

***Salt Lake County
Board of Equalization***

***Administrative Rules
2008***

Adopted
June 17, 2008

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I. GENERAL PROVISIONS

A. Purpose and Application of Rules

1. To establish internal policies and procedures governing the conduct of the Board of Equalization and other participating offices in the Board's constitutional and statutory mandate to adjust and equalize the valuation and assessment of real and personal property within the County subject to regulation and control by the Utah State Tax Commission as prescribed by law. In applying these rules, special consideration and allowance may be given to homeowners to increase their understanding of the assessment and valuation process and to help clarify their positions. Property owners should be made aware of the right to examine and question basic information that went into the assessment appraisal. Professionals, i.e., appraisers, tax representatives, agents, attorneys, and real estate professionals, are expected to understand the property tax process and act in accordance with their professional status.
2. These rules incorporate herein by reference the provisions and administrative procedures set forth in Utah Code Ann. Sections 59-2-1001 through 1006 (Equalization); Utah Administrative Code Section R884-24P-66 (After Time Appeals to County Board of Equalization) and Utah State Tax Commission Standards of Practice (Procedures and Guidelines for Boards of Equalization). All procedural matters governed by law are to be conducted in strict accordance with the applicable statutes and administrative rules.

B. Participating Offices

1. County Council

The County Council is the Board of Equalization (Board or BoE). The Board sets policy and makes all final decisions based on its findings or findings made by hearing officers appointed by the Board. It may make and enforce any rule which is consistent with statute or State Tax Commission rule and necessary for the government of the Board, the preservation of order, and the transaction of business.

2. Tax Administration

The Tax Administration Office is designated staff to the County Council on tax matters. This office administers the Board of Equalization, directs the hearing process, establishes policies and procedures, coordinates operations, and monitors the appeals process. The Tax Administration Office carries out general operations and administrative matters for the Board as described under these rules except as delegated by statute to other elected offices or reserved for the Board.

3. Auditor

The County Auditor by statute serves as the Clerk of the Board of Equalization (Clerk) with the primary responsibility to maintain the records of the Board of Equalization. The Clerk shall manage the application process for appeals, schedule hearings, provide forms, and mail notices. The Clerk is to ensure that proper procedural standards have been followed for decisions issued by the Board. In addition the Clerk may provide logistical support, ensure timely completion of the application process, implement policies and procedures, and serve in other capacities as designated by the Board.

4. District Attorney

- a. The District Attorney serves as legal counsel to the participating offices and provides formal opinions, advice, and recommendations on all legal matters referred to it by the participating offices.
- b. All applications based entirely or in part on legal issues may be referred to the District Attorney for review.

5. Assessor

- a. The County Assessor establishes the original valuation and may be required to attend the hearings and to provide testimony and evidence in defense of any valuation under appeal. The Assessor may meet informally with petitioners to review the applications challenging valuation and assessment and recommend adjustments to the Board.
- b. The Assessor collects taxes including penalties and interest for personal property in accordance with decisions of the Board.

6. Treasurer

The County Treasurer collects taxes including penalties and interest on real property in accordance with Board valuation and assessment adjustments.

7. Recorder

The County Recorder provides documents and information on issues that involve legal descriptions of real property.

C. Authority of the Board of Equalization

1. The Board may appoint hearing officers to examine applicants and witnesses. The hearing officers shall transmit their findings as a recommendation to the Board for final action. The Board may also delegate to hearing officers or its staff specific duties and functions to be performed in accepting, processing, and recommending appropriate actions on appeals to the Board for their approval. No office or party may act for the Board or its staff in any matter at issue under this rule unless authorized in this rule or by an action of the Board; provided that no office may act for the Board where statutory authority is granted solely to the Board.
2. Except as noted below in paragraph C.4, the Board only has jurisdiction to hear current matters arising while the Board is in session, including clerical errors and omissions, greenbelt assessment and rollback appeals, escaped property appendix roll appeals, privilege tax issues, residential exemption issues, and legal matters. The Board may not adjust taxes or rule on matters assigned by law expressly to the County Council.
3. While it is in session the Board may initiate an action or take jurisdiction where it finds any valuation or exemption to be in error. The Board may increase or decrease any valuation that is properly before it or uphold the original assessment.
4. The Board may be reconvened for prior years upon request to and approval by the State Tax Commission for the following reasons:
 - a. Improper notice of right to appeal or hearing;

- b. Failure to provide opportunity for a hearing; or
- c. Extenuating circumstances as determined by the Board which denied due process to or prevented reasonable and timely filing by the petitioner.

