

Chapter 1

Fee Personnel

Overview

Introduction This chapter contains information about the Department of Veterans Affairs (VA's) use of fee appraisers, fee compliance inspectors and other technical fee personnel.

In this Chapter This chapter contains the following topics.

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1.01 Fee Panels and Fee Personnel

Fee Panels Each VA office will appoint and maintain a panel of fee appraisers and a panel of fee compliance inspectors to conduct appraisals and inspections for VA Loan Guaranty program purposes.

The same individual may be appointed to both fee panels, if qualified.

Each fee panel will contain enough members to accommodate all appraisal and inspection requests expeditiously. A qualified list of appraisers and compliance inspectors must be maintained through such recruitment sources as newspaper advertisements, local appraisal organizations, state appraisal license and/or certification rosters, etc.

Qualified VA staff may perform appraisals and inspections for VA loan guaranty purposes, if necessary, in the absence of qualified fee personnel.

Fee Personnel Are Not VA Employees Fee personnel are independent business people. As such, they are responsible for the quality of their work.

As independent business people, VA fee personnel are primarily responsible for the billing and collecting of appraisal/inspection fees. C&V staff at the local Regional Loan Center (RLC) will provide assistance for those overdue billings when requested with documented past collection attempts.

Although fee personnel are not VA employees, they must be given due process prior to any VA administrative action being taken against them unless he/she is still within the 1 year probationary period on the panel, during which he/she can be removed at the discretion of the VA office Director.

Reference: See Section 6.08, VA Administrative Sanctions Against Program Participants.

Information Sharing VA offices will provide a copy of their list of fee panel members to the Department of Housing and Urban Development or Rural Housing Service, upon request.

1.02 Fee Panel Qualification Requirements

List of Requirements

An appraiser or inspector must meet all of the following qualification requirements prior to appointment to a VA fee panel:

- At least *5 years of experience* (in the type of work that would qualify the applicant to competently perform the required duties in the area(s) where the applicant wishes to work) for appraisers, and 3 years experience for inspectors.
- Appraisers must be currently licensed or certified by the State.
- Inspectors must meet local or State licensing or certification requirements, if any.
- *Good character* (no indication of any cause for embarrassment or adverse publicity for VA).
- *Not currently employed by the Federal Government or a quasi-governmental organization* (such as Fannie Mae, Freddie Mac, Postal Service, etc.). May be a local or State government employee if no conflict of interest (or the appearance of a conflict of interest) with VA assignments.
- *No other conflict of interest* between current employment or other position or private pursuits and VA assignments.

Reference: See Section 1.04 Conflicts of Interest

Continued on next page

1.02 Fee Panel Qualification Requirements, Continued

List of Requirements (continued)

- With regard to *VA testing*:
 1. Appraisers must provide a satisfactory demonstration appraisal (on the Uniform Residential Appraisal Report form) to include a certification that no assistance was received in completing the report. Note: Appraisers should be able to electronically transmit their demonstration appraisal as a Portable Document Format (PDF) file via e-mail (e-commerce).

 2. Compliance inspectors must provide a satisfactory demonstration inspection (on VA Form 26-1839, Compliance Inspection Report) and pass a written test that measures the applicant's knowledge of construction techniques and terminology.

- **Note:** VA offices will furnish appropriate information and instructions prior to testing. Appraisers will be advised if electronically transmitted e-mail appraisals as PDF files are required and if required, specific e-mail submission instructions will be given.

VA offices will use the Credit Alert Interactive Voice Response System (CAIVRS) to screen each applicant for delinquent Federal debts. *Satisfactory arrangements must be made to repay any delinquent debt to the Federal Government.*

1.03 Fee Panel Appointment Process

Fee Panel Application

An applicant must complete and submit the following to the VA office of jurisdiction over the area in which he/she wishes to work:

- VA Form 26-6681, Application for Fee Personnel Designation, and
- Letters of reference:
 - Appraisers: Three letters required, at least 2 of which must be from licensed or certified appraisers attesting to the applicant's qualifications using references listed on the application. (38 USC 3731(a)(1))
 - Inspectors: Submit 3 letters attesting to the applicant's qualifications as an inspector using the references listed on the application.

Initial VA Processing of Application

Upon receipt of an application, the VA office will initially notify the applicant acknowledging its receipt within 5 working days. The VA office will review the application in a timely manner, and then notify the applicant by letter. The letter will either state that the applicant:

- Does not meet a basic qualification requirement (e.g., experience, licensing/certification, conflict of interest) and name the specific requirement(s), or
- Meets the basic requirements and is being considered, along with other eligible applicants. This letter may also initiate testing, request the applicant's Social Security Account Number (if not already provided) for CAIVRS screening, or request or provide other information.

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1.03 Fee Panel Appointment Process, Continued

VA Selection of Fee Panel Members

Every VA office will have a Fee Panel Committee consisting of:

- Loan Guaranty Officer (Committee Chairperson),
- Assistant Loan Guaranty Officer (or other qualified employee designated by the Loan Guaranty Officer), and
- Valuation Officer (VO) or other qualified employee designated by the VO.

When a VA office determines a need for an additional fee person in an area, the Fee Panel Committee will:

- Review the pending applications,
- Determine who is best qualified, and
- Make a recommendation to the Director.

Note: Valuation Officer must include documentation in the personnel file of each selected applicant confirming the required experience and training of the selected candidate meets all requirements for the position to which they are being appointed.

VA Notice of Fee Panel Selection

The VA letter to the individual selected for the fee panel will:

- Welcome him/her to the fee panel,
- Remind him/her of the responsibilities regarding quality of work and demeanor when representing the agency,
- State that the first year on the panel is a probationary period, during which he/she can be removed at the discretion of the VA office Director.
- Include a “training kit” of reference material regarding applicable VA requirements (e.g., VA Lender’s Handbook Chapters 10 through 17 and locally developed training material) and a list of frequently encountered errors for appraisers and/or inspectors, and
- Be signed by the VA office Director.

VA offices *may* require fee personnel to use VA Form 26-8709, Identification Card For Loan Guaranty Fee Personnel. A photograph of the fee person can be laminated in the area designated as “Fee Personnel”.

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1.03 Fee Panel Appointment Process, Continued

VA Work Measurement Direct VA labor hours spent processing fee panel applications may be reported as “Other Measured Hours” for work measurement purposes.

1.04 Conflicts of Interest

Conflicts of Interest Prohibited

The Federal Government or a quasi-governmental organization (such as Fannie Mae, Freddie Mac, Postal Service, etc.) must not currently employ VA fee personnel. The fee panel member may be a local or State government employee if no conflict of interest (or the appearance of a conflict of interest) with VA assignments.

VA fee personnel must not engage in any private pursuit that could result in either:

- Conflict between the fee person's private interests and his/her VA fee panel responsibilities,
- Bias of his/her judgment as a VA fee panel member, or
- Use of information obtained through a VA assignment to the detriment of the Government or veterans.

VA fee appraisers who are also staff appraisers for Department of Housing and Urban Development (HUD) Direct Endorsement (DE) lenders must:

- Disclose that fact to VA and
- Not accept VA assignments on properties in which their employer has an interest.

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1.04 Conflicts of Interest, Continued

VA Oversight

If there is an indication that a fee panel member's private pursuits/interests conflict with VA requirements:

- He/she will be promptly notified, and
- VA will immediately take appropriate action (e.g., withdrawal of pending assignments and/or withholding of further assignments) pending outcome of an investigation.

When appropriate, VA will administratively sanction the fee person.

References:

- Section 6.08
 - Chapter 17 of the Lender's Handbook
-

1.05 Exemption from E-Appraisal

Justification An exemption from the requirement that VA fee appraisers submit their appraisal reports via E-Appraisal may be granted in the following situations:

- The appraiser is assigned a geographic area that generates few requests for VA appraisals (typically 1 or 2 a month) and
- There is a lack of qualified appraisers in the area and it is in the best interest of VA to retain the appraiser and
- The appraiser requests an exemption based on hardship and it is in the best interest of VA to retain the appraiser.

Distribution by Overnight Mail If exemption from E-Appraisal is granted, the appraiser must send the appraisal by overnight mail delivery to:

- VA (Individual/IND or Liquidation/LGI cases).
- Lender Appraisal Processing Program (LAPP) lenders (LAPP cases).
- Requesters for liquidation appraisals with Portfolio Loan/LPL prefix.
- Requesters for liquidation appraisals with the annotation Servicer Loss Mitigation Program or “SLMP”, that requests E-Commerce submission.

Note: In LAPP, LPL, or SLMP cases, a copy of the appraisal must be mailed to the VA. In these cases, regular mail may be used.

Reference: VA Lender’s Handbook, VA Pamphlet 26-7, Sections 10.04 and 11.05

1.06 Fee Personnel/Performance Files

File Contents VA offices will maintain a personnel/performance file for each fee panel member in FileNet.

The file will contain:

- The application to the fee panel.
- All correspondence or other documentation concerning appointment to the fee panel (including, but not limited to tests, reference letters, etc.).
- Evidence of current license or certification (electronically or otherwise) and evidence of inclusion in the (The Appraisal Subcommittee of the Federal Financial Institutions Examination Council) ASC National Registry. The registry can be found at www.asc.gov,
- Detailed documentation regarding work assignments, including copies of letters, records of telephone conversations and personal contacts, etc., regarding the quality and timeliness of the fee member's performance, and
- Correspondence or documentation concerning any temporary or permanent removal from the fee panel for any reason.

