



Nebraska Real Property Appraiser Board

Volume 17/No. 1

June 2007

Points of Interest

- Rules and Regulations effective June 17, 2007.
- LB186 effective September 1, 2007. Scope of Practice
- Board Policy for Experience Component under current criteria.
- 2008 Qualifications Criteria

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Real Property Appraiser 2008 Qualification Criteria

Appraisers in all classifications shall perform and practice in compliance with the *Uniform Standards of Professional Appraisal Practice (USPAP)*.

Effective January 1, 2008, the requirements an individual must meet in order to become a real property appraiser will significantly increase. The major components of the *Criteria* are qualifying education, experience, examination and continuing education.

The continuing education requirement remains unchanged. The examination requirements have not changed, although, it should be noted that the AQB will implement concurrently on January 1, 2008, the examination content outlines will be experience based. The most significant change in the new *Criteria* relates to qualifying education. The changes fall into the following categories: 1) There are college-level course requirements for Certified Residential and Certified General classifications; 2) The required number of classroom hours in appraisal education has increased significantly in all classifications; 3) There are minimum classroom hours of coverage requirements for specific topic area, which are known as modules. A course matrix is a spreadsheet that is designed to track the modules contained in the Required Core Curriculum and the subtopics contained in the Rules and Regulations. This matrix permits the provider, state regulator or student to list the hours of education of a particular course and allocate the course hours to specific modules and subtopics.

Rules & Regulations Change

The Real Property Appraiser Board held a public hearing on the proposed rules and regulations April 19, 2007. These changes are necessary for the purpose of creating consistency throughout the Rules and Regulations with the Real Property Appraiser Act. The focus of the changes relate to the

2008 appraiser qualifications criteria; qualifying education approval criteria; continuing education approval criteria; instructor approval criteria; application for credential criteria; and investigation and disciplinary proceedings criteria.

The effective date of these changes is June 17, 2007.

Governor Appoints R. Gregg Mitchell

R. Gregg Mitchell, SRA was sworn in as the 2nd Congressional District Representative to the Nebraska Real Property Appraiser Board during the January 25, 2007, meeting. Mr. Mitchell is a Certified General Real Property Appraiser from Omaha, Nebraska. He has been associated with Mitchell & Associates since 1973, becoming President of the firm in 1983.

Mr. Mitchell has served the real estate industry in various capacities. He has previously served on the Board of the Omaha Area Board of Realtors and as President of the Great Plains MLS. Mr. Mitchell is currently the President of the Nebraska Chapter of Appraisal Institute.



R. Gregg Mitchell takes the oath of office .

Real Property Appraiser Board Members & Staff

2007 Chair
Sheila A. Newell
Certified General Appraiser /
Real Estate Broker

2007 Vice Chair
Mathew "Joe" Wilson
Certified General Appraiser /
1st District

James Bain
Certified General Appraiser /
3rd District

Timothy Kalkowski
Financial Institutions

R. Gregg Mitchell
Certified General Appraiser /
2nd District

Kitty Policky
Director

Kirsten Hale
Staff Assistant

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Rule Change to allow Experience Segmented

Chapter 5, Section 009 states: Applicants for credentials will be allowed to take the required examination upon providing proof that the educational requirements for the credential have been met. The examination must be completed and proof of a passing score must be provided to the Board prior to January 1, 2008, in order for the examination to be accepted by the Board. Applicants who complete the education requirements and the examination component prior to January 1, 2008, will have until December 31, 2008, to complete the experience requirement.

The **experience requirement will not be complete until:** a. The log of appraisal experience is complete; b. The reports submitted have been reviewed and deemed to be compliant with the *Uniform Standards of Professional Appraisal Practice*; and, c. The application has received Board approval. The Board adopted the following **Policy:** In order to allow the Board to process and act upon an application for credential under the current criteria the applicants must submit their appraisal reports for review within 8 months of the exam date and their experience logs within 10 months of their exam date. If the appraisal reports and/or experience log is not received within these guidelines, the Board cannot assure the completion of the experience requirements.

The Board adopted the following **Experience Log Policy:** Upon review of the appraisal log, the Board will request additional report(s) to verify work experience.

