 3

14. Exhibit 3

14.1 Agency Statement of Work Contact Information

The following FSA employee(s) are the authorized agency official that is the APOC to assist the vendor on acquisition processes, the SOW terms and requirements.

MN has each Ordering Official (OO) also designated as an Agency Point of Contact (APOC). For MN the terms are interchangeable. Each FLP team will have one or more OOs and APOC.

In addition the MN Staff Appraiser can also assist with and provide information to an appraiser that would like to be added to the FSA Appraiser Vendor registry or has work requirements or technical questions.

NOTE: Agency Point of Contact (APOC) may be described in the engagement letter or work order. Please check engagement letter or work order for the appropriate APOC contact

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EXHIBIT 4

15. Exhibit 4

15.1 Loan Servicing Work Requirements

The specific work requirements for intended use described by the appraisal order are as follows:

15.1.1 Servicing for Shared Appreciation Agreement Recapture

When the engagement letter or work order describes the intended use of the appraisal to determine the amount of shared appreciation recapture FSA has special requirements. These requirements are:

- Property to be Appraised
Typically, the property to be appraised will be the same property as described by the original appraisal report(s) that was completed for the Shared Appreciation Agreement, unless otherwise stated in the engagement letter or work order.
- Inspection Timeframe and Comparable Sales
The inspection of the property should occur within 21 days from the delivery date with the comparable sales selected within 3 years from the inspection date.
- Delivery Date
There will be no extensions to the delivery due date of the appraisal report as stated in the Appraisal Order form. The appraisal report will be used to determine the amount of the shared appreciation recapture.
FSA is mandated by federal law to provide information to the borrower regarding the amount of recapture that is due within certain timeframes.
- Additional Capital Improvements
During the inspection of the real estate property, if you become aware of additional capital improvements that were not described by the appraisal report(s) prepared for the original shared appreciation agreement, provided to you upon notification of the appraisal assignment, you should notify the APOC. All capital improvements will be appraised as “as is” at the time of the inspection.
Additionally, prior to completing this appraisal, you should contact the FSA County Office listed in the engagement letter or work order and review the list of capital improvements, if provided, or any other additional capital improvement with the FSA Farm Loan Manager (FLM). FLM will advise how to report the value of the additional capital improvements.

15.1.2 Loan servicing for partial release of real estate

When the appraisal order describes the intended use of the appraisal is for a loan servicing partial release FSA has special requirements. These requirements are:

- Property to be Appraised

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EXHIBIT 4

Typically, the property to be appraised will be the property that is identified as the parcel to be released and the parcel that is to remain unless otherwise stated in the engagement letter or work order.

- Reporting Requirements

A value for the property to be released and a value for the property to remain (if requested by client) will need to be determined. The value for each of these property types will be stated in the final opinion of value section of the appraisal report. Additionally, each property type (parcel to be released and the parcel that will remain) will be fully described in the appraisal report with supporting documentation of opinions, conclusions and analysis. It is at the discretion of the appraiser based on the scope of work if a separate appraisal report is necessary for each property type.

15.1.3 Foreclosure Action

When the appraisal order describes that the intended use is for loan servicing foreclosure action FSA has special requirements. These requirements are:

- **The final opinion of value will provide the following:**

Total value of the property (including land, irrigation equipment and improvements). An allocation of value that will provide a value for each of the type of irrigation equipment (i.e. center pivots, wheel lines, etc.) or personal property as requested in the appraisal order and a value of just the “dirt” or land value with improvements, if applicable.

The appraiser must apply the assumption that certain covenants and restrictions may be applied to the property at the time the property is sold which may impact the value of the property. The appraiser should consider the covenants and restrictions as hypothetical conditions. If the appraisal order and documents so request such consideration or the appraiser identifies that any portion of the Government inventory property is located in a 100 year flood plain and the purpose of the appraisal is for loan making action, the appraiser must take into consideration covenants and restrictions as described by the “Conservation Easement Reservations in the United States” as provided with the engagement letter and/or work order and consider how the covenants and restrictions will affect the market value.

Further, any recorded easement must be included in the addenda with discussion of the terms of the easement in the appraisal report. If the easement is proposed, an extensive discussion on how the easement impacts the value must be included in the report.

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EXHIBIT 5

16. Exhibit 5

16.1 Subject Property or Comparable Sale Reporting Requirements

16.1.1 Water Rights

If there are water rights associated with the property the appraisal will discuss water rights under a separate subsection under the description of the property. The water rights section will identify the following as applicable:

- Number of acres of the water right as primary and supplementary
- Permit number
- Certificate number
- Priority date
- Source of water and location of all points of diversion for each permit or certificate
- Water availability, reliability and quality; any detrimental aspects such as salt, nitrates, etc.
- Delivery system; type, location, source of power, etc.
- Assessments or delivery costs (i.e. estimated electrical cost, district assessments, etc.)
- Provide a map documenting water right area, points of diversion with the property boundary illustrated
- Documentation of the Certificate of Water Right or Permit, Well Record or Log, Final Proof of Survey and any assessments.