

RICS Professional Standards, Americas

Application of RICS Valuation – Professional Standards in the United States

RICS guidance note

Part of the *RICS Valuation – Professional Standards* (the 'Red Book')



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RICS guidance notes

This is a guidance note. Where recommendations are made for specific professional tasks, these are intended to represent 'best practice', i.e. recommendations which in the opinion of RICS meet a high standard of professional competence.

Although members are not required to follow the recommendations contained in the note, they should take into account the following points.

When an allegation of professional negligence is made against a surveyor, a court or tribunal may take account of the contents of any relevant guidance notes published by RICS in deciding whether or not the member had acted with reasonable competence.

In the opinion of RICS, a member conforming to the practices recommended in this note should have at least a partial defence to an allegation of negligence if they have followed those practices. However, members have the responsibility of deciding when it is inappropriate to follow the guidance.

It is for each surveyor to decide on the appropriate procedure to follow in any professional task. However, where members do not comply with the practice recommended in this note, they should do so only for a good reason. In the event of a legal dispute, a court or tribunal may require them to explain why they decided not to adopt the recommended practice. Also, if members have not followed this guidance, and their actions are questioned in an RICS disciplinary case, they will be asked to explain the actions they did take and this may be taken into account by the Panel.

In addition, guidance notes are relevant to professional competence in that each member should be up to date and should have knowledge of guidance notes within a reasonable time of their coming into effect.

It is the member's responsibility to be aware of changes in case law and legislation since the date of publication.

Document status defined

RICS produces a range of standards products. These have been defined in the table below. This document is a guidance note.

Type of document	Definition	Status
RICS practice statement	Document that provides members with mandatory requirements under Rule 4 of the Rules of Conduct for members	Mandatory
RICS code of practice	Standard approved by RICS, and endorsed by another professional body that provides users with recommendations for accepted good practice as followed by conscientious practitioners	Mandatory or recommended good practice (will be confirmed in the document)
RICS guidance note	Document that provides users with recommendations for accepted good practice as followed by competent and conscientious practitioners	Recommended good practice
RICS information paper	Practice based information that provides users with the latest information and/or research	Information and/or explanatory commentary

1 Introduction

1.1 This guidance note provides assistance to RICS members on the application of the *RICS Valuation – Professional Standards* (the “Red Book”) to valuations that have to be provided in compliance with U.S. jurisdiction.

1.2 The Red Book is aligned with the *International Valuation Standards 2011 (IVS)*, which was published June 1, 2011. The Red Book and the IVS 2011 recognize that laws or regulations in each jurisdiction may affect how a valuer complies with either set of standards.

1.3 The IVS 2011 sets out internationally accepted, high-level valuation principles and definitions.

1.4 An important change implemented in the IVS 2011 is the extension of its application to all types of assets, with the word “asset” also deemed to include “liability” where appropriate (see IVS 2011 Introduction for further details).

1.5 U.S. federal, state and local laws and regulations affect the obligations of an appraiser (valuer) when providing a valuation service under U.S. jurisdiction.

1.6 Most U.S. government agencies and administrative bodies require compliance with the *Uniform Standards of Professional Appraisal Practice (USPAP)*, typically by citation or reference in their regulations or administrative rules. Further, through an assignment document or services contract, private entities and individuals typically require compliance with USPAP in the U.S.

1.7 RICS members must take care to ensure compliance with U.S. law and regulation when providing valuation services under U.S. jurisdiction. This is recognized in the Red Book in VS 1.2.2, Compliance with other valuation standards.

1.8 An RICS member can adjust the scope of work (as defined in IVS 2011) in assignments to ensure compliance with the Red Book global valuation standards, as well as the laws and regulations in the U.S. jurisdiction. Such adjustments should assure the valuer’s client or employer that the services provided by an RICS qualified member comply with the highest level of professional standards in international and U.S. jurisdictions.

1.9 The Red Book is primarily directed at the valuation of tangible real and personal property. Additional guidance regarding business valuation and intangible asset valuation practice expectations will be provided in forthcoming RICS guidance notes. Until such guidance is available, RICS members providing business valuations or intangible asset valuations are expected to comply with the IVS 200 and 210 requirements, as well as the RICS Code of Conduct and the Red Book VS 1 to VS 6, including their related appendices. However, they should only observe the requirements that do not conflict with law or regulation applicable to business valuation or intangible asset valuation practice within the U.S. jurisdiction (see also VS 1.3).

1.10 Due to variations in law and regulation in areas across the RICS Americas region, this guidance note applies only to practice under U.S. jurisdiction.