What does this mean to you? If you are applying for a new or different credential under the current criteria, the Board urges you to remember that the examination component is only good for one year. You must consider when you anticipate your experience to be completed prior to taking the examination and/or submission of reports to the Board. One can submit the reports and/or experience log prior to the completion of the experience. Should your experience log or reports not be accepted by December 31, 2008, your application for that credential will be subject to the new 'Criteria'.

Message from the Chair

I want to extend sincere greetings to real property appraisers, education providers and instructors, appraisal organizations and all users of appraisal services.

In less than six months the changes in the Appraiser Qualification Criteria will become effective for all real property appraisers. The effective date for implementation is January 1, 2008.

Enclosed for all credentialed appraisers is the Real Property Appraiser Act. Specific classifications; applications and qualifications are stated in §76-2228-§76-2232. It is essential to understand the requirements if you are taking your first qualifying education course or seeking a different credential.

For those appraisers who are obtaining hours of experience it is crucial to keep a true and accurate log of hours. The verification for experience credit should include: 1) type of property; 2) date of report; 3) address and/or legal description of appraised property; 4) description of work performed; 5) number of actual work hours; and, 6) if applicable, the signature and state credential number of the supervising appraiser.

As a reminder, there need not be a client in order for an appraisal to qualify for experience. However, the intended use of the report should be indicated as, "For experience credit." Effective

January 1, 2008 experience gained for work without a client cannot exceed 50% of the total experience requirement. Case studies or practicum course must include the generally applicable methods of appraisal practice for the credential category.

Practicum courses that are approved by the Board can satisfy the non-client experience requirement. Nebraska is one of the few states that has approved practicum courses.

Please note that all education completed under the 2008 criteria must have a matrix. The Qualifying Education Course Matrix is a spreadsheet designed to track the modules contained in the Required Core Curriculum and the subtopics contained in our Rules and Regulations. This Matrix allows students to relate the hours of education within a particular course to the hours required in a specific module and/or subtopic. A copy of the Matrix can be found beginning on page 22 of the Student Appraiser Guide at www.appraisalfoundation.org.

Some look at the new *Criteria* as "raising the bar" to hinder one interested in becoming an appraiser. I look at the new *Criteria* as advancing the appraisal profession. Yes, profession. One needs to be prepared for any career by extended study and practice. The new education, experience and exam requirements mean that appraisers will be able to enter or continue their

chosen career with confidence and professional skills. I am convinced that this transition will only improve this exciting profession.

I encourage you to embark on this new AQB *Criteria* with enthusiasm and commitment.

Sincerely,

Sheila A. Newell

Chair

The greatest danger for most of us is not that our aim is too high and we miss it, but that it is too low and we reach it.

Michelangelo

LB186 approved: Includes Scope of Practice

Senator Chris Langemeier and Senator Philip Erdman introduced LB186 this legislative session on behalf of the Board and Nebraska appraisers. Governor Heinemann approved the bill February 14, 2007 and it becomes effective September 1, 2007.

All appraisers must comply with the Competency Rule of *Uniform Standards of Professional Appraisal Practice*

The focus of the legislation was technical in nature with the exception of one addition. As of January 1, 2008 each level of appraisal credential has a scope of practice to which the appraiser must adhere.

The scope of practice of a registered appraiser shall be limited to one, two, three or four residential units having a transaction value of less than \$250,000.

The scope of practice for a licensed appraiser shall be limited to the ap-

praisal of non complex property having one, two, three or four residential units with a transaction value of less than \$1,000,000 and complex property having one, two, three or four residential units with a transaction value of less than \$250,000.

The scope of practice for a certified residential appraiser shall be limited to the appraisal of property having one, two, three, or four residential units without regard to transaction value or complexity.

Common Errors in Appraisal Reports

Written by Lynne Heiden, Trans American Institute of Professional Studies

The Uniform Standards of Professional Appraisal Practice (USPAP) requires that appraisers report the scope of work used to develop their assignment results. This includes sufficient information regarding the research and analyses performed and may also include disclosure of research and analyses not performed. The level of information included in the report is based on the intended use and the agreement with the client when accepting the assignment. Appraisers must have good communication with the client to determine the appropriate report option to use.

Not providing the agreed upon level of information is a violation of USPAP and may mislead the intended users. All appraisers must be familiar with the basic assignment elements in the Scope of Work Rule. USPAP requires that these elements be properly disclosed in the appraisal report.