Note: All pertinent documentation regarding work assignments and disciplinary actions should be retained in the file.

1.07 VA Use of Other Technical Fee Personnel

Who May Be Used

VA offices may use engineers, architects, or other technical experts as needed on a contractual fee basis.

Other Technical Fee Personnel Are Not VA Employees

All fee personnel are independent business people, not VA employees. As such, they are responsible for the quality of their work.

Payment Considerations

Contracts with fee personnel must be written to:

- Avoid any provision that would tend to establish an employee-employer relationship, and
- Provide for payment per job, as opposed to a per diem rate.

Contract costs must be paid by the *builder* if the need for the service is attributable to acts or failures for which the builder is responsible (e.g., inadequate engineering data, etc.).

Contract costs can be paid by VA if the facts in the case indicate that the need for the service is either:

- Essential to fulfill VA responsibilities,
- The consequence of actions or omissions of VA staff, or
- Otherwise in VA's interest.

When contract costs are paid by VA:

- Payment must be made from VA funds allotted for miscellaneous contractual services, and
- Funds must be formally obligated prior to authorization to proceed with the assignment.

Contract costs can be paid by *both VA and the builder* if the need for the service is properly allocable to both VA and the builder. In this situation, VA will make the decision regarding distribution of the costs based on the facts in the case.

1.08 Fee Personnel Training

Quality Assurance

To ensure that appraisal and compliance inspection reports continue to meet VA expectations, communication between the fee personnel and VA is essential.

VA staff must hold and document annual meetings with fee appraisers and compliance inspectors. These meetings ideally would be conducted in an open forum where information and ideas may be freely exchanged. However, where not practicable, private meetings may be conducted. During these meetings VA staff should:

Provide training on any changes in the appraisal/inspection requirements or program requirements.

- Furnish updated training manuals/materials.
- Discuss timeliness requirements and customer service initiatives.
- Answer any questions the appraiser/compliance inspector may have, and
- Consider any suggestions made by the appraisers and compliance inspectors.

Additional meetings may be appropriate depending on circumstances. Lack of travel funds should not be considered an acceptable reason for not holding such meetings. Alternative meeting methods may be considered; i.e., video conferences, online video meetings etc.

Chapter 2

Property Eligibility and Appraisal Requests

Overview

Introduction This chapter provides administrative details to supplement the policies and procedures in Chapter 10 of the Lender's Handbook.

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2.01 Assignment of Fee Appraisers and Compliance Inspectors

**No Favoritism
or
Discrimination**

There will be no favoritism or discrimination in the making of assignments. The Appraisal System (TAS) will be maintained to track the number of assignments given to each fee appraiser and compliance inspector.

**Rotational
Assignments**

All fee appraisers and inspectors are to be assigned on a rotational basis from a panel of the Department of Veterans Affairs (VA) approved appraisers and compliance inspectors.

Exception: Fee compliance inspectors may be assigned out of rotation if there is sufficient cause documented in TAS by Management.

System duplicate assignment reports must be reviewed on a weekly basis, at a minimum, to avoid allowing circumvention of this requirement.

Re-assignments between fee personnel must be performed in TAS. System reassignment reports must be reviewed on a monthly basis, at a minimum, to ensure the reason(s) for reassignment have been adequately explained/documented.

Reference: 38 U.S.C. 3731(b)(1) for fee appraisers.

2.02 Builder Files

Establish and Maintain Builder Files

VA will establish and maintain a file for every builder (in FileNet) who participates in the Loan Guaranty program. This includes builders who only request “new construction” appraisals or construct foundations for manufactured homes.

Each builder's file will contain documentation that is required by Section 10.07 of the Lender’s Handbook, and concerns the builder’s performance (including any evidence of past construction complaint activity.)

VA Oversight

The Condominium/Planned Unit Development/Builder System (CPB) will be maintained and used to cross-reference principals within a builder’s organization.

Builder files for builders involved with recent construction complaints should be reviewed on a regular basis to evaluate their construction complaint history, and to determine if any actions are needed to help avoid future complaints.

2.03 Other Reference and Data Files

File Requirements

Unless the information is readily accessible via the Internet or elsewhere, each VA office will maintain up-to-date:

- Airport files for each major civilian and military airport within its jurisdiction.
- List of sites rejected due to geological hazards.
- Data on areas of geological instability within its jurisdiction. For instance:
 - Maps and other information published by the U.S. Geological Survey and U.S. Corps of Engineers, and
 - Soils maps and other information generally published by the Department of Agriculture for the State.

Note: Unstable areas will be delineated on the maps.

2.04 Liquidation Appraisal Requests

**Untimely
Requests by
Holders**

The provisions of 38 CFR 36.4319(f) or 36.4282(f) regarding legal proceedings, as they relate to foreclosure and repossession, may be applied if loan holders continue to fail to request liquidation appraisals in a timely fashion after being counseled by VA. Loan Administration Officers will be consulted in such cases.

**Requests by
Loan
Management**

Loan Management requests for an appraisal in conjunction with liquidation action on a *vendee* loan will be made via The Appraisal System (TAS).

2.05 Requests for “Exception” Processing of New Construction

Benefits of “Exception” Processing

When used as intended, "exception" processing for new construction cases has two benefits:

- Helps recruit new builders into the Loan Guaranty program, and
- Allows veterans to purchase a new home of their choice that would not otherwise be eligible for VA financing.

Reference: For details, see “Exception” under “Construction Warranty” in Section 10.08 of the Lender’s Handbook.

VA Oversight

VA offices will track the use of “exception” processing to help ensure that it is used only for its intended purpose and not to avoid normal VA processing requirements. *Builders are still required to have a valid VA identification number when taking advantage of exception processing and must comply with all applicable VA New Construction requirements other than VA 1-yr. builder/10-yr. Warranty requirements.*

2.06 Veteran Built Homes (Exceptions)

Veteran Built Homes

A dwelling unit constructed by an individual veteran for his or her own occupancy is eligible for VA loan guaranty and exempt from proposed construction VA Minimum Property Requirements. Whether the veteran physically constructed the dwelling or acted as his/her own general contractor, the unit is eligible for VA loan guaranty and exempt from proposed construction VA Minimum Property Requirements. The veteran need not be a licensed building contractor to act as their own general contractor. Also ref. VA Lenders Handbook, Chapter 10, Section 10.05, New Construction.

2.07 Maximum Allowable Appraisal and Inspection Fees

VA Oversight of Fees

VA is responsible for protecting veterans against excessive charges for appraisals and inspections made for VA Loan Guaranty program purposes.

Each VA office, with concurrence by VA Central Office, will establish maximum allowable fees for VA appraisals as well as repair inspections and compliance inspections made in its jurisdiction. Stations must ensure that the fees charged do not exceed that which is customary for other similar services in the area where the property is located.

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2.07 Maximum Allowable Appraisal and Inspection,

Continued

Changes in Maximum Allowable Fees

Any change in the Regional Loan Center's (RLC's) current maximum allowable fees must be:

- Adequately justified and documented in terms of the fees being charged for similar appraisals and inspections made for conventional loan purposes, and
- Approved by Central Office (26).

Requests for Central Office approval must:

- Be in writing from the VA office Director, and
- Include detailed documentation regarding contact with at least three of the largest lenders in the VA office's jurisdiction, indicating what they pay for similar conventional appraisals in major markets across the jurisdiction.

Note:

- Any additional justification for the increase, such as timely articles, published studies, etc., should also be included.
- For properties with two to four living units, do not consider conventional appraisals that require the use of Fannie Mae Form 216, Operating Income Statement, to be comparable to VA appraisals. VA only requires the use of Fannie Mae Form 1025, Small Residential Income Property Appraisal Report.

Chapter 3

Appraisal Requirements and Value Notices

Overview

Introduction This chapter provides administrative details to supplement the policies and procedures in Chapters 11 and 13 of the Lender's Handbook.

In this Chapter This chapter contains the following topics.

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3.01 Basis for VA Value Determinations

Statutory Requirements The basic statutory requirements regarding VA value determinations are found in 38 U.S.C. 3731.

Regulatory Requirements The basic regulatory requirements regarding VA value determinations are found in 38 CFR 36.4336(a)(2) and 38 CFR 36.4344.

Policies and Procedures VA policies and procedures regarding VA value determinations are found in VA Pamphlet 26-7 (Lender's Handbook) and in this manual.

3.02 Reference Material

Real Estate Market Data VA staff will maintain and use real estate sales data for comparative purposes to help ensure that properties are properly valued.

Cost System(s) The Marshall and Swift commercial cost system is recommended when the cost approach to value is applicable for site-built construction. The National Automobile Dealers Association (N.A.D.A.) Manufactured Housing Appraisal Guide (cost system) is recommended when the cost approach to value is applicable for manufactured homes. VA offices are responsible for subscription/transaction costs.

3.03 Property Types and Situations

**Property with
Two to Four
Living Units**

VA requires the use of Fannie Mae Form 1025, Small Residential Income Property Appraisal Report. VA does *not* require the use of Fannie Mae Form 216, Operating Income Statement.

**Property to be
Altered/
Improved/
Repaired**

When extensive alterations, improvements or repairs are to be made, VA staff will:

- See VA Lender's Handbook Sections 10.05 & 11.12
-

**Partial Release
of Loan
Security**

VA staff will:

- See VA Lender's Handbook Sections 10.05 & 11.12
 - Return all documentation with a memorandum or other form of notice of value to the VA entity that requested the value determination.
-

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3.03 Property Types and Situations, Continued

Master Value Determinations

VA staff will enter the Master Certificate of Reasonable Value (MCRV) request in TAS for the requester. The Assignment MCRV function in TAS is on the VA Processing/Loan Menu.