1.11 The RICS Americas Valuation Council may provide additional jurisdiction application guidance as the need arises. Until such guidance is available, RICS members providing services in other jurisdictions within the Americas (e.g., Canada, Caribbean, Latin America) may find the information in this document appropriate for their use.

2 Terms

2.1 Certain terms in the Red Book reflect their UK heritage. In addition, the IVS terms have been adopted in the Red Book global valuation standards where there may be differences in UK practice. The following terms reflect the U.S. context for the related term in the Red Book and the IVS 2011.

“Appraisal” (U.S.) is equivalent to “valuation” (Red Book)

2.2 “Appraisal” and “valuation” are terms used interchangeably in commerce, as each term shares a common heritage.

2.3 Value systems are a crucial element of all societies. Considerations of value are made by people at all levels of commerce, whether by those who render value opinions, those who evaluate/review them or those who use them. In the U.S., activities relating to value performed by non-valuation professionals are broadly called “valuation.”

2.4 “Professional valuations”, elements of which are called “appraising” in some settings (including the U.S.), are made by specialists and are distinct and especially important in business transactions and in quantifications of wealth. Professional valuers apply generally accepted valuation principles in the process of developing supported opinions of value while complying with applicable standards. Such a process in this context involves valuation.

“Assignment” (U.S.) is equivalent to “instruction” (Red Book)

2.5 The term “assignment”, which is commonly used when engaging a valuer in the U.S., has the same meaning in that context as the term “instruction” used in the Red Book.

“Definition of value” (U.S.) is equivalent to “basis of value” (Red Book)

2.6 The term “basis of value” in the Red Book equates to the term “definition of value” in an assignment in the U.S. In addition, the commentary to VS 3, Basis of value, in the Red Book refers to the assumed status or condition of the asset at the valuation date (see VS 3.1.3).

“Scope of work” (U.S.) is equivalent to “terms of engagement” (Red Book)

2.7 The phrase “terms of engagement” in the Red Book refers to the conditions of an assignment and actions to be carried out in the process of developing and reporting a valuation assignment. In that context, it is similar to the “scope of work” in an assignment in the U.S. An important difference in the U.S. jurisdiction is that the scope of work (currently) does not include the report.

“Scope of work” (U.S.) is equivalent to “scope of work” (IVS 2011)

2.8 The term “scope of work” in the IVS 2011 includes the elements seen in the term scope of work in the U.S. setting, plus some elements that specify the engagement, certification, and report content aspects of an assignment.

“Extraordinary assumption” (U.S.) is a form of an “assumption” (Red Book)

2.9 The definition of an “assumption” in the Red Book includes conditions seen in the term “extraordinary assumptions” in the U.S.

“Hypothetical condition” (U.S.) is equivalent to “special assumption” (Red Book)

2.10 The definition of “special assumption” in the Red Book includes conditions seen in the term “hypothetical condition” in the U.S. However, in one instance related to the last phrase in its definition, “special assumption” may include an “extraordinary assumption.” This occurs when in a current or retrospective valuation, the valuer applies an assumption that would not necessarily match the expectation of what a market participant would assume.

2.11 The term “special assumption” would not be applied in a prospective value opinion in the U.S. jurisdiction, as the use of a hypothetical condition (special assumption) requires knowing the condition is not true. In other words, since the valuer cannot know the future with certainty, a hypothetical cannot be applied in development of a prospective value opinion. Only an extraordinary assumption can be applied in connection with a prospective value opinion.

“Property” (U.S.) is equivalent to “asset” (Red Book)

2.12 The Red Book, in its alignment with IVS 2011, uses the term “asset” to refer to property of all kinds. As explained in the IVS 2011 Introduction, the term “asset” includes liability unless it is specifically excluded in the assignment.

2.13 In the Red Book, the term “property” is primarily used with reference to tangible assets, specifically real property. However, in the U.S. the term “property” refers to ownership rights and therefore includes ownership of such rights in tangible and intangible assets, regardless of how they are classed.

“Date of value,” or “effective date of the appraisal,” or “effective date of the assignment results” (U.S.) is equivalent to “valuation date” (Red Book)

2.14 The term “valuation date” in the Red Book equates to how the terms “date of value,” “effective date of the appraisal,” and “effective date of the assignment results” are used (but not explicitly defined) in the USPAP document. The term “effective date of appraisal” is also frequently used in the *Interagency Appraisal and Evaluation Guidelines*, published in December 2010 in the U.S. Federal Register by multiple U.S. regulatory agencies. In the balance of this material the U.S. jurisdiction

term “date of value” includes “effective date of the appraisal” and “effective date of the assignment results”.