Client and other **Intended Users** of the assignment results.

Intended Use of the assignment results.

Definition of Value that is appropriate based on the intended use and user. The source of the definition must also be cited.

Effective Date of the assignment.

Relevant Property Characteristics based on the interest being appraised.

Assignment Conditions

Supplemental Standards (based on the Intended Users)

Extraordinary Assumptions

Hypothetical Conditions

Limiting Conditions

Jurisdictional Exception if applicable

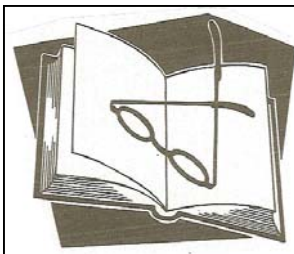
Report forms are not USPAP compliant. It is up to the appraiser to make sure that the report content is appropriate.



Report forms are not USPAP compliant. It is up to the appraiser to make sure that the report content is appropriate

Following is a list of errors that frequently appear in appraisal reports:

- Using generic statements in reports such as: "If I have not used an approach to value in this assignment, it was considered not applicable to the assignment."
- Failing to explain the exclusion of any of the approaches to value, including the reasoning behind the decision.
- Utilizing FHA, VA and FRT reporting requirements in all reports.
- Not explaining the scope of work in the report.
- Not stating the intended use, client and intended user(s).
- Not stating the report option utilized.
- Not providing enough analysis for the reader to understand the report properly.
- Not using market extracted data.
- URAR - inconsistencies between the description of the subject property on the first page and the analysis in the rest of the report.
- Sign errors in the adjustments (wrong way).
- Incorrectly computing depreciation and remaining economic life.
- Not developing the cost approach when it is applicable to the assignment and should be part of the scope of work based on the intended use.
- Failing to explain the support and rationale for the appraiser's opinion of the Highest and Best Use.
- Failing to analyze any listing, option, or purchase agreement on the subject.
- Failing to address market risk.
- Failing to reconcile the approaches used to arrive at a credible value conclusion.
- Failing to comply with supplemental standards based on the Client and Intended User.
- The failure to keep current with USPAP and changes in basic appraisal terminology for example, using a term such as function which has been replaced by the expression intended use.
- Not explaining adjustments and the reasoning behind the adjustments in the report.



Remember..... the appraiser is responsible for assignment results and the report that is delivered to the client.

Enforcement / Disciplinary Actions

76-2239 Investigations; authorized; disciplinary action; complaint; procedure; hearing.

The board may, upon its own motion, and shall, upon the written complaint of any aggrieved person, cause an investigation to be made with respect to an alleged violation of the Real Property Appraiser Act by any credential holder or applicant for credentialing under the act. The board may revoke or suspend the credential or otherwise discipline a credential holder or deny any application for any of the acts or omissions set forth in section 76-2238. Violation of the act or the rules and regulations during a period of probation shall cause immediate execution of a suspension penalty.

Upon receipt of information indicating that a credential holder may have violated any provision of the act, the board shall make an investigation of the facts to determine whether or not there is evidence of a violation. If technical assistance is required, the board may contract with or use qualified individuals or companies.

If an investigation indicates that a credential holder may have violated a provision of the act, the board may offer the credential holder an opportunity to voluntarily and informally discuss the alleged violation before the board. The board may enter into consent agreements or negotiate settlements. If an investigation indicates that a credential holder has violated a provision of the act, a formal complaint shall be prepared by the board and served upon the credential holder. The complaint shall require the credential holder to file an answer within thirty days of the date of service.

In responding to a complaint, the credential holder may admit the allegations of the complaint, deny the allegations of the complaint, or plead otherwise. Failure to make a timely response shall be deemed an admission of the allegations of the complaint. Upon receipt of an answer to the complaint, the director or chairperson of the board shall set a date, time, and place for an administrative hearing on the complaint. The date of the hearing shall not be less than thirty nor more than one hundred twenty days from the date that the answer is filed unless such date is extended for good cause.