The request must provide a

- completed VA Form 26-1843b, Master Certificate of Reasonable Value Worksheet,
- builder program statement, and
- construction exhibits for each proposed model.

Items to be included in the builder program statement and required construction exhibits are listed in Section 10.10 of the Lender's Handbook.

A Uniform Residential Appraisal Report (URAR) should be prepared for each model.

Value estimates for options must be based on market data.

Value estimates for options (on VA Form 26-1843a) will include:

- Identification (in item 2) of any exhibits showing offsite improvements taken into consideration in the appraisal, and
- The following statement if the property is to be enrolled in an insured 10-year protection plan and evidence of enrollment was not submitted with the appraisal request:

"Evidence of enrollment in an insured 10-year protection plan must be submitted with the guaranty request for each property."

Reference: See Sections 10.10 and 11.11 of the Lender's Handbook for details.

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3.03 Property Types and Situations, Continued

Conversion of Department of Housing and Urban Development (HUD) Value Notices for VA Use

Conversion of HUD value notices for VA use is *very* restricted. If a HUD value notice can be converted for VA use, VA review of the valuation is necessary to ensure that it is:

- Valid for VA purposes, and
- Accurate in light of known market conditions in the locale and any other appropriate factors.

Any problems encountered with a HUD valuation should be resolved with appropriate HUD/FHA (Federal Housing Administration) personnel.

Each VA value notice based on a HUD valuation must contain the following endorsement:

"This value estimate is based on a value determination by the Department of Housing and Urban Development, dated _____, and in conjunction with HUD/FHA Case No. _____."

Reference: See Section 10.11 in the Lender's Handbook for details.

To eliminate duplicative efforts and unnecessary appraisal costs for veterans, VA staff may accept HUD appraisals where:

- The fee appraiser is:
- VA VA fee panel member, and
- not a staff employee of the lender

Acceptance of HUD Appraisals Where No Notice of Value Has Been Issued by HUD

In such cases, the VA Notice of Value (NOV) will list applicable VA requirements and conditions.

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3.03 Property Types and Situations, Continued

**Review of
Escrow-Related
Costs**

Loan Production may request a review of VA Form 26-1849, Escrow Agreement for Postponed Exterior Onsite Improvements. The purpose of that review by Construction and Valuation staff will be to determine if:

- The estimated *cost* shown on the Escrow Agreement to complete the postponed work (in the event the builder fails to do so) is sufficient, and
- The additional *amount* proposed to be escrowed is sufficient.

Note: The amount escrowed must be at least 1.5 times the estimated cost to complete the postponed work.

NOTE: VA requires completion of all off-site improvements prior to loan guaranty. For properties appraised prior to the off-site improvements being completed, VA Notice of Value must be conditioned for submission of evidence that the streets, sidewalks, drains, water, sewer, etc. have been completed and accepted for maintenance by the local authority (NOV Item #16). If a lender, due to extenuating circumstance, is unable to obtain the required documentation, on a case-by-case basis, the VA Regional Loan Center of jurisdiction will review the particular situation involved and determine if an alternative procedure may be appropriate/acceptable.

3.04 Liquidation Value Estimates

**Importance of
Liquidation
Values**

Values established for liquidation purposes can impact:

- VA's financial interest in properties which are the security for VA-guaranteed loans, or VA-Portfolio loans,
 - Continued lender participation in the Loan Guaranty program, and
 - The interests of the veteran-obligor.
-

**20 Percent Loss
In Value**

A VA staff field review will be completed if the liquidation appraisal:

- Is made within 24 months of the original loan closing date, and
- Indicates a loss in value of 20 percent or more from the original value estimate.

The percentage of loss will be determined by comparing the current "as is" value plus any "contributory value" of repairs to either:

- The appraised value at origination,
 - The REASONABLE VALUE (ORIG)" shown in the Loan Guaranty (LGY) Index System, or
 - The "PURCHASE PRICE" shown in the LGY Index System, if reasonable value is not shown.
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3.04 Liquidation Value Estimates, Continued

**20 Percent Loss
In Value**
(continued)

The VA review will consider:

- Market condition changes since the origination appraisal,
- The condition of the dwelling at the time of origination,
- Any physical damage or other obsolescence which appears to have occurred after loan origination, and
- Any other significant differences.

The field review will be reported in The Appraisal System (TAS).

Although the field review should generally be completed *prior to* the final value determination, it can be:

- *Delayed* if the case file is documented to indicate that there appear to be no substantive errors in the appraisal reports, or
- *Waived* if the Loan Guaranty Officer concurs that:
 - There appear to be no substantive errors in the appraisal reports, and
 - Either the property suffered damage as the result of a catastrophic event, or the loss is the result of a significant downturn in property values due to poor economic conditions.

Note: Evidence of poor economic conditions significantly affecting property values must be documented (e.g., newspaper clippings noting a plant closing, market-wide economic data, etc.), and should be maintained in an appropriate reference file.

3.05 VA Staff Involvement in Value Changes

Processing by VA Staff or Fee Appraiser Requirements for processing of Reconsideration of Value requests by VA staff or fee appraisers are based on the percentage of the requested increase in value.

Any reconsideration of value request of 5 to 10 percent must be processed by either:

- VA staff, or
- The fee appraiser involved.

Note: When the lender sends the request for reconsideration of value to the fee appraiser, this requirement is automatically satisfied, unless VA staff sees a need for additional review. Value increases above 5% may only be approved by VA staff.

Reference: See Section 13.09 of the Lender's Handbook for reconsideration of value procedures.

Field Review by VA Staff A field review by VA staff is required if a request for increase in value:

- of 10 percent or more is submitted, or
- is submitted for a value that was previously increased.

Note: The need for a field review is based on the percentage of the *requested* increase in value.

Increases Based on VA Staff Field Review If an increase in a VA value estimate is actually based on a field review made by VA staff:

- VA staff documentation must include a completed sales comparison analysis of the market data on which the increase is based.

Note: The sales comparison analysis is to be in the format used in the Uniform Residential Appraisal Report.

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3.05 VA Staff Involvement in Value Changes, Continued

Supervisory Concurrence VA supervisory concurrence is required if a reconsideration of value request reviewed by VA staff results in:

- an increase in value of 10 percent or more, or
- an increase of any percentage if the value was previously increased.

Addressing Fee Appraiser Error Any fee appraiser error or omissions must be

- reported to the fee appraiser, and
- documented in both the loan file and the fee appraiser’s performance file in FileNet.

Note: A change in the value estimate by VA staff does not necessarily indicate a fee appraiser error.

Counseling and/or Disciplinary Actions Appraisers will be counseled or disciplined, as appropriate, for errors considered Substantive Negative Work Findings as they relate to value and condition of the property.

See also, Chapter 6

Delay or Waiver of VA Staff Field Review VA offices may:

- Wait until after the valuation endorsement (Amended Notice of Value) is issued to perform required field reviews, if a review of the documentation for the increase indicates that it is justified, or
- Waive the field review requirement on a case-by-case basis, if the supervisor provides a valid written justification based on other than shortage of personnel or travel fund considerations.

3.06 Release of Value-Related Material

**Appraisal
Reports and
Value Notices**

38 CFR 1.512 requires that appraisal reports and VA value notices be made available by VA for inspection or copying by any party on request, whether or not the party is involved in the transaction.

Such information is to be released according to 38 CFR 1.550 through 1.558, which in general describes procedures to be followed when releasing information to the public.

**Construction
Exhibits**

38 U.S.C. 3705(b) requires that construction exhibits (including VA-approved changes) be made available by VA for inspection or copying by any purchaser, homeowner, or warrantor.

Chapter 4

Construction Inspections

Overview

Introduction This chapter provides administrative details to supplement the policies and procedures in Chapter 14 of the Lender's Handbook.

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4.03 New Construction Materials and Methods	4-4

4.01 Submission of Inspection Reports

**By Fee
Compliance
Inspector**

If construction is acceptable and there are no deviations or substitutions, the compliance inspector will submit the Department of Veterans Information (VA) inspection report (Form 26-1839) in the following manner:

If the lender is known:

- Provide the lender with a copy,
- Provide the builder with a copy, and
- Keep a copy for his/her file.

If the lender is not known:

- Provide the builder with 2 copies, one of which the builder will forward to the lender when known, and
- Keep a copy for his/her file.

Note: Regional Loan Centers (RLCs) have the authority to require a copy of each inspection report not requiring VA prior approval be forwarded to their office for field review purposes (See Section 6.06).

Stations should direct compliance inspectors to provide a monthly report outlining the prior months inspection activity, including case numbers and stage of inspections performed. Stations will use this report to determine those cases for full submission to the RLC for field review (10%) purposes.

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4.01 Submission of Inspection Reports, Continued

Substitutions, Deviations, or Unacceptable Construction

Any inspection report (VA Form 26-1839) showing “substitutions or deviations” from the construction exhibits or unacceptable construction will be forwarded by the compliance inspector to VA, along with a statement showing any dollar difference in construction cost resulting from the change(s).

VA will:

- Determine whether or not it will be necessary to alter the reasonable value, and in what amount.
- Check the appropriate box and issue a revised Notice of Value (NOV) if the reasonable value is to be adjusted, and
- Send a copy of the inspection report and the revised NOV to the lender and to the veteran if one is under contract.