II. APPLICATION

A. Filing on Current Matters

An application may be filed only on a current matter arising while the Board is in session. Each tax year stands on its own with respect to application procedures. The existence of an appeal to the Board, the State Tax Commission, or a court of competent jurisdiction for a prior year shall not constitute an appeal of the current year's value.

B. Filing Dates for Real and Personal Property

Except as provided by UAC § R884-24-66 for late filed real property appeals, all applications, whether initiated by a property owner or a participating office, must be filed on or before statutory closing dates and in accordance with UCA § 59-2-1004 (real property) and UCA § 59-2-1005 (personal property). An appeal is considered timely if postmarked no later than the statutory closing date or received on or before the statutory closing date if delivered in person.

C. Authorized Parties

1. Application may be made by any party with direct ownership or financial or legal interest in the property including:
 - a. The owner of the property or anyone authorized by the owner;
 - b. An attorney representing the owner or an authorized party;
 - c. A mortgage lender;
 - d. A contract holder or seller;
 - e. A property manager or employee of the owner;
 - f. A party with life tenancies in the property;
 - g. A party with fiduciary interest in title to the property; or
 - h. A tenant with full rights and responsibilities for payment of taxes.
2. Any agent representing the interest of a party listed under II.C.1. must have a signed authorization with a current date from such party identifying the property by address and parcel number and the current tax year under appeal.

D. Appraiser Registration and Certification

1. The licensing and registration requirements set forth in UCA § 61-2b-1 for appraisers in the State of Utah and the Uniform Standards of Professional Appraisal Practice (USPAP) shall apply in all Board hearings.

2. Except as provided in UCA § 61-2b-3(2) licensure is required for anyone to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state.
 - a. Factual evidence which stands on its own without analysis is not considered an appraisal under UCA § 61-2b-2 including, but not limited to:
 - i. Real estate transactions and market data.
 - ii. Actual income and expense data.
 - iii. Professional or commercial reports and publications.
3. If a person licensed or certified under state law enters into an agreement to perform consultation services for a contingent fee, this fact shall be clearly stated in each oral statement. In addition, if a person licensed, or certified prepares a written consultation report or summary, letter of transmittal, or certification statement for a contingent fee, the person shall clearly state in the report, summary, letter of transmittal, or certification statement that the report is prepared under a contingent fee arrangement. (UCA § 61-2b-36).

E. Compliance

1. All applications, whether initiated by a property owner or a participating office, shall be reviewed by the Tax Administration Office for compliance with the requirements of this subsection. Minimum requirements include the following:
 - a. Owner's estimate of value as required under UCA § 59-2-1004 (2). If a parcel contains both land and improvement(s), the owner's estimate of value must challenge the entire value and not just the individual component parts of either land or improvement.
 - b. Written application, submitted by an authorized party.
 - c. Supporting evidence as described in section III.
2. Applications may be deemed deficient and dismissed if they fail to meet the minimum requirements herein.
 - a. Deficiencies will be specified in a written notice of intent to dismiss, sent to the affected party allowing 10 working days to correct the appeal.
 - b. If the deficiency is not corrected within that time the application may be dismissed.
3. An application supported by appraisals in progress will not be dismissed if the appraiser doing the appraisal submits a statement stating that he or she has been hired to do an appraisal and providing a description of the property to be appraised and an estimated time of completion. If the completed appraisal is not submitted within 30 days the application may be dismissed.
4. If a party provides false information in an application, the application may be dismissed and the matter referred to the District Attorney for appropriate action.
5. Personal property valuation schedules may not be appealed to, or amended by the Board. (R884-24P-33).

6. Age-Based motor vehicle fees may not be appealed to the Board. These include passenger cars, light trucks, sport utility vehicles and vans, boats and personal watercraft, campers, snowmobiles and other off-highway recreational vehicles, and motorcycles. Value based motor vehicle fees may be appealed to the local board. (UCA § 59-2-1005).
7. Pursuant to § 59-3-307(3), if a taxpayer refuses to file the required personal property affidavit, the County Assessor is required to estimate the value of the personal property owned, possessed, or leased by the taxpayer. Once an estimate of value is fixed by the Assessor, it can not be reduced by the Board or the Utah State Tax Commission.