2.15 In the Red Book and the IVS 2011, the term “valuation date” is defined as “the date on which the opinion of value applies.” The definition for the term “date of valuation” in the Red Book refers the reader to the definition for valuation date.

2.16 The term “date of value” appears in multiple areas of USPAP and in the Appraisal Standards Board (ASB) Advisory Opinions (AO-17, AO-19, etc.) and Frequently Asked Questions (FAQ 130–144 on pages F-61 to F-67 and FAQ 204–213 on pages F-95 to F-101).

2.17 The terms “valuation date” and “date of value” have the same meaning – the date when the value opinion applies. However, in the U.S. the date when, or time frame within which, the value opinion was developed may be different, such as when the value opinion is retrospective or prospective.

3 U.S. jurisdiction applications

3.1 General

3.1.1 The following specific guidance is given to aid RICS members when providing valuation services in U.S. jurisdiction when the RICS member is obligated to comply with both the RICS Red Book valuation standards and U.S. law or regulation. It also applies when the service or the valuer is obligated to comply with USPAP by U.S. law or regulation, or by agreement with the client or intended users of the valuation service.

3.2 VS 1 Compliance and ethical requirements

3.2.1 All elements of VS 1 and its Appendix 1.1 apply to practice in the U.S. jurisdiction, with the following jurisdiction applications given in this section.

3.2.2 The Red Book applies to ‘written valuations’. When the valuation is to comply with USPAP, oral communication of the valuation results is permitted.

3.2.3 VS 1.1 lists the exceptions to the mandatory elements of the Red Book, which are provided in the extract below:

VS 1.1 Application of these standards: extent and exceptions

... The circumstances where VS 2 to VS 6 are not of mandatory application ... are set out below:

- (a) the advice is expressly in preparation for, or during the course of, negotiations or possible litigation;
- (b) the valuer is performing a statutory function or has to comply with prescribed statutory or legal procedures;
- (c) the valuation is provided solely for internal purposes;
- (d) the valuation is provided in connection with certain agency or brokerage work; or
- (e) a replacement cost figure is provided for insurance purposes, whether separately or within a valuation report.

© Red Book VS 1.1

3.2.4 When the assignment requires compliance with USPAP, the expression (whether oral or written) of a value opinion constitutes an appraisal. Therefore, the valuer’s development and support for the value opinion must be evidenced by

information in the valuer's report and/or assignment work file. (See also paragraph 3.3.2 for guidance on U.S. jurisdiction applications regarding "departures.")

3.2.5 With regard to Red Book VS 1.2.3 on compliance with other standards, a valuer who is a member of a professional organization other than RICS may be obligated by U.S. contract law to provide different information than as prescribed in VS 6 Valuation reports. Providing a report in compliance with the valuer's obligations under such a contract is in compliance with VS 1.2.

3.2.6 With regard to VS 1.2.4–VS 1.2.7, providing a valuation service expressly required by law or regulation to comply with USPAP does not constitute a departure because such compliance is recognised in VS 1.2.3. However, where U.S. law or regulation requires a lesser standard than required by the Red Book, an appropriate comment referencing the law or regulation should be made.

3.2.7 When providing a valuation service in the U.S. jurisdiction an RICS member must comply, without exception, with the following Red Book valuation standards:

- VS 1.4 Terms of engagement
- VS 1.5 Qualifications of the valuer
- VS 1.6 Knowledge and skills
- VS 1.7 Independence and objectivity
- VS 1.8 Additional criteria for independence
- VS 1.9 Additional disclosures for valuations in which the public has an interest or upon which third parties may rely.

3.3 VS 2 Agreement of terms of engagement

3.3.1 All elements of VS 2 apply to practice in the U.S. jurisdiction, with the following jurisdiction applications given in this section.

3.3.2 With regard to "departure" as defined in the Red Book, the requirements for the terms of engagement in the Red Book (VS 1.4 and VS 2) and scope of work in the IVS (101) do not conflict with the requirements set out in the Competency Rule and Scope of Work Rule in USPAP.

3.3.3 When an RICS member provides a valuation service that is subject to USPAP, the Competency and Scope of Work Rules require the valuer (appraiser) to be aware of, and comply with, applicable laws and regulations as part of the assignment conditions. A statement complying with VS 1.2.3 should be incorporated into the terms.

3.3.4 With regard to VS 2.1(g) the "valuation date" definition given in the Glossary of the Red Book and in the IVS Definitions provides for a date of value that differs from the valuation report date, without limitation.