Reference: See section 14.07 of the Lender’s Handbook for procedures concerning changes to construction exhibits.

4.02 Review of Inspection Reports

VA Revisions If VA revises any inspection report, for any reason, a copy of the revised report (along with a copy of the original report marked “Superseded”) will be sent to the:

- Lender,
- Builder, and
- Fee Compliance Inspector

4.03 New Construction Materials and Methods

Acceptability VA encourages special methods of construction and new materials that are developed to meet market conditions without sacrificing structural soundness.

New and unconventional methods and materials approved by the Department of Housing & Urban Development/Federal Housing Administration (HUD/FHA), e.g., in engineering bulletins or material releases, are acceptable to VA.

Chapter 5

Construction Complaint Processing

Overview

Introduction This chapter contains information about the Department of Veterans Affairs (VA) processing of construction-related complaints.

In this Chapter This chapter contains the following topics.

Topic	See Page
5.01 What Is Expected of VA Staff	5-2
5.02 Eligibility for VA Assistance With Complaints	5-3
5.03 Processing Construction Complaints	5-6
5.04 Construction Complaint Inspections	5-9
5.05 Complaints Involving 10-Year Protection Plans	5-13
5.06 Complaints Involving Housing & Urban Development/Federal Housing Administration (HUD/FHA)	5-14
5.07 Administering Builder Sanctions	5-15
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5.09 Existing (Previously Occupied) Construction Complaints	5-20
5.10 VA Assistance With Structural Defects	5-23

5.01 What Is Expected of VA Staff

Basic Philosophy

VA should resolve all construction complaints:

- Aggressively,
- Expeditiously,
- Fully, and
- Satisfactorily

If the complaint is eligible for consideration, VA must work with the builder and homeowner until either:

- Construction complaint items that VA determines to be the builder's responsibility are corrected, or
- VA has appropriately sanctioned the builder for failure to correct justified complaint items.

If not eligible for complaint processing, VA must notify the veteran of that determination within 5 business days.

5.02 Eligibility for VA Assistance With Complaints

How Was Property Appraised?

Eligibility for VA assistance with construction complaints requires that the property has been appraised as either:

- “Proposed or under construction”,
- “New construction” requiring a 1-year VA builder’s warranty, or
- “Existing construction with alterations, improvements or repairs” subject to VA fee inspections.

Note: In the latter case, if the lender certified to the proper completion of the work, VA will only refer the matter to the lender (with a copy to the homeowner).

Continued on next page

5.02 Eligibility for VA Assistance With Complaints, Continued

Complaint Letter Requirements

The complaint must meet the following requirements:

- Be in writing from an individual homeowner.
 - Neither oral nor group complaints will be recognized.
 - Receipt of a courtesy copy of a letter from the homeowner to the builder will not result in VA processing, unless the complaint is of a serious nature (e.g., defective sewer, water or gas facilities, drainage deficiencies, construction that would seriously jeopardize the security or human life).
- Include an itemized list of the complaint items.

Note: Maintenance items are the responsibility of the homeowner. For instance:

- Maintenance of drainage swales and patterns as originally provided.
 - Periodic inspection and cleaning of individual sewage disposal systems, eaves and downspouts.
 - Periodic servicing of mechanical equipment.
 - Normal protective measures to prevent accelerated deterioration of material.
 - Repairs of hairline cracks attributable to normal curing or settlement.
- Generally, be registered with VA within the period covered by the VA Builder Warranty or the first year of any Ten-Year Warranty.

Exception: VA will recognize complaints received after the above time limit if there is an indication of an *accelerated deterioration* of soundness or material failure in advance of normal life expectancy.

Note: See VA Form 26-1859, Warranty of Completion of Construction, for additional details regarding warranty terms.

Continued on next page

5.02 Eligibility for VA Assistance With Complaints,

Continued

**Effect of
Pending
Litigation**

In cases involving litigation between the homeowner and builder, VA should avoid taking any action that would prejudice the case until the litigation is resolved. Regardless of the outcome of any litigation, VA may consider the builder responsible for certain specific corrective actions.

5.03 Processing Construction Complaints For Proposed, Under-Construction, and New Construction

Procedure for Processing

VA will follow the steps in the table below when processing construction complaints.

Step	Action
1	<p>Prepare a Construction Complaint Record in The Appraisal System (TAS)</p> <p>During the processing of the complaint, record all actions taken (e.g., letters received or sent, telephone conversations, field reviews, follow-up actions).</p>
2	<p>Within 5 business days after VA receipt of the complaint, send letter to:</p> <ul style="list-style-type: none"> • Homeowner, acknowledging VA receipt of complaint. <p>And</p> <ul style="list-style-type: none"> • If determined eligible per 5.02 above, Builder, listing complaint items and requesting builder's cooperation in correcting them. <p>Note: Depending on the urgency of the complaint, a phone call to the builder to verify receipt of the letter and to determine the builder's intention may be warranted.</p>
3	<p>If VA receives word that work has been completed, proceed to Step 7. Otherwise, Step 4.</p>

Continued on next page

5.03 Processing Construction Complaints, Continued

**Procedure
for Processing** (continued)

Step	Action
4	<p>If the builder disputes the complaint items or otherwise fails to correct them, inspect the property to determine which, if any, of the items are the builder’s responsibility to correct.</p> <p>Reference: Section 5.04, Construction Complaint Inspections</p> <p>The inspection results may indicate a need for VA to take precautionary measures. For instance:</p> <ul style="list-style-type: none"> • Notify appropriate fee inspectors to watch for particular construction-related problems during the construction of other homes, or • Ensure that future homes constructed by the builder receive a full complement of VA inspections (or additional inspections).
5	<p>If the builder fails to correct complaint items required as the result of a VA inspection of those items, notify the builder in writing that the items must be corrected or VA will proceed to sanctions.</p> <p>The notice will include a new date by which the work is to be finished, and an invitation for the builder to visit VA to discuss any specific issue with which the builder disagrees.</p>
6	<p>If the builder fails to correct the required items by the date specified in Step 5, send the builder a registered or certified letter that states that unless satisfactory arrangements are made with VA by a certain date, the builder will be suspended from further loan guaranty program participation until the items are corrected.</p>

Continued on next page

5.03 Processing Construction Complaints, Continued

**Procedure
for Processing** (continued)

Step	Action
7	<p>Upon receipt of a notice that the required work is completed, either:</p> <ul style="list-style-type: none"> • Conclude VA processing by documenting and filing a VA Report of Loan Guaranty Field Review using a narrative or Word format, (if notice is provided by the homeowner), or • Contact the homeowner for confirmation prior to concluding VA processing (if notice is provided by the builder without signed confirmation by the homeowner).
7a	<p>Administratively sanction the builder if:</p> <ul style="list-style-type: none"> • VA has taken Steps 1-5, excluding Step 3, above and • The builder has still not corrected the complaint items that VA determined to be the builder's responsibility. <p>Reference: See Section 5.07, Administering Builder Sanctions</p>
8	<p>Determine if the fee appraiser or fee compliance inspector, by any act of commission or omission, is in any manner responsible for the conditions that prompted the complaint. If so, take appropriate action.</p> <p>When the complaint is resolved or concluded, file a copy of the Construction Complaint Record (prepared in TAS) and all related documentation in the builder's file. (In FileNet)</p> <p>Reference: See Section 6.08, VA Administrative Sanctions Against Program Participants, for additional information.</p>

5.04 Construction Complaint Inspections

Need for Inspection

The property may need to be inspected at any time during the processing of the complaint. For instance:

- The builder fails to respond or complete the necessary action within the time specified in VA's original referral or a subsequent VA letter.
 - Conflicting reports are received from the builder and homeowner as to correction of a complaint.
-

Who Will Inspect

The inspection can be made by either:

- VA staff, or
- A fee compliance inspector.

Note:

- If the inspection is to be made by a fee compliance inspector, he/she must not have previously inspected the property (or other properties in the project) for VA purposes.
 - The cost of the inspection is payable from VA funds for miscellaneous contractual services.
-

Scheduling Inspections

The inspection will be scheduled by written VA notice to both the purchaser and the builder. This process may be by telephone if needed to expedite for unusual circumstances. However, full written documentation will be maintained.

Continued on next page

5.04 Construction Complaint Inspections, Continued

Instructions to Inspector or VA Staff

The VA staff or fee compliance inspector will be instructed to:

- Confine the inspection to the complaint items listed in the complaint letter, to the extent practicable. (VA would always have a moral, if not legal, obligation to report safety related issues identified. VA also has possible security interests in the property, e.g., in regard to potential structural issues.)
- Take photographs when a record of the condition of the property on the date of the inspection is likely to be useful in the settlement of the complaint, or there is any likelihood of disagreement.
- Look at each complaint item, discuss it with the builder and homeowner and advise both, that if an agreement on the issue between the parties cannot be reached or a determination made by the inspector on site, a decision will be made in the office after careful consideration of the facts.
- Record the inspection on VA Report of Loan Guaranty Field Review using a narrative or Word format, and

Reference: See “Inspection Report Contents” below.

- Notify all parties that a written decision will be issued within 5 workdays.