III. EVIDENCE

- A. Basis for Appeal - An application must include supporting evidence based on the applicant's claim according to one or more of the categories listed below. The Board may request additional information as circumstances require.

The following are minimum requirements for real property.

1. Purchase of the Subject Property – Documentation for any property type must include a closing or settlement statement prepared by an independent third party that identifies the contract sale price, the date of sale, the names of the buyer and seller, a description of the property, and the property location.
2. Market Approach (Comparable Sales) – Documentation for any property type must include:
 - a. Three sales where available;
 - b. Transaction information including date and price (terms);
 - c. Location data including address, neighborhood, zoning, etc.;
 - d. Site data including property use, site improvements, lot size, and characteristics, etc.;
 - e. Description of improvements including age, square footage on each floor, basement and finish, bathrooms, special features, auto storage, etc.;
 - f. Rental information, if applicable; and
 - g. Source of information.
3. Professional Fee Appraisals – Documentation for all property types must include a complete copy of the appraisal report prepared by a licensed appraiser consistent with state law.
4. Income Approach – Documentation for apartments with three or more units and other commercial properties must include:
 - a. A rent roll and operating statement with all actual income and expense data for the prior year ending December 31. Additional data will be required for specific challenges to excess vacancy and collection loss, or capitalization or discount rates; or
 - b. Leases of three comparable properties including the location, description, age of lease, and type of lease if the property is owner occupied.

5. Cost Approach – Documentation for new commercial properties, special purpose industrial and commercial properties, or unique residential improvements must include:
 - a. Identification of all improvements including number, types, and use; and
 - b. Complete listing of actual costs of construction, including hard and soft costs, plus site value.
 - c. For construction work in progress and establishing the percent of completed construction as of the lien date for any type of improved property, pursuant to UAC § R884-24P-20:
 - i. Construction inspection reports from the municipality or jurisdictional authority where the property is located, showing dates of inspection and construction work completed.
 - ii. Percent of completion for residential properties shall be determined pursuant to R884-24P-20.E.2.c(1).
6. Factual Errors – Documentation for all types of property must include:
 - a. A clearly identified factual error in the description of the land or improvements supported with any available evidence; and
 - b. Supporting evidence that the error results in excessive valuation.
7. Contamination claim – For all types of property the applicant must provide:
 - a. Documentation identifying the real property as having been placed on the National Priority List of the Environmental Protection Agency, as of the lien date; or
 - b. Documentation identifying the real property as having been a part of the Department of Environmental Quality’s Hazardous Substances Priority List pursuant to Utah Code Ann. § 19-6-311, as of the lien date; or
 - c. Documentation identifying the real property as, or as having been a clandestine laboratory operation (illegal manufacturing of controlled substances) as defined in Utah Code Ann. § 58-37d-3, as of the lien date.
 - d. If the evidentiary requirements for a through c have been met, the following are also specifically required:
 - i. Demonstrate to what extent the site is contaminated with reliable, objective information which would include environmental audits, engineering studies, laboratory reports, or historical records;
 - ii. The contaminated site’s Case Worker’s name and telephone number, or the Project Manager’s name and telephone number, and the Facility Identification Number; and
 - iii. The scope of proposed site clean-up plans and the estimated cost of remediation, which is to include all alternative remediation methods and their related costs.

- e. If the appeal is to be based on “stigma,” the applicant must submit evidence which would support the real property’s market devaluation. This would include the following:
 - i. Comparable sold properties, which were sold under the same pretense; or
 - ii. Income information relating to other income producing properties suffering the same or similar limitations; or
 - iii. A professional fee appraisal.
 - f. Any site with permitted releases, or permitted facilities for storage or disposal of hazardous substance approved by the Department of Environmental Quality, will not be considered contaminated by the Board.
8. Legal Issues – Applicants must identify applicable laws and provide legal citations. All applications citing legal issues, including exemptions, will be referred to the District Attorney’s office. If there is also a valuation question, the application may be scheduled for a valuation hearing with a hearing officer.
 9. Equalization - Applicants must submit documentation establishing the market value of both the subject property and the comparable properties together with evidence establishing comparability and classification of the properties.
- B. The following are minimum requirements for personal property:
1. All applicants must identify the specific property subject to appeal, including makes, model numbers, year of purchase, etc., if applicable;
 2. Claims of extraordinary functional, physical, or economic obsolescence must be demonstrated and quantified by the applicant;
 3. Changes in classification must be documented by specific characteristics that would justify reclassification;
 4. Legal issues must include a brief supporting the claims of the applicant;
 5. Appraisals must be done by qualified professionals and include a statement of qualifications;
 6. Where applicable, the level of trade at which a sale is found must be identified;
 7. Liquidation, quick-sale, wholesale, or auction data will generally not be considered fair market value documentation; and
 8. Claims concerning prior disposal of property must include source documents identifying the property and its disposition, including descriptions and disposal dates.
- C. Reasonable Timeliness - All market transactions and all information submitted as evidence must have occurred or be for a period within a reasonable time from the lien date in question. Any adjustment must be clearly identified.

