

By Catherine Pendergast
Education Coordinator

Are You Doing Opinions of Value (aka Broker Price Opinions or BPO's) for a fee?

Completing an opinion of value for a fee may seem like a quick and easy way to make a few dollars. However, providing a Broker Price Opinion (BPO) to a private homeowner, bank, REO company or any other entity for compensation, is a client-level service. Even though the agent/client relationship is limited to this single task there are some important things that you must keep in mind:

1. You must present a completed Real Estate Brokerage Relationships Form to the prospective client.
2. Providing client level brokerage service (advice) requires a written brokerage agreement which, according to 32 MRSA § 13177-A, must include at a minimum:
 - A. The signature of the client to be charged;
 - B. The terms and conditions of the brokerage services to be provided;
 - C. The method or amount of compensation to be paid;
 - D. The date upon which the agreement will expire; and
 - E. A statement that the agreement creates an agency-client relationship.
3. As set forth in the Real Estate Appraisal Statute [32 MRSA § 14004(2)], actively licensed Associate Broker or Broker level licensees may render appraisals or opinions of value for purposes other than for federally related transactions. Sales Agent licensees cannot perform this function.
4. The above referenced statute also requires that the following language, in bold print and in a prominent location, must be included in the opinion:

"This opinion or appraisal was prepared solely for the client, for the purpose and function stated in this report and is not intended for subsequent use. It was not prepared by a licensed or certified appraiser and may not comply with the appraisal standards of the uniform standards of professional appraisal practice."
5. A BPO may not be provided on real estate in a transaction where that licensee, or any other licensee affiliated with the company, is to receive a fee on that transaction.
6. A copy of the BPO must be delivered to the designated broker within 5 calendar days of execution and the designated broker must retain it for 3 years.
7. Compensation must go to the company; it cannot be paid directly by the client to the licensee.

Knowledge Check:

Q – If a broker or associate broker receives a request to complete a BPO (or “drive-by appraisal”) from a mortgage broker/lender on a property listed and under contract by another licensee affiliated with the agency– are there any issues?

A - Yes! This would be a conflict of interest because a BPO prepared for a client (the lender) for a fee and brokerage services performed for seller or buyer (listing/brokerage representation agreement) occurring in the same transaction is prohibited. The prohibition is not limited to the same affiliated licensee; it is within the agency. This would include all branch offices of an agency.

Q - What if the property is listed with another licensee affiliated with the agency but not under contract – does that make a difference?

A – No

Q - May a broker or associate broker who has completed, and been compensated for, a BPO thereafter enter into a listing agreement for the same property?

A – Yes. The listing is a new transaction so there is no conflict of interest.

Q - Is the licensee required to return payment received for a BPO prior to listing the same property?

A - No.

NEW CORE COURSES ARE AVAILABLE

Brokers and Associate Brokers with a license expiration date prior to April 1, 2019, and who renew prior to that date, may fulfill their core course requirement with either “*Core Course for Brokers and Associate Brokers – 2*” or “*Core Course for Brokers and Associate Brokers – 3*.”

Designated Brokers with a license expiration date prior to April 1, 2019, and who renew their license prior to that date, may fulfill their core course requirement with either “*Core Course for Designated Brokers – 2*” or “*Core Course for Designated Brokers – 3*.”

If your license expiration date is April 1, 2019, or later, you must complete the NEW core course appropriate for your license type (either “*Core Course for Brokers and Associate Brokers – 3*” or “*Core Course for Designated Brokers – 3*”), REGARDLESS of when you renew.

Visit the Commission’s website BEFORE you renew. Make sure you understand the continuing education requirements for your license type and DO IT RIGHT!