Continued on next page

5.04 Construction Complaint Inspections, Continued

Inspection Report Contents

The following will be reported on VA Report of Loan Guaranty Field Review using a narrative or Word format:

- Specifically who was present during the inspection.
- Each separate complaint item and how it is to be resolved:
 - Builder accepts responsibility.
 - Agreement between parties.
 - Decision made on site by inspector.
 - Decision deferred for office review.
- The inspector's comments and reasoning on the resolution of each item.
- A date for the completion of the items determined to be the builder's responsibility to correct.
- Written notification will be issued to both the veteran and builder within 5 business days, providing decision on responsibility. If the builder is determined to be responsible, the letter will specify what repairs are to be completed. (Generally accepted quality of workmanship should be anticipated.) Both the builder and veteran homeowner will be instructed to notify VA upon completion of work, if appropriate.
- Dates for follow-up field reviews, if needed.
- Instructions for both the builder and the homeowner to notify VA upon completion of all work determined to be the builder's responsibility.
- If agreement is reached onsite, the signature of both the builder and the homeowner, indicating that they agree with/accept the determinations made at the time of inspection.

Continued on next page

5.04 Construction Complaint Inspections, Continued

**Inspection
Report
Oversight**

Oversight of the action specified in the construction complaint inspection report and a timely decision in the office for any deferred items is essential for the satisfactory resolution of construction complaints.

- If a decision was deferred for office review, it must be considered immediately by qualified personnel and a letter of determination issued to both the builder and homeowner as soon as possible, or in no case later than 5 business days, with a date for completion, if appropriate.
 - If the builder fails to complete items by the due date, follow-up by telephone and letter and schedule additional inspections if warranted.
 - If notified by the builder that all items have been completed, ensure that homeowner has signed acceptance and close the case.
 - If notified by homeowner that all items are corrected satisfactorily, close the case.
-

5.05 Complaints Involving 10-Year Protection Plans

Proposed or Under Construction

If the property was appraised as “proposed or under construction”, the requirements in Section 5.03 will apply.

New Construction

If the property was appraised as “new construction”, VA will:

- Refer the complaint by VA letter (prepared in TAS) to the builder for review.
- Send an acknowledgement letter (prepared in TAS) to the veteran explaining that his/her complaint has been referred to the builder and that if the builder fails to correct deficiencies, the veteran may file a claim with his/her 10-year protection provider.
- Prepare the Construction Complaint Record in TAS. File one copy in the Loan Folder and one in the builder’s file (FileNet).

VA may require builders to obtain a full complement of VA or HUD/FHA inspections during construction if there are:

- Excessive construction complaints regarding that builder.
- A pattern of complaints involving items of construction that are excluded from coverage by the 10-year protection plan, or
- A pattern of complaints involving areas of construction that would be seen during the course of normal business.

Reference: See “Note” under “Construction Exhibits and Inspections” in Section 10.08 of the Lender’s Handbook

Claim Processing Problems and Unfair Practices

For complaints alleging unfair claim practices or other significant claim processing problems involving 10-year protection plans, VA offices will forward the following to Central Office (262):

- Copy of the homeowner's complaint letter,
 - Report which includes the office’s recommendations and its complaint-related experience with both the builder and the 10-year plan provider, and
 - The loan file.
-

5.06 Complaints Involving HUD/FHA

HUD/FHA Inspection for VA Loan

If HUD/FHA made the final inspection of a home that is the security for a VA-guaranteed loan, VA will:

- Forward any construction complaint to HUD/FHA, and
 - Send a copy of the referral letter to the homeowner.
-

VA Inspection for HUD/FHA Loan

If VA made the final inspection of a home that is the security for a HUD/FHA-insured loan, VA will:

- Assume primary responsibility for processing any construction complaint referred by HUD/FHA.

Note: This will be true whether or not the homeowner is a veteran.

- Refer details regarding the case to HUD if the builder fails to correct a complaint item that VA determines to be justified.

Note: VA will not administer any sanction against the builder in this situation, but should reciprocate if action is taken by HUD/FHA.

5.07 Administering Builder Sanctions

**When to
Sanction**

See Step 7a in Section 5.03.

**Builder
Operates In
Another VA
Jurisdiction**

Upon issuance of Limited Denial of Participation (LDP) to a builder, the Regional Loan Center (RLC) issuing the LDP shall notify, via e-mail, all other RLCs per 38 CFR 44.705c.

Continued on next page

5.07 Administering Builder Sanctions, Continued

- Sanction Letter** VA's sanction letter (prepared in TAS) informing the builder of a limited denial of participation will be sent by certified mail, return receipt requested, and advise the builder:
- That the sanction is effective as of the date of the notice;
 - Of the reasons for the sanction in terms sufficient to put the builder on notice of the conduct or transaction(s) upon which it is based;
 - Of the cause(s) relied upon under Sec. 38 CFR 44.705 for imposing the sanction;
 - Of the right to request in writing, within 30 days of receipt of the notice, a conference on the sanction, and the right to have such conference held within 10 business days of receipt of the request. *VA will make an exception if the request is filed reasonably soon after the 10 day period and is accompanied by a reasonable explanation for the delay.*
 - Of the potential effect of the sanction and the impact on the builder's participation in the VA Home Loan Guaranty Program and the geographical area affected by the action, and that HUD/FHA and Rural Housing Service will be notified accordingly.

Continued on next page

5.07 Administering Builder Sanctions, Continued

**Sanction
Letter
(Cont.)**

- That the suspension is effective as to agents, representatives, and correspondents when acting for or on behalf of the builder.

Note: The specific language should read, “In accordance with 38 CFR 44.710 (c), this LDP applies to all entities to which you are affiliated. ‘Affiliates’ is defined at 38 CFR 44.105 as follows: ‘Affiliate - Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other, or a third person controls or has the power to control both. Indicia of control include, but are not limited to: interlocking management or ownership, identity of interest among family members, shared facilities and equipment, common use of employees, or a business entity organized following the suspension or debarment of a person which has the same or similar management, ownership, or principal employees as the suspended, debarred, ineligible, or voluntarily excluded person.”

- That the suspension will remain in effect until the items that VA determined to be the builder’s responsibility have been corrected.

If appropriate, exclude from the suspension (and require a special VA inspection of) properties with a pending VA loan closing that were appraised for VA purposes (prior) to the suspension but not inspected by VA or HUD/FHA during construction.

Continued on next page

5.07 Administering Builder Sanctions, Continued

Notification of Action After 30 days, if no conference has been requested, the official imposing the limited denial of participation will notify VA Central Office (262) of the action taken and of the fact that no conference has been requested. Copies of the sanction letter must be sent to HUD/FHA and Rural Housing Service. If a conference is requested within the 30-day period, VA Central Office need not be notified unless a decision to affirm all or a portion of the remaining period of exclusion is issued.

5.08 HUD/FHA and Rural Housing Service Sanctions

HUD/FHA Sanctions

VA offices will reciprocate with HUD/FHA suspensions that are based on a reason that would cause VA to take such action if a veteran were involved. For instance:

- Uncorrected construction deficiencies, and
- Unfair marketing practices, including discrimination in the sale of residential property.

VA's reciprocal, formal suspension will be without regard to whether the parties are active in the VA Loan Guaranty program.

Rare cases in which it is not considered in the best interests of veterans or VA to suspend on the basis of HUD/FHA's action will be referred to Central Office (262) with a statement as to why VA suspension should not be imposed.

Rural Housing Service Sanctions

VA offices will *not* automatically suspend a builder sanctioned by the Rural Housing Service. Instead, the VA office will closely monitor any VA-related work by the sanctioned builder.

5.09 Existing (Previously Occupied) Construction Complaints

VA Processing

If the property was appraised as “existing construction”, VA will consider whether the complaint items:

1. Existed prior to the VA appraisal and cause the property to not meet VA minimum property requirements, and
2. Should have been seen by the fee appraiser.

<p><i>IF Neither of the above 2 conditions exist</i></p>	<p>THEN VA will:</p> <ul style="list-style-type: none"> • Prepare a Construction Complaint Record in TAS, and • Notify the veteran in writing that: <ul style="list-style-type: none"> - VA is without authority to provide assistance. - Any recourse the veteran may have would largely be dependent upon the terms of the sales contract. - He/she may wish to seek the advice of counsel of his/her choice. - Remind them of the following statement printed in bold print on the Notice of Value (NOV): “The VA appraisal was made to determine the reasonable value of the property for loan purposes. It must not be considered a building inspection. Neither VA nor the lender can guarantee that the home will be satisfactory to you in all respects or that all equipment will operate properly. A thorough inspection of the property by you or a reputable inspection firm may help minimize any problems that could arise after loan closing. In an existing home, particular attention should be given to plumbing, heating, electrical and roofing components.”
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5.09 Existing (Previously Occupied) Construction Complaints, Continued

VA Processing (continued)

<p>IF Only the <i>first</i> of the above 2 conditions exist</p>	<ul style="list-style-type: none"> • Prepare a Construction Complaint Record in TAS, and • Send Loan Management: <ul style="list-style-type: none"> - the loan file, - a copy of all documentation regarding the complaint and VA’s investigation of the fee appraiser’s performance in the case, and - a list of repairs necessary to make the property meet VA Minimum Property Requirements (MPRs). That list will be compiled from the best information available at the time (e.g., letter of complaint). • After Loan Management has completed its review, notify the veteran in writing of the results of VA’s review of the complaint. <p>Note: If Loan Management’s review indicates that assistance to the veteran may be warranted, a field review may be needed to verify the condition of the property and /or establish a repair cost estimate.</p>
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Continued on next page

5.09 Existing (Previously Occupied) Construction Complaints, Continued

VA Processing (continued)

<p>IF Both of the above two conditions exist</p>	<p>THEN VA will:</p> <ul style="list-style-type: none"> • Take appropriate administrative action against the fee appraiser (see Section 6.08), and • Prepare a Construction Complaint Record in TAS, and • Send Loan Management: <ul style="list-style-type: none"> - the loan file, and - a copy of all documentation regarding the complaint and VA’s investigation of the fee appraiser’s performance in the case, and - a list of repairs necessary to make the property meet VA MPRs. That list will be compiled from the best information available at the time (e.g., letter of complaint). • After Loan Management has completed its review, notify the veteran in writing of the results of VA’s review of the complaint. <p>Note: If Loan Management’s review indicates that assistance to the veteran may be warranted, there may need to be a field review (by VA staff or fee personnel) to verify the condition of the property and/or establish a repair cost estimate.</p>
---	---

5.10 VA Assistance With Structural Defects

Nature of Assistance

38 U.S.C. 3727 allows VA to assist borrowers, under certain circumstances, in having structural defects corrected.

Note: 38 CFR 36.4356(a) excludes condominium units from such assistance.