D. Exceptions:

1. Time limitations on dates for appraisals, comparable sales, and other financial or economic data may be extended where the party submitting such evidence demonstrates that more current evidence is unavailable or not applicable; and
2. The Board may assist an applicant in obtaining comparable sales or other information for good cause as determined by the Board when the applicant is unable to obtain documentation.

IV. PRELIMINARY REVIEW

- A. To facilitate the appeals process, Tax Administration may conduct an administrative review of a property owner's application prior to hearing and formally recommend a value adjustment to correct factual or data errors or to conform the assessment with market evidence. The formal recommendation shall become the Board's final decision.
- B. The Assessor's office may conduct an informal review of a property owner's application prior to hearing and recommend a value adjustment to correct factual or data errors or to conform the assessment with market evidence.
 1. In the absence of a stipulation, the Board shall make a proposed decision and the Clerk will notify the applicant of the action, providing 30 days to appeal the proposed decision. The proposed decision shall become the Board's final decision if the applicant makes no petition for formal hearing.
- C. If all affected parties agree and settle on value, a signed stipulation may be submitted to the Board. The stipulation form will include a statement that signing the stipulation waives all further rights of appeal to the Board, the State Tax Commission, or courts of competent jurisdiction.

V. HEARING

A. Convening Hearing

A hearing will be convened when Tax Administration determines that sufficient grounds exist to warrant a hearing, or upon request of either party following a proposed decision of the Board. Neither party is required to attend a hearing; however, failure to appear at a hearing after proper notice by the Clerk shall not be grounds to request a new hearing, to respond to new evidence submitted at the hearing, or to reopen the appeal.

B. Notice

1. The Clerk shall provide written notice of any hearing to all interested parties and authorized agents or representatives at least 10 business days prior to the hearing unless all parties agree to an earlier time.
2. All requests for notices to be sent to an address other than that listed on County records for the mailing of the tax notice must be made in writing to the Clerk of the Board.

C. Rescheduling Hearing

A hearing may be rescheduled for good cause as determined by the Clerk, including for insufficient notice to any party.

D. Continuing Hearing

The hearing officer may continue a hearing where the hearing officer has requested new evidence from either party or when new evidence is presented and accepted at the hearing and the opposing party requests an opportunity to respond.

E. Submission of Evidence

1. Evidence submitted after the initial filing of an application and before a scheduled hearing must be filed with the clerk of the Board of Equalization.
2. Evidence submitted after the initial filing of an application will be deemed new evidence. Parties may, upon request, be allowed up to 10 business days to respond to new evidence.
3. New evidence will not be accepted after the close of a hearing; provided, however, that a hearing officer may, at any time before a written decision, request clarification or verification of any evidence from any party. Altering evidence by either party is expressly prohibited and may cast doubt on the quality of any other evidence submitted by the party altering the evidence.

F. Ex Parte Communications

1. No party shall communicate ex parte with a hearing officer on matters relevant to the merits of an appeal for the purpose of influencing the outcome of the appeal. Discussions of procedural matters are not considered prohibited ex parte communications.
2. A hearing officer who receives ex parte communication relevant to the merits of a matter under appeal will disclose the communication to all parties and afford them an opportunity to comment. The communication will be placed into the case file.

G. Confidentiality

Except as permitted pursuant to UCA § 59-1-404 and Tax Commission rule, all participants in Board proceedings involving information of a commercial nature disclosed during the course of said proceedings, are required to keep the commercial information confidential. Commercial information received from other taxpayers regarding their properties, which are used as comparable sales or in the income approach to establish the fair market value of another taxpayer's property also is confidential and may not be disclosed outside of Board proceedings or related appeals. Each participant, including the hearing officer, witnesses, representatives of the Assessor's office, or the petitioner and/or its representative, is required to sign a statement agreeing to keep such information confidential and not disclose it outside of the proceedings.