02-28 Michael Raasch CG920269

A formal complaint was filed alleging the appraiser violated Standards 1 and 2 and the Ethics Rule of the Uniform Standards of Professional Appraisal Practice (USPAP) with respect to appraisal of six identified properties. Agreed Settlement: (1) The appraiser agreed to have credential placed on probationary status for a period of one (1) year commencing December 1, 2006. (2) During the probation period, appraiser shall notify the Board in writing at least once each quarter of all work covered by his credential and performed by him during the prior quarter. The Board may select up to ten such reports to be submitted for external review and appraiser shall pay the appraisal review fee for each appraisal so reviewed. (3) Appraiser shall not supervise or train any appraiser during the period of probation. (4) Appraiser shall pay the attorney's fees and expenses incurred by the Board with respect to its Complaint against him in the amount of \$2,500.00.

03-78 Betty Holliday CR980116

A formal complaint was filed alleging the appraiser violated Standard 6 of the Uniform Standards of Professional Appraisal Practice (USPAP) in connection with the county-wide appraisal for Banner County, Nebraska. Agreed Settlement: The appraiser agreed to not perform mass appraisals, which are governed by Standard 6 of *USPAP*, and shall restrict appraisal practice to those appraisals governed by Standard 1

through Standard 5. Holliday agreed she will no longer accept assignments for any mass appraisals from any Board of Equalization within this state. Holliday agreed she will not conduct any mass appraisal (as that term is defined in Regulation 50 of the Nebraska Department of Property Assessment and Taxation) in any county in the state.

05-14 Timothy Rounds CR940252

A formal complaint was filed alleging the appraiser violated the Ethics Rule, the Competency Rule and Standard 1 of the Uniform Standards of Professional Appraisal Practice (USPAP). Agreed Settlement: (1) The appraiser shall not perform commercial appraisals. (2) Appraiser shall be placed on probationary status for a period of four months from the date of this Agreed Settlement. The terms of the probation shall include: a. return license to the Board within fifteen days, license will be marked "probationary" for use during the period of probation; b. during probation period he will, at his own expense, successfully complete 1. a National USPAP course and pass any examination required; 2. a Sales Comparison Approach class (approximately 15 hours) and pass any examination required; 3. an Income Approach class (approximately 15 hours) and pass any examination required. (3) Appraiser agrees to pay the attorney's fees and expenses incurred by the Board with respect to this complaint in the amount of \$899.00.

Enforcement / Disciplinary Actions Continued

05-15 Jeanne McDonald CR940255

A formal complaint was filed alleging violation of the Act. A formal hearing was held. Order: (1) Respondent's credential is suspended for a period of sixty days commencing on the date of this Order. After the expiration of the sixty day suspension period, Respondent shall be placed on probationary status for an additional period of six months. The terms and conditions on which the probationary status shall be granted follow: a. Respondent shall return her credential to the Board within five working days following the date of this Order. At the end of the suspension period, the Board will provide her a copy of the credential marked "probationary" for use during the period of probation. b. During the probation period, Respondent shall notify the Board in writing at least once a month of all work covered by her credential and performed by her or under her supervision during the prior calendar month. The Board may select up to twelve such reports to be submitted for external review, the Respondent shall pay the appraisal fee for each appraisal so reviewed. c. Respondent shall, at her own expense, successfully complete a minimum two-day Uniform Standards of Professional Appraisal Practice (USPAP) class and pass any examination required as part of such class. Respondent shall also, at her own expense, successfully complete a Sales Comparison Approach class (approximately fifteen hours) and pass any examination required as part of such class. d. Respondent shall pay the attorney's fees and expenses and hearing officers fees and expenses incurred by the Board with respect to its Complaint against her in the amount of \$3470.69.



05-25 Patrick Morrissey CR920553

A formal complaint was filed alleging the appraiser violated the Act. Agreed Settlement: (1) Appraiser agrees that within six months of the date of this settlement, he will, at his own expense, successfully complete: a. a National USPAP class (approximately two days) and pass any examination required as part of such class; b. a Narrative Report writing class (in excess of twenty hours) and pass any examination required as part of such class. (2) Appraiser agrees to pay the attorney's fees and expenses incurred by the Board with respect to this complaint in the amount of \$1,108.00.

