



CLIENT VERSUS INTENDED USER

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A student in my USPAP Update class recently asked me,

“I know I can discuss the report with the client, but I’ve talked about the report with other intended users, too. Isn’t that why they are an ‘intended user’?”

Let’s take a look at this issue in a bit more depth, starting with the definitions of “client” and “intended user” from the 2020-2021 edition of the Uniform Standards of Professional Appraisal Practice (USPAP):

CLIENT: the party or parties (i.e., individual, group, or entity) who engage an appraiser by employment or contract in a specific assignment, whether directly or through an agent.

INTENDED USER: the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment.

The client is always an intended user for an appraisal or appraisal review assignment. But all intended users are not necessarily clients. For example:

Client: Bank XYZ.

Intended users: Client (Bank XYZ) and Agency-A.

In this example, Bank XYZ is the client (and consequently an intended user); Agency-A is merely an intended user, but is not the client. The above example could be written differently (since the client is always an intended user), with the same meaning, obligations, and limitations:

Client: Bank XYZ.

Additional intended users: Agency-A.

So, should the student be talking to other intended users (who are not the client) about his appraisal report(s)? No.

It is important for the appraiser to identify the client and additional intended users at the time of the assignment, to clearly disclose those parties in the report, and – equally important – to understand the obligations those labels carry.

What difference does it make?

USPAP makes it clear there is a big difference between what “client” and “intended user” imply in the appraisal process. The appraiser can disclose assignment results (opinions and conclusions, including but not limited to value) to a client, and has client obligations related to confidentiality. By comparison, the intended user is the audience (so to speak) for the appraiser’s report; the appraiser must ensure the report is understandable to that type of (or specifically named) intended user. A key difference is that the appraiser has no direct “relationship” with the intended user, at least not in the sense that the appraiser has a relationship directly with the client related to disclosures and confidentiality.

Is the “agent” (from the definition of “client”) a client?

From its context in the definition of “client”, we know an agent is the party through which a client may choose to engage an appraiser for a specific assignment. However, USPAP has no definition of “agent”, since it can be found in a common English dictionary. From the Merriam-Webster dictionary, we know an agent is “one who is authorized to act for or in the place of another” (2020, May 24. <http://merriam-webster.com/dictionary/agent>).

For example, agents such as attorneys and appraisal management companies regularly act on behalf of the client to order appraisals, communicate about the appraisal, receive and process appraisal reports, and even ensure payment is made to the appraiser. The agent is not the client*, but the agent may be authorized to interact with the appraiser in the same or similar ways that a client normally would. The degree to which an appraiser may communicate and interact with the agent should be determined at the

time of the assignment, such as through an engagement letter.

Who can the appraiser disclose certain information to?

The Confidentiality section of the Ethics Rule reads, in part:

An appraiser must not disclose: (1) confidential information; or (2) assignment results to anyone other than:

- *the client;*
- *parties specifically authorized by the client;*
- *state appraiser regulatory agencies;*
- *third parties as may be authorized by due process of law; or*
- *a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.*

This list notably does not include intended users who are not the client. However, this list includes an agent specifically authorized by the client, such as an attorney or appraisal management company acting on behalf of the client, depending on the assignment.

*Note that in some limited states, the agent for a lender (e.g., an appraisal management company) is considered the client pursuant to state regulation. This article does not address these state-specific regulations, but rather addresses USPAP.

For additional information

Review the Definitions, Ethics Rule, Standards 1 and 2, and FAQs 128 and 129 in the 2020-2021 edition of the USPAP Publication.

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