

Targeting In on the Scope of Work

Some tips for what to know and what to ask

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Imagine that you are an appraiser and you get a call from a potential client. They have been referred to you by a colleague who believes you may be a good fit for their project. However, since it is this client's very first right of way job, it is up to you to develop the right scope of work. While it may sound like a black and white assignment, it is almost always more complicated than originally anticipated. And the more complex the project, the more questions the appraiser will need to ask.

As with any project, the first step is to get as much detailed information up front as possible. The Scope of Work Rule in the Uniform Standards of Professional Appraisal Practice (USPAP) specifies three key elements: identify the problem to be solved, determine and perform the scope of work necessary to develop credible assignment results, and disclose the scope of work in the report.

Where to Start

Establishing the scope of work begins with identifying and determining who the end user will be. Often, the person requesting the appraisal is not the one who will ultimately use it. For example, let's say an appraiser is subcontracted by an engineering firm, but the report is being prepared for a state agency. In this case, the appraiser will need clarification as to who they are ultimately responsible to. When multiple users are involved and this is not clearly defined up front, misunderstandings and conflicts can easily arise.

Knowing who is steering the ship is another critical component in creating the scope of work. For most right of way work, the engineer is the captain. But engineers typically see in black and white, and in the appraisal world, there is a lot of gray. When two credible appraisers develop different opinions of value, engineers may require a much more in-depth report in order to understand how both may be correct. Sometimes the difference in opinions can be a result of underlying assumptions or differences on how to correct a damage element. One of the most common differences simply lies in the appraiser's opinion of highest and

best use. In partial acquisitions, the project may result in a change in highest and best use, and there may be disagreement on the extent of the change.

Phase of the Project

It is also essential to know what phase the other team members are in relative to the project schedule. Is the appraisal being requested in advance or at the tail end? It's not unusual for an appraiser to be engaged in advance simply to provide an overall market study with comparable sales. This can speed up a project and offer tools that help negotiate the sale without having to rely on costly litigation. In those cases, an appraiser may be provided with little more than a county map with a line drawn on it before being asked to identify sales along a proposed route. This is really not an appraisal assignment. In fact, the report cannot include specific values or value ranges, as that would constitute an appraisal.

If the request comes at the tail end of a project, the appraiser may be asked to draft a report for trial or to serve as a consulting expert. When preparing a report for trial, it is imperative that the appraiser keep detailed records of every single conversation, including notes about who they spoke with, when the conversation took place and a summary of what was said. The report may also entail a retrospective date of value. Knowing that a report will be used in a trial tells the appraiser to allocate adequate time for extensive analysis, verification of information and to review documents provided by the other side.

One underutilized role an appraiser can play is as a consulting expert. It is not uncommon for an attorney to contact an appraiser and ask them to review the appraisal and provide a gut reaction to the value findings. Or they may be called on to review reports from both sides and offer their reaction to the reports. This can often develop into a role of assisting an attorney in preparing for depositions or testimony and can be extremely valuable to winning a case. If this leads to a settlement, everyone saves time and money.

Dividing Up the Work

With determining the amount of time required for the report, three factors come into play – fee, timing and quality. With most projects, particularly those dealing with bond financing, time is money. It is unlikely that one can produce a quality report in a short time frame for a low cost. These three factors are simply not compatible in getting the best end result.

In order to get a project built on time, agencies may elect to hire multiple appraisal companies rather than rely on one large firm. Even within a single firm, consistency in values can become an issue, especially when the project involves condemnation. It is a well-known fact that neighbors talk to each other, and it is not uncommon to see them compare numbers. When there is disparity in property values, problems will arise.

To avoid or at least minimize these issues, there are a few options. When engaging multiple appraisers, one option is to allocate the assignments by category. Let's say there is a roadway project with a variety of uses including industrial, auto sales, retail and single family. In this case, it might be beneficial to make assignments by property types. Another option is to identify the areas with the lowest value and break the assignment at that point. For example, if an agency has a road project that crosses a floodplain area and a major intersection, one might break the assignment at the floodplain where values will typically be lower. Conversely, if one breaks the assignment at a major intersection, it would not be out of line to see one appraiser reach a value of \$10 per square foot while the other reports a value of \$12 per square foot, even though both may be using the same sales data. Asking the appraisers to prepare comparable sales books and share their data with each other can be an enormous time-saver. In non-disclosure states, having the appraisers consider the same sales data can help avoid future conflicts and consistency issues.

Getting on the Same Page

Another part of the scope of work deals with both the appraiser and the condemner having a complete understanding of the nature of the project. This includes knowing what information will be made available to the appraiser by the agency and by the landowner.

The extent of the property inspection is another factor, as well as understanding what property rights are being sought, differentiating real property and personal property and determining whether to use the Yellow Book (Federal Method) or the State Rule (Summation Method).

The appraiser must fully understand what property rights are being sought. If condemnation has been filed, it is imperative that the appraiser fully read the petition to understand these rights. If a petition has not been filed, the appraiser should request a sample easement or deed. If none are available, as part of the scope of work, the appraiser should clearly indicate in the report any assumptions made with respect to the property rights being acquired.

One of the appraiser's challenges comes under the Uniform Act (also known as 49 CFR Part 24), which affords the landowner the right to accompany the appraiser on the inspection. In this case, having information about the landowner's attitude could become an important component. Are they expected to be hostile or friendly? Will they provide any information and allow the appraiser access to the property to inspect? Has the owner hired an attorney? Will the landowner provide income and expense figures or the cost of past or future capital expenditures? What happens if the appraiser is denied access to the property and other requested information?

Another part of the Uniform Act requires the appraiser to differentiate real versus personal property. With questionable items like window treatments, the appraiser will need to discuss this with the property owner and/or agency. With leased property, the lease may provide some guidance as to the intention of the parties with regard to whether an item is real or personal property.

There will likely be a host of other considerations that the appraiser needs to discuss with the client. Are legal descriptions and plats available? Have title reports been ordered and will they be made available? Are construction details available? What percentage of completion are the drawings? Are there any hypothetical conditions or extraordinary assumptions required? Is the mineral estate to be considered? How will crop damage be handled? Are there above ground appurtenances? Are there restrictions on future development?

Summary

As one can readily tell, the appraiser will likely have a never-ending list of questions to ask when developing the scope of work. The agency should be prepared to address these questions and other issues and come to an understanding of the risks and costs associated with any assumptions made.

Like other things in life, what appears to be a simple straightforward request can always expand into something more complex and time-consuming than first imagined.

References

USPAP 2012-2013 Edition, The Appraisal Foundation



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