Requirements for Assistance

All of the following requirements for assistance must be met:

- The property was inspected during construction by a VA or HUD/FHA fee compliance inspector on VA or HUD/FHA’s behalf,
- The applicant is a veteran-borrower on an outstanding VA-guaranteed loan (or any borrower who assumed the original VA loan, if assisting that borrower would be in the Government’s best interest),
- The dwelling has a structural defect, not the result of fire, earthquake, flood, wind or neglect, which *seriously affects the livability* of the dwelling,

Note: Historically, VA has considered this to mean that the property must be virtually uninhabitable due to the defects.

- The applicant and VA have been unable to obtain the builder’s cooperation in correcting the complaint items, and
- The application for VA assistance is filed not later than 4 years from the date of the original VA loan.

Applications for assistance in correcting structural defects must:

- Be in writing over the applicant’s signature, and
 - Indicate that the above requirements for assistance are met.
-

Processing Applications for Assistance

VA offices will forward to Central Office (262):

- The application,
- A summary of the office’s review of the case, particularly in light of the details in 38 CFR 36.4364, and
- The loan folder, if available.

Note: Central Office’s decision will be final and not subject to judicial or other review.

Chapter 6

Construction and Valuation Oversight

Overview

Introduction This chapter contains information about the Department of Veterans Affairs (VA) oversight of the Construction and Valuation function.

In this Chapter This chapter contains the following topics.

Topic	See Page
6.01 VA Oversight Required by Law	6-2
6.02 Appraisal Reviews	6-3
6.03 Field Review of Appraisal Reports	6-5
6.04 Lender Appraisal Processing Program (LAPP) Oversight	6-10
6.05 Summary of Supervision of Fee Appraisers Report	6-15
6.06 Field Review of Construction Inspection Reports	6-17
6.07 Discrimination and Equal Opportunity-Related Complaints	6-20
6.08 VA Administrative Sanctions Against Program Participants	6-21
Exhibit 1 – VA Appraisal Review/Uniform Residential Appraisal Report (URAR) Cross Reference	E1-1
Exhibit 2 - VA Staff Review of LAPP Cases	E2-1

6.01 VA Oversight Required by Law

Statutory Requirement

VA staff is required by 38 U.S.C. 3731(f)(2) “to monitor, on at least a random sampling basis, the making of appraisals by appraisers and the effectiveness and the efficiency of the determination of reasonable value of property by lenders.”

Reference: See Section 6.05.

Implementation of Law

VA offices will ensure that:

- The work of fee appraisers and LAPP lenders is continually monitored,
- Oversight-related files are properly maintained, and
- Appropriate remedial actions are taken, when necessary, to resolve fee appraiser and SAR performance problems.

References:

- Chapter 17 ("VA Sanctions Against Program Participants") of the Lender's Handbook, and
 - Chapter 13 ("Sanctions Against Program Participants") of VBA Manual M26-1, and
 - Section 6.08 below.
-

6.02 Appraisal Reviews

Office Reviews Every appraisal report made for VA purposes must be reviewed by either:

- The lender's VA-authorized staff appraisal reviewer under the Lender Appraisal Processing Program, or
- VA staff.

The appraisal review generally results in a VA value determination.

Reference: Chapter 13 of the Lender's Handbook.

Field Reviews

- VA staff must field review 10 percent of the work of every active VA fee appraiser each fiscal year.

Reference: Section 6.03 below.

Assisting Other Loan Guaranty Functions Construction and Valuation staff assistance concerning appraisal and construction-related matters may also be required by the Loan Production, Loan Management and Property Management functions.

Continued on next page

6.02 Appraisal Reviews Continued

Sales Comparison Analysis

Some of the concerns that should cause an appraisal reviewer to question the fee appraiser's sales comparison analysis include:

- Use of *comparable sales over 12 months old* without an explanation that would be considered adequate and reasonable according to professional appraisal standards.
- Use of *any time adjustment without a reasonable basis* and *large time adjustments* without an explanation that would be considered adequate and reasonable by professional appraisal standards.
- Use of *comparable sales outside the subject property's market area* without an explanation that would be considered adequate and reasonable according to professional appraisal standards. In rural areas, distances of several miles may be normal.
- Use of *listings, contracts, and other unsettled sales as comparables*. Such data can be used as a supplement to closed sales to support time adjustments and the reasoning process for a particular value estimate.
- Use of comparable sales with a *wide range in sale prices* without an explanation that would be considered adequate and reasonable according to professional appraisal standards.
- *Large adjustments to the comparable sales* without an explanation that would be considered adequate and reasonable according to professional appraisal standards.

Continued on next page

6.02 Appraisal Reviews, Continued

Photographs

Features visible in photographs of the subject property and the comparable sales may indicate a problem. For instance:

- The picture of the property and its description in the appraisal report do not match, or
 - Amenities or deficiencies exist for which no value adjustment was made.
-

6.03 Field Review of Appraisal Reports

Importance of Field Reviews

Field review findings are of critical importance in:

- Identifying and resolving problems involving appraisal reports, and
 - Supporting decisions regarding VA administrative action against program participants.
-

Continued on next page

6.03 Field Review of Appraisal Reports, Continued

Level of Field Reviews

Depending on which of the following conditions apply, *at least*:

- *A minimum of 10 percent* of a fee appraiser's assignments will be field reviewed *each fiscal year that he/she receives more than 20 assignments*. Field reviews will not be limited to or concentrated in metropolitan areas when appraisers also perform in adjacent rural areas. A representative sampling of the work provided by appraisers must be sampled.
- The 10 percent field review requirement may be deferred for those appraisers who have been on the panel over 1 year, who have received a total of 20 or fewer appraisal assignments during the fiscal year which were located in areas remote to the presence of VA Construction & Valuation (C&V) personnel, and whose work is considered to be of high quality (i.e., there was no substantive negative work quality finding against the appraiser during the year). The work of appraisers who fit into this category, however, must be reviewed at least once every 2 fiscal years, at an accelerated rate of 20 percent, regardless of the fact that their work is of acceptable quality.

Continued on next page

6.03 Field Review of Appraisal Reports, Continued

**Second Level
Field Review
Requirement**

A minimum of 5 percent of each VA Staff Appraiser’s field reviews will receive second level reviews performed by C&V management personnel on a fiscal year basis. For example, if a staff member has performed 100 field reviews, a minimum of 5 must receive second level field review.

**Field Review
Procedure**

VA staff will follow the steps in the table below when field reviewing appraisal reports.

Step	Action
1	<p>View the <i>subject property</i>. Gain access, if appropriate.</p> <p>View all <i>comparable sales</i> if time permits. Otherwise, concentrate on the comparables which represent the best indicator of value to the subject. A minimum of two comparable sales will be viewed in every case.</p>
2	<p>Focus on the <i>most readily observable field review items</i>. The following are particularly important, but are not intended to be an all-inclusive checklist:</p> <ul style="list-style-type: none"> • Location, • Age/condition, • Needed repairs, • Adverse environmental conditions, • Amenities, and • Photographs. <p>Reference: See "VA Appraisal Review/*URAR Cross Reference" (Exhibit 1) which -</p> <ul style="list-style-type: none"> • Lists each appraisal review item, • Asks the question to be answered for each item reviewed, and • Shows the number of the associated item(s) on the *Uniform Residential Appraisal Report.

Continued on next page

6.03 Field Review of Appraisal Reports, Continued

Field Review Procedure (continued)

Step	Action
3	<p>Check/complete each item on the The Appraisal System (TAS) field review screen that is reviewed or otherwise applicable.</p> <p><i>Note:</i> Every field review of an appraisal report, whether or not there is a negative timeliness or work quality finding, must be recorded on the TAS field review screen.</p> <p><i>If a problem (or potential problem) is found</i> involving a disagreement, discrepancy, error, omission, inconsistency, etc., for any item reviewed:</p> <ul style="list-style-type: none"> • Under “Appraiser Observation” on the TAS field review screen, describe the basis for the finding, <i>Note:</i> Favorable comments can also be recorded to document favorable performance by the appraiser/lender which may ultimately be conveyed to them via letter. In the “VA Disposition” section of the TAS field review screen, record the action taken (letter to appraiser, recommendation of disciplinary action, etc.) and • In the space provided on the TAS field review screen, record supervisory concurrence if applicable. Supervisory concurrence must be obtained prior to a “substantive negative quality” finding being made and letter sent to fee appraiser.

