

U.S. Department of the Interior

Indian Trust Asset Reform Act (ITARA) of 2016
Section 305(b) / Minimum Qualifications for Appraisers



ITARA Section 305

Section 305...

(b) **MINIMUM QUALIFICATIONS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish and publish in the Federal Register **minimum qualifications for individuals to prepare appraisals and valuations of Indian trust property.**

(c) **SECRETARIAL APPROVAL.**—In any case in which an Indian tribe or Indian beneficiary submits to the Secretary an appraisal or valuation that satisfies the minimum qualifications described in subsection (b), and that submission acknowledges the intent of the Indian tribe or beneficiary to have the appraisal or valuation considered under this section, the appraisal or valuation—

(1) **shall not require any additional review or approval** by the Secretary; and

(2) **shall be considered to be final** for purposes of effectuating the transaction for which the appraisal or valuation is required.

Proposed Rule: 43 CFR 100

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

What are the minimum qualifications for qualified appraisers?

- (a) The appraiser must hold a current Certified General Appraiser license in the State in which the property appraised is located;
- (b) The appraiser must be in good standing with the appraiser regulatory agency of the State in which the property appraised is located; and
- (c) The appraiser must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) rules and provisions applicable to appraisers (including but not limited to competency and ethics requirements).



Must I submit an appraisal to the Department?

- Yes, you must submit appraisals for transactions that require Secretarial approval under other parts of title 25 and title 43 of the CFR (e.g., leases, rights-of-way).

Will the Department review and approve the appraisal?

- **No, if:**
 - (1) The submission acknowledges the intent of the Indian Tribe or individual Indian to not require Departmental review and approval;
 - (2) The appraisal was completed by a qualified appraiser meeting the rule's requirements; and
 - (3) No owner of any interest in the Indian property objects to use of the appraisal without Departmental review and approval.
- **Yes, if:**
 - (1) Any of the criteria above are not met; or
 - (2) The appraisal was submitted for:
 - Purchase at probate under 43 CFR 30,
 - The Land Buy-Back Program for Tribal Nations, or
 - Legislation requiring the Department to review and approve an appraisal.

What happens if the Indian Tribe or individual Indian does not agree with the submitted appraisal?

- If the Indian Tribe or individual Indian does not agree with the submitted appraisal, the Indian Tribe or individual Indian may choose to:
 - Not use the appraisal conclusions or findings; and
 - Request that the Department perform an appraisal or valuation.

Is the Department liable if it approves a transaction for Indian property based on an appraisal submitted by a qualified appraiser?

- The Department is not liable for any deficient or inaccurate appraisal or valuation it did not review or approve
 - Even if the Department approved a transaction for Indian property (including but not limited to a lease, grant, sale, or purchase) based on an appraisal prepared by a qualified appraiser.

Questions to Consider

- 1. Do any Tribes grant Certified General Appraiser licenses similar to those granted by States?
 - If so, is the license limited to appraisals and valuations done on property within the Tribe's jurisdiction?
- 2. Are the minimum qualifications appropriate for appraisals and valuations of timber, minerals, or other property separate from appraisals and valuations of real property?
 - If not, what qualifications would be better suited to those appraisals and valuations?
- 3. Is there a way to allow for the Department to verify an appraiser's qualifications, **without** requiring the qualifications to be submitted **with each appraisal**
 - and still ensure the appraiser is qualified at the time the appraisal is submitted (i.e., there have been no changes in the appraiser's qualifications such as loss of license)?