05-29 Thomas H. Slack CG250270R (Reciprocity)

A formal complaint was filed alleging violation of the Act. Agreed Settlement: (1) Appraiser will surrender his credential to the Board within ten days after this Agreed Settlement is approved by the Board and shall never reapply for a credential in the state of Nebraska. Such surrender will be reported as voluntary to the maximum extent permitted by applicable law and regulations. (2) Appraiser agrees to pay a portion of the attorney's fees and expenses incurred by the Board with respect to this complaint in the amount of \$3,000. (3) Provided that the parties comply in full with the terms and conditions of the Agreement, each party, on behalf of itself and its representatives, officers, directors, shareholders, employees, attorneys, successors and assigns does release, acquit and forever discharge the other and his or its representatives, officers, directors, shareholders, employees, attorneys, witnesses, successors and assigns, from any and all claims, demands, actions or causes of action, whether known or unknown, liquidated or unliquidated, including, but not limited to, all claims that were asserted by either of them at any point in this matter, whether or not said claim is presently known or knowable by him or it, that related in any way to the claim in the complaint arising out of the facts alleged.

06-24 Stan Wolkins CG240104R (Reciprocity)

A formal complaint was filed alleging violation of the Act, in connection with the Respondent's advertising practices, has violated the Management Section of the Ethics Rule of the National Uniform Standards of Professional Appraisal Practice (USPAP). Agreed Settlement: Appraiser shall not make, publish, or distribute materials or otherwise make representations substantially similar to Exhibit A; specifically, and without limitation, Wolkins shall not represent that a property owner or any other person or entity for whom Wolkins conducts an appraisal will be paid or otherwise compensated for the appraisal.

**All appraisers
must comply with
the Competency Rule
of
Uniform Standards of Professional
Appraisal Practice**

WHAT WOULD YOU DO IF?

Written by Richard L. Keith, MAI and Cay Lacey, MAI

Litigation and condemnation appraisal have been around for a long time and many of the concepts on which they have been based actually predate the *Uniform Standards of Professional Appraisal Practice*. Some of those old concepts are in conflict with USPAP. It is important to remember that Nebraska appraisers are now appraising according to USPAP and must comply. Here are some examples of how some litigation and condemnation practices are linked to the *Uniform Standards of Professional Appraisal Practice*.

Situation: An attorney whose client owns a property that will be affected by a street widening project contacts you to discuss the possibility of your providing an appraisal and expert testimony in condemnation proceedings. Prior to meeting with the attorney, you view the property and discover the property consists of a retail strip center located on the primary arterial in the community. During the meeting, the attorney tells you that the condemning agency intends to construct a median in front of the property, limiting access from the arterial to traffic from only one direction.

The attorney requests that you complete a before-and after-taking appraisal on the property recognizing all effects of the project on the fair market value of the property. You have heard that damages to property arising from medians is viewed by the condemning agency as a non-compensable damage, but you also know from completing appraisals for mortgage loan purposes that properties with medians typically sell for less than properties with no medians. Can you accept the assignment and what do you do?

Suggested Considerations: One can accept the assignment. However, as is the case with many partial taking situations, particular attention must be given to definitions utilized in the appraisal assignment and appropriate disclosures must be made under extraordinary assumptions associated with the assignment. In addition it is a good idea to have written instruction from the client regarding any extraordinary assumptions or, at a minimum, a clear understanding of the issues to be considered.

The before-taking value estimate is likely similar to

any appraisal assignment. The value estimate provided will reflect the value of the property as it exists prior to any threat of taking. The value estimate is also tied to the definition of market value together with the cited source of the definition required by USPAP.

USPAP requires your opinion to be independent and unbiased.

However, the after-taking value estimate is more problematic. It is suggested that you give consideration to several issues and address those issues in your appraisal report as follows:

- First, you should disclose that the after-taking value estimate is premised upon an extraordinary assumption with respect to the issue of compensability or non-compensability of damages arising from the median, and the value estimate after the taking is premised upon the assumptions described.
- Second, if you have determined through market evidence that the market value is diminished as a result of the median and the value estimate remains consistent with the definition of market value provided in the before-taking value estimate, it is permissible to report that value estimate. However, it would be prudent to disclose that the extraordinary assumption associated with the after-taking value may or may not be consistent with case law within the jurisdiction. You are not expected to make legal determinations as to the compensability or non-compensability of elements of damage. But you are required to disclose the underlying premise of any and all extraordinary assumptions.