Continued on next page

6.03 Field Review of Appraisal Reports, Continued

Field Review Procedure (continued)

Step	Action
4	<p>Each field review will be recorded and retained in TAS and any field review correspondence either to or from the fee appraiser will be filed in the fee appraiser's performance file (In FileNet).</p> <p>TAS will record and retain the following information:</p> <ul style="list-style-type: none"> • Date of each field review, • VA case number, • Property address, • Name of the fee appraiser involved, and • Name of the staff reviewer who made the review.

Liquidation Appraisals – 20 Percent Loss In Value

Section 3.04 outlines the field review requirements for liquidation appraisals involving a 20 percent loss in value since loan origination.

Value Estimate Changes

Section 3.05 outlines field review requirements when there is a “reconsideration of value”.

6.04 Lender Appraisal Processing Program (LAPP) Oversight

Focus of Oversight

VA oversight will focus on LAPP Staff Appraisal Reviewers (SAR's) who are either:

- Experiencing problems in using their LAPP authority (as indicated by valid complaints and previous VA office/field review findings), or
 - Frequently change fee appraiser value estimates and repair recommendations without adequate support or documentation.
-

Level of Review

At least 20 percent of all appraisals processed under LAPP will be post-audit reviewed by VA staff, each fiscal year, with reviews input in TAS.

Note 1: Reviewing LAPP cases in conjunction with the field review of appraisal reports should help ensure that the work of most LAPP lenders (and their staff appraisal reviewers) is covered.

Note 2: Additionally, for cases involving LAPP Value Changes by SARs, C&V must review the TAS C&V Report 030 (LAP-Cases – Reasonable Value Greater Than Appraised Value) at least monthly to ensure that all of these cases are either desk or field reviewed and appropriate action is taken to address poor performance or negligence by the appraiser or SAR (if any).

Systems Coding

VA offices will enter required information for Staff Appraisal Reviewers (SARs) into the Expanded Lender Identification (ELI) system. ELI is the official system for SAR-related information.

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6.04 Lender Appraisal Processing Program (LAPP) Oversight, Continued

**LAPP File
Maintenance**

VA offices will maintain all LAPP-related information in either:

- The lender's file (preferably separated from other information) or,
- A separate Staff Appraisal Reviewer (SAR) file for easier accessibility by Construction and Valuation staff.
- These files should be electronic (FileNet)

**Contents of
LAPP Files**

LAPP files will contain:

- The LAPP application (and any related material) for each SAR, and
- A copy of all documentation concerning SAR training, initial case reviews and performance.

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6.04 Lender Appraisal Processing Program (LAPP) Oversight, Continued

Selecting Cases for Review When selecting LAPP cases for VA staff review, particular attention should be given to those involving:

- Lenders or individual Staff Appraisal Reviewers with a history of quality-related problems in using their LAPP authority,
- An increase by the lender in the fee appraiser's value estimate, without adequate supporting documentation.
- A change by the lender in the fee appraiser's repair recommendations, without adequate supporting documentation.
- A change by the fee appraiser in his/her original value estimate or repair recommendations after the appraisal report is issued, without adequate supporting documentation.
- Lenders whose LAPP-related performance is the subject of complaints from fee appraisers, veterans or others,
- A potential problem or concern revealed in a VA office review of the appraisal report,
- An early default,

Note: At the time of loan liquidation, Loan Management will forward early default cases to Loan Production (and Construction and Valuation if LAPP processing is involved) for a review of the credit and appraisal-related underwriting.

- Referral by the Loan Guaranty Monitoring Unit, and
- Recently guaranteed loans in which the veteran had marginal credit, since certain appraisal-related problems (such as failure to properly consider repairs, especially for an older home) could increase the risk of default.

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6.04 Lender Appraisal Processing Program (LAPP) Oversight, Continued

LAPP Review Procedure

VA staff will follow the steps in the table below when reviewing cases processed under LAPP.

Step	Action
1	<p>Determine the acceptability of the performance of <i>both</i> the fee appraiser and the LAPP lender’s staff appraisal reviewer,</p> <p>References: <i>Exhibit 2 (end of this Chapter)</i> & Section 6.03 (“Field Review of Appraisal Reports”), if a field review is involved.</p>
2	<p>If the VA staff review reveals a problem with the <i>LAPP processing</i>, send a written notice and request for response, if appropriate, to both:</p> <ul style="list-style-type: none"> • The lender staff appraisal reviewer involved, and • The lender official responsible for the quality of the staff appraisal reviewer’s work. <p>Note: Lender staff appraisal reviewers are not expected to find appraisal report problems that could only be detected during a field review, since the SAR does not generally visit the subject property or the comparable sales.</p> <p>If the VA staff review reveals a problem with the <i>fee appraiser’s performance</i>:</p> <p>Send the appraiser a written notice and request for response, if appropriate. Supervisory concurrence must be obtained prior to a “substantive negative quality” finding being made with a substantive negative quality letter sent to the fee appraiser.</p>
3	<p>Record the results of the VA staff review in TAS desk/field review screen.</p>

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6.04 Lender Appraisal Processing Program (LAPP) Oversight, Continued

LAPP Review Procedure, Continued

Step	Action
4	<p>File a copy of any <i>notice</i> in FileNet in:</p> <ul style="list-style-type: none"> • The Staff Appraisal Reviewer’s file and/or fee appraiser's performance file, as appropriate, and • The case file, if practicable. <p>File a copy of any <i>response</i> in the Staff Appraisal Reviewer’s file and/or fee appraiser's performance file, as appropriate.</p> <p>SAR performance records should include:</p> <ul style="list-style-type: none"> • Desk/field SAR reviews retained in TAS; • Negative quality letters or inquiry letters and any written responses thereto; and • Documentation regarding complaints and their disposition.

6.05 Summary of Supervision of Fee Appraisers Report

Use of Report *Fiscal Year Summary of Supervision of Fee Appraisers* is a report produced by The Appraisal System (TAS) to summarize, at any time during the fiscal year, a VA office's supervision of each member of its panel of fee appraisers. This report is the primary data feed for Records Control Schedule (RCS) 20-0697.

RCS 20-0697 is utilized in order that Central Office may monitor supervision of fee appraisers. On, or before, the 15th workday of October of each year, Regional Loan Centers will submit this report to Central Office (262B). A copy of the report will be maintained by the RLC (RCS VB-1, Part I, item No. 13-091.100).

Note: The report's usefulness depends on the *completeness, accuracy and timeliness of data* entered by VA staff into TAS. Where the report submitted to Central Office varies from data generated by TAS, a detailed explanation for the source and any attendant rationale for adjustment must be maintained with the station copy of the official report.

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6.05 Summary of Supervision of Fee Appraisers Report, Continued

Data Needed for Report

Information must be entered in The Appraisal System to identify:

- Every fee appraiser who was a member of the fee panel during any part of the fiscal year,
- Appraisers who have been on the fee panel for less than 1 year,
- Every appraisal report field review made during the fiscal year,
- Every “Negative Work Quality Finding”, including the seriousness (“Substantive” vs. “Not Substantive”) of the finding and the type of review (“Desk” vs. “Field”) on which it was based. A substantive finding is one in which the fee appraiser made a significant error involving value or the condition of the property.
- Every “Negative Timeliness Finding”. A negative timeliness finding indicates that the fee appraiser was late in submitting the appraisal report. (Note: RLCs must survey lenders, realtors, etc., at least annually, and establish local timeliness requirements based on the results of these surveys.)
- Every “Disciplinary Action”, including whether it was based on “Work Quality” or “Timeliness” and the nature of the action (“Written Admonishment”, “Temporary Suspension” or “Removal”), and

Note: A written admonishment is any correspondence in which the appraiser is counseled or otherwise corrected regarding his/her work performance.

- Appraisers who voluntarily resigned from the fee panel during the fiscal year, including an indication of whether the resignation was made while the appraiser was under investigation by VA.
-

6.06 Field Review of Construction Inspection Reports

Level of Review One or more fee inspections must be field reviewed in at least 10 percent of all cases processed as “proposed or under construction”.

Regional Loan Centers may have their own procedures to insure this field review requirement is met. See Note at Section 4.2 Submission of Inspection Reports.

Note: Samplings of first, intermediate and final compliance inspection reports will be included, whenever practicable.

Selecting Cases for Review Cases will be selected for review in a manner that ensures that the performance of every fee inspector, where actually performing, is field reviewed by VA staff each fiscal year.

Field review may include:

- Accompanying the compliance inspector on inspection assignments and performing complete field reviews on those properties including access to the interior of the subject; or
 - Contacting active builders, obtaining the addresses of properties scheduled for compliance inspections, and inspecting the properties after the compliance inspections have taken place (a copy of the VA Form 26-1839 should be available from the builder).
-

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6.06 Field Review of Construction Inspection Reports, Continued

Detecting Substantive Problems

If a field review made *during construction* reveals substantive, unresolved construction-related problems not reported by the fee inspector, action will be immediately taken to ensure that the situation is resolved to VA's satisfaction. For instance, VA may:

- Suspend further VA inspection of the work of the builder involved until there is assurance that the cause of the problem(s) has been corrected, or
- Field review other units in the project.

If it is determined that the fee compliance inspector should have observed and reported the construction-related problem(s), it will be brought to the inspector's attention and appropriate disciplinary action taken.