3.3.5 The "valuation date" in assignments subject to regulation issued pursuant to Title XI of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) may include a prospective date (a date subsequent to the date of the

report) with specific conditions (extraordinary assumptions). Similar requirements for prospective date of value opinions apply in business valuation, as well as for both intangible asset and tangible personal property valuations in the U.S. jurisdiction.

3.3.6 When providing a valuation service that is under U.S. jurisdiction, the valuer must be explicit in the report regarding three dates:

- the date of value, which is when the value opinion applies;
- the date of the report, which is when the report is signed; and
- the date or time frame (date period) of analysis, which is when the value opinion was developed.

These dates may differ, especially in large-scale property assignments, or when the value opinion addresses a point in time that is in the past (prior to the time frame in which the value opinion was developed) or in the future (after the time frame in which the value opinion was developed).

3.3.7 In the U.S. jurisdiction, when the date of value is a future date (a prospective value opinion), the specific conditions, which must be expressed as extraordinary assumptions under which the prospective value opinion was developed, must be clearly and conspicuously stated. Their use must also be in compliance with the requirements for use of an extraordinary assumption as set out in USPAP.

3.3.8 With regard to VS 2.1(h), in assignments that are subject to USPAP in the U.S. jurisdiction the valuer must ensure compliance with the required disclosure of prior involvement. In addition, in assignments subject to regulations issued pursuant to Title XI of FIRREA, any valuer with prior involvement must ensure compliance with the *Interagency Appraisal and Evaluation Guidelines* (see also VS 1.7.4).

3.4 VS 3 Basis of value

3.4.1 When a basis of value (definition of value) is prescribed by law or regulation in a valuation assignment provided in the U.S. jurisdiction and that basis is different than those recognized in the Red Book, no further explanation other than compliance with the particular law or regulation, or description of the difference, is required of the valuer.

3.5 VS 4 Applications

3.5.1 With regard to VS 4.2.4–VS 4.2.7, the mortgage lending value (MLV) element is a function of the lender’s accounting section under regulations in the U.S. jurisdiction.

3.5.2 Deductions or discounts applied by the lender to a market value opinion provided by a valuer in the U.S. jurisdiction may reflect information provided either in the valuation or separately by a valuer. However, MLV is a matter for the lender to determine, not the valuer.

3.6 VS 5 Investigations

3.6.1 To the extent they are directed solely to real estate, some elements of the commentary to VS 5.1 do not apply to business valuation and intangible asset valuation assignments in the U.S. jurisdiction.

3.7 VS 6 Valuation reports

3.7.1 All elements of VS 6 and Appendix 6 apply to practice in the U.S. jurisdiction, with the following jurisdiction applications given in this section.

3.7.2 The definition of a “valuation standard” in the Red Book cites written valuations, and IVS 103 Reports implies written reports. When a valuation is to comply with USPAP, oral communication of the valuation results is permitted. In such instances the valuer’s work file must contain the information that would otherwise be presented in a written valuation report under the valuation standards in the Red Book and in IVS 103.

3.7.3 With regard to VS 6.1(l) and (m), in assignments subject to the *Uniform Appraisal Standards for Federal Land Acquisitions* (the “Yellow Book”) the information presented must comply with the Yellow Book requirements set out in Section B, which must have been developed in compliance with Section A. In any instance where the Yellow Book requirements differ from those in the Red Book, the jurisdiction of the Yellow Book prevails.

3.7.4 With regard to VS 6.1.5, the valuer must ensure the type of report is clearly stated and is consistent with the labels for the type of appraisal report set out in USPAP for the type of property/asset involved.

3.8 Practice area standards and guidance

3.8.1 The IVS 2011, reproduced in its entirety in the Red Book, includes the following asset standards and valuation applications:

Asset Standards

- IVS 200 Business and Business Interest
- IVS 210 Intangible Assets
- IVS 220 Plant and Equipment
- IVS 230 Real Property Interests
- IVS 233 Investment Property under Construction
- IVS 250 Financial Instruments.

Valuation Applications

- IVS 300 Valuations for Financial Reporting
- IVS 310 Valuations of Real Property Interests for Secured Lending.

3.8.2 The Red Book, which adopts the IVS 2011 material, also provides six guidance notes, which address:

- GN 1 Valuation certainty
- GN 2 Valuation of individual trade related properties
- GN 3 Valuation of portfolios and groups of properties
- GN 4 Personal property
- GN 5 Plant and equipment
- GN 6 Depreciated replacement cost method of valuation for financial reporting.

3.8.3 All elements of the foregoing asset standards, valuation applications and guidance notes apply to practice in the U.S. jurisdiction, except in assignments where U.S. law or regulation modifies the scope of work in the assignment or the content of the valuation report.