Finally, USPAP requires your opinion to be independent and unbiased. To that extent, your opinion should be objective and you should not be an advocate of whether the damage arising from the median is compensable or not. The judicial system is responsible to make appropriate determinations with respect to compensability or non-compensability.

WHAT WOULD YOU DO IF? continued

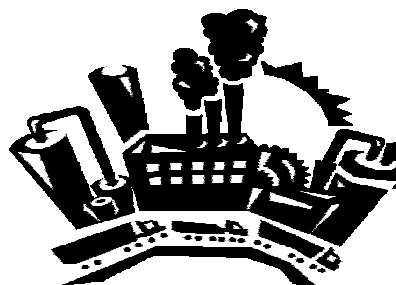
Situation: You have been requested by the condemning agency to complete an appraisal under the exact same circumstance described above, but the agency provides you with a directive that your after-taking value estimate shall give no consideration to any potential damages arising from construction of the median.

Suggested Considerations: One can accept the assignment. However, as in the prior assignment, you must pay close attention to definitions used in the appraisal assignment and appropriate disclosure must be made with respect to extraordinary assumptions associated with the assignment. Particular attention must be given to the definition of market value associated with the after-taking value estimate. In addition it is desirable to have written instruction from the client about any specific value definitions or extraordinary assumptions to be used or, at a minimum, a clear understanding with the client of the issues to be considered.

It is suggested that you give consideration to several issues and address those issues in your appraisal report as follows:

- First, you should disclose that the after-taking value estimate is premised upon an extraordinary assumption with respect to the issue of compensability or non-compensability of damages arising from the effect of the median, and the value estimate after the taking is premised upon the assumptions described.

- Second, even if you have determined through market evidence that the market value is diminished as a result of the median, the extraordinary assumption associated with the assignment may require *modification of the definition of market value* associated with the after-taking value estimate. It would be essential to disclose that the definition of market value used in the after-taking value estimate had been modified to exclude measurement of any market reaction to the median. Again, you are not expected to make legal determinations as to the compensability or non-compensability of elements of damage. But you are required to disclose the underlying premise of any extraordinary assumptions.



Finally, USPAP requires your opinion to be independent and unbiased. To that extent, your opinion should be objective and you should not be an advocate of whether the damage arising from the median is compensable or not. The judicial system is responsible to make appropriate determinations with respect to compensability or non-compensability.

Board Policies

The Board adopted the following **Policy:**

In order to allow the Board to process and act upon an application for credential under the current criteria the applicants must submit their appraisal reports for review within 8 months of the exam date and their experience log within 10 months of their exam date. If the appraisal reports and/or experience log is not received within these guidelines, the Board cannot assure the completion of the experience requirements.

The Board adopted the following **Experience Log Policy:** Upon review of the appraisal log, the Board will request additional report(s) to verify work experience.



**Nebraska
Real Property Appraiser Board**

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www.appraiser.ne.gov

Other Links:

www.appraisalfoundation.org
www.nebraska.gov
www.asc.gov

USPAP Q & A

Question: The real estate market I appraise in has slowed down over the last 12 to 18 months, and it is now extremely common to see seller concessions as part of a purchase transaction. What are the USPAP requirements regarding proper treatment of sales/financing concessions?

Response: Sales or financing concessions may have an effect on the price paid for a property. As such, it is important for the appraiser to recognize this and analyze their impact.

Sales or financing concessions should be considered in light of the type and definition of value used in an assignment. If the value opinion to be developed in a real property appraisal assignment is market value, then Standards Rule 1-2(c) requires the appraiser to ascertain whether the value is to be the most probable price:

- (i) in terms of cash; or
- (ii) in terms of financial arrangements equivalent to cash; or

(iii) in other precisely defined terms; and

(iv) **if the opinion of value is to be based on non-market financing or financing with unusual conditions or incentives, the terms of such financing must be clearly identified and the appraiser's opinion of their contributions to or negative influence on value must be developed by analysis of relevant market data;** (bold added for emphasis)

It should be noted that some client groups, such as Fannie Mae, specify how sales or financing concessions are to be addressed in assignments that are subject to their guidelines. Appraisers performing assignments of this type should become familiar with all applicable guidelines in order to satisfy the requirements of the COMPETENCY RULE.

Seller Concessions