Reference: See Section 6.08, VA Administrative Sanctions Against Program Participants, for additional information.

Continued on next page

6.06 Field Review of Construction Inspection Reports, Continued

Recording Reviews

Every field review of the fee compliance inspector's work must be recorded on VA Report of Loan Guaranty Field Review using a narrative or Word format.

Every field review of a fee compliance inspector's report(s) must be recorded in TAS in similar manner as appraisal field reviews. That information in TAS will include:

- Date of the field review,
 - VA case number,
 - Property address,
 - Name of the fee compliance inspector who made the inspection,
and
 - Name of the staff reviewer who made the field review,
 - Negative or satisfactory compliance.
-

6.07 Discrimination and Equal Employment Opportunity-Related Complaints

VA Processing VA offices will investigate all written complaints of:

- Alleged discrimination by any party arising from any operation associated with the VA Loan Guaranty program, and
- Alleged discrimination in employment or other violation of VA Form 26-421, Equal Employment Opportunity Certification.

References: Sections 13.13 and 13.14 of VBA Manual M26-1, Revised.

If...	Then...
The VA office finds probable discrimination	<p>The case will be forwarded to Central Office (262) with supporting documentation.</p> <p>Note: Sanctions authorized by 38 CFR 36.4392 and 36.4393 will not be invoked by VA offices without the prior approval of the Under Secretary for Benefits.</p>
The VA office finds no discrimination or the complaint has been settled satisfactorily	The case will be forwarded to VA Central Office (262) for review before any parties involved in the complaint are notified of any such determination.

6.08 VA Administrative Sanctions Against Program Participants

References

Regulatory requirements regarding VA sanctions against fee personnel and builders are found in 38 CFR Part 44.

Policies and procedures for imposing sanctions against Loan Guaranty program participants are outlined in Chapter 13 of VBA Manual M26-1 and Chapter 17 of the Lender's Handbook.

Note: Also see Sections 1.01 and 1.04 regarding sanctions against fee personnel and Sections 5.07 and 5.08 regarding construction complaint-related sanctions against builders.

Documentation and Due Process

In applying sanctions, VA offices will:

- Follow all regulatory requirements, policies and procedures,
 - Ensure there is adequate supporting documentation to justify the VA action taken,
 - Take progressively stricter action, when feasible, to resolve ongoing problems, and
 - Apply sanctions fairly, without prejudice or favoritism.
-

Continued on next page

6.08 VA Administrative Sanctions Against Program Participants

Disciplinary Action Upon receipt of any written complaint, the VA Regional Loan Center must investigate and determine if the allegation(s) made is valid and if the fee appraiser, fee compliance inspector, or salaried VA employee, by any inappropriate act of commission or omission, was in fact at fault. If so, appropriate disciplinary or other action should be administered or initiated. In the case of a fee appraiser or fee compliance inspector, such action may range from a letter of reprimand to outright suspension or debarment (see below). Suspension from the panel will be an action to be taken depending on the gravity of the offense and the person's past record. Disciplinary actions in respect to salaried VA employees shall be initiated in accordance with applicable existing instructions.

Limited Denial of Participation While only Central Office can impose a Debarment or Suspension, field stations can impose a Limited Denial of Participation (LDP).

Note: A sample LDP notice is found as Exhibit 13-A to Chapter 13 of VBA Manual M26-1.

IF...	Then...
The LDP is for a <i>builder</i>	Optional features shown in the sample LDP notice are applicable.
The LDP is for a <i>fee person</i>	The third paragraph on the first page of the LDP notice should read, "At the end of the LDP period, you may reapply to the fee panel. Your application will be retained for consideration along with other qualified applicants."

EXHIBIT 1

**VA APPRAISAL REVIEW/URAR CROSS REFERENCE
(URAR ITEM NUMBERS IN PARENTHESES)**

1. Do the PHOTOGRAPHS match the properties identified on the URAR?
2. Is the following NEIGHBORHOOD information supported by the review?
 - a. DESCRIPTION (15, 17)
 - b. MARKETABILITY FACTORS (18)
 - c. MARKET CONDITIONS (16, 19)
 - d. PUD/CONDO (8, 20)
 - e. SUBJECT'S COMPATIBILITY to the neighborhood (73)
3. Is the following SITE information supported by the review?
 - a. DESCRIPTION (22, 25, 27, 29)
 - b. ZONING/USE (23, 32)
 - c. UTILITIES/OFF-SITE IMPROVEMENTS (24)
 - d. SPECIAL ASSESSMENT (5, 32)
 - e. FEMA FLOOD HAZARD AREA (31)
 - f. EASEMENTS/ENCROACHMENTS (30, 32)
4. Is the following IMPROVEMENTS information supported by the review?
 - a. ID INFO OTHER THAN ADDRESS (3, 4, 6, 9, 13)
 - b. DESCRIPTION (33, 35, 38, 42, 44)
 - c. DEPRECIATION (48)
 - d. REPAIRS NEEDED (27, 36, 48, 77)
5. Is the information regarding ADVERSE ENVIRONMENTAL CONDITIONS supported by the review (49)?
6. Is the following information, found in the SALES COMPARISON ANALYSIS and elsewhere on the URAR, adequate and relevant and were adjustments proper?
 - a. ADDRESS (2, 51)
 - b. Comparables' PROXIMITY TO SUBJECT (52)
 - c. SALES PRICE (10, 53)
 - d. PRICE PER SQUARE FOOT OF GROSS LIVING AREA (54)
 - e. DATA/VERIFICATION SOURCES (55)
 - f. SALES/FINANCING CONCESSIONS (12, 19, 56)

- g. DATE OF SALE/TIME (11, 57)
 - h. LOCATION (58)
 - i. LEASEHOLD/FEE SIMPLE property rights (7, 59)
 - j. SITE SIZE/VIEW (21, 26, 28, 60)
 - k. DESIGN AND APPEAL (61)
 - l. QUALITY OF CONSTRUCTION (48, 62)
 - m. AGE/CONDITION (34, 42, 48, 63)
 - n. ABOVE GRADE ROOM COUNT (40, 64)
 - o. GROSS LIVING AREA (41, 65)
 - p. BASEMENT/FIN. RMS. BELOW GRADE (37, 39, 66)
 - q. FUNCTIONAL UTILITY (67)
 - r. HEATING/COOLING (43, 68)
 - s. ENERGY EFFICIENT ITEMS (47, 69)
 - t. GARAGE/CARPORT (46, 70)
 - u. AMENITIES - PORCH/PATIO/DECK/FIREPLACE/POOL/ETC. (45, 71)
 - v. NET ADJ./ADJUSTED SALES PRICE OF COMPARABLES (72)
 - w. Do the COMPARABLES used appear to be the BEST available at the time?
 - x. LISTINGS/CONTRACTS/PRIOR SALES (74)
 - y. INDICATED VALUE by sales comparison approach (75)
7. Is the information regarding the COST AND INCOME APPROACHES TO VALUE supportable (50, 76)?
8. Is the RECONCILIATION information logical and supportable (78)?

EXHIBIT 2

VA STAFF REVIEW OF LAPP CASES

Questions 01 and 02 are intended to verify that appraisal reports were acceptable or made acceptable as a result of lender staff appraisal (SAR) reviews. Answer "no" to each question when there are deficiencies remaining after the SAR's review.

Question 01 - Were the fee appraiser's conclusions consistent, sound, supportable, and logical, and was the appraisal report fully completed and prepared in accordance with professional appraisal practices, techniques and prescribed VA instructions?

Question 02 - Was the appraisal report stamped, dated, and signed by the SAR **if it was not issued in TAS** and if the SAR amended any portion of the report, was the attachment to the appraisal adequately documented as to the reasons?

Questions 03, 04 and 05 are intended to verify that the SAR's notice of value was properly completed and that any repairs and/or conditions related to the security were properly required by the SAR.

Question 03 - Was the SAR's notice of value completed in accordance with established VA instructions, including notation of the appropriate specific conditions to be met prior to VA loan guaranty?

Question 04 - Were the required repairs, if any, listed on the notice of value and were the listed repairs limited to those necessary to make the property conform to the VA MPRs for existing construction? (If no repairs required and none listed, answer "NA.")

Question 05 - Was the notice of value issued within 5 days of receipt of the appraisal report or was the file documented concerning reasonable extenuating circumstances which prevented issuance within 5 days?

Questions 06 and 07 are intended to verify that any revisions to the fee appraiser's value estimate by the SAR reviewer were clearly and fully justified in writing and the basis adequate and reasonable by professional appraisal standards.

Question 06 - Was the SAR's adjustment during the initial review fully and clearly justified in writing on the attachment to the appraisal report or by a SAR Processing Note in TAS? If real estate market data was used in arriving at the decision to make the adjustment, was such data attached to the appraisal report or otherwise available for forwarding to VA if required, and was the adjustment otherwise acceptably processed and dated and signed by the reviewer? (Answer "N/A" if there was no adjustment during the initial review.)

Question 07 - Was the increase in value as the result of the appeal warranted and supported by real estate market or other valid data considered adequate and reasonable by professional appraisal standards? Was the reasoning and basis fully and clearly justified in writing, using an acceptably completed sales comparison grid if appropriate, dated and signed by the SAR? Was the appeal otherwise acceptably processed, including the attachment of the market data used? (Answer "N/A" if an appeal in value was not processed.)

Note: See Step 1 under "LAPP Review Procedure" in Section 6.04 regarding the use of this exhibit.