H. Hearing Standards

1. Burden of proof. The original assessment and any revised assessment that corrects a factual error are presumed correct. To prevail in a property valuation dispute, the applicant must:
 - a. Call into question or show substantial error or impropriety in the assessment; and
 - b. Provide a sound evidentiary basis for a lower value.
2. Evidentiary standard. An applicant must overcome the burden of proof by a preponderance of the evidence, or evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it. The hearing officer will weigh admissible evidence based on its probative value, *i.e.*, its relevance, accuracy, credibility and corroborative contribution.

VI. RESOLUTION

A. Review

Any stipulation or finding is subject to review and acceptance by Tax Administration prior to submission to the Board for final decision.

B. Findings

1. Consistent with UCA § 59-2-1001(3), hearing officers shall transmit their proposed findings and/or recommendations to the Board after weighing the evidence presented at a hearing, or after an administrative review.
2. In making findings, hearing officers may consider information from the records of the county or elsewhere, and may select individual elements from whichever source they deem appropriate.
3. Tax Administration shall provide the Assessor with a copy of all recommendations regarding personal property appeals for the Assessor to prepare a summary of the tax implications of the decision, to be included with the valuation recommendation to the Board of Equalization.

C. Agenda

The Clerk of the Board shall place all proposed findings, stipulations, and recommendations on an agenda to be transmitted to the Board for deliberation and approval. Findings may be pulled from the agenda by the Clerk as needed for corrections.

D. Final Decision

1. Unless an applicant files a written application for reconsideration pursuant to D.2(a) or (b), the Board shall approve the proposed findings and/or recommendations of the hearing officer by a majority vote of the quorum.
2. Upon receipt of the written application for reconsideration pursuant to D.1, setting forth facts to support the application, the Board may substitute any proposed findings before it with its own findings, only if one of the following is met:
 - a. The Board determines by an affirmative vote of at least five (5) members of the Board that the application establishes a prima facie showing of (1) a lack of due process, or (2) fraud, misrepresentation or other misconduct, by staff of the Board. In such a case, the Board at its discretion shall:
 - i. Review the matter on the record upon at least twenty-four (24) hours notice to all parties; or
 - ii. Hear the matter de novo after sufficient notice to all parties; or,
 - b. The Board determines by an affirmative vote of at least five (5) members of the Board that the application establishes a violation of a substantive issue of law arising under state constitutional or statutory authority, involving exemption, equality and uniformity, or other substantive rights created under Title 59, Chapter 2 of the Utah Code. In such case, the Board shall hear the matter as an appeal on the record upon at least twenty-four (24) hours notice to all parties.

3. The Clerk shall issue a notice of the final decision.
 - a. The final decision shall be sent to the property owner of record, at the current address listed on the County records for the mailing of the tax notice. Copies of the final decision shall also be sent to authorized agents or representatives.
 - b. The clerk may notify interested persons of the Board's final decision upon request. Such notification shall be provided according to procedures established by the Clerk
4. The Board shall transmit a copy of the final decision on personal property appeals to the Assessor's Office for implementation on the personal property tax rolls. The Assessor shall implement the valuation changes as determined by the final decision. The Treasurer shall issue any refund to the taxpayer detailed in the final decision.

VII. WITHDRAWAL

- A. An applicant may request to withdraw an application by submitting a written petition to the Board of Equalization at any time prior to a final decision.
- B. Any party to an application may object to the withdrawal.
- C. Objections will be reviewed by Tax Administration with a recommendation forwarded to the Board. The withdrawal will be granted unless the Board receives credible evidence establishing a factual error or a significant undervaluation in the original assessment.

VIII. APPEAL TO THE STATE TAX COMMISSION

- A. An appeal of the Board's decision to the State Tax Commission must be filed with the Clerk of the Board within the statutory time period and in accordance with UCA § 59-2-1006.
- B. Once an appeal to the State Tax Commission is submitted to the Clerk of the Board, it is under the jurisdiction of the State Tax Commission and may not be reconsidered by the Board except to correct a clerical error.
- C. Any party to an appeal before the Board, including the Assessor as provided by law, has the right to appeal to the Tax Commission.
- D. For appeals initiated by the property owner, the Board may be represented by Tax Administration, the District Attorney, or the Assessor as determined by Tax Administration on a case by case basis.
- E. For appeals initiated by the Assessor, the Assessor shall be represented pro se, by the District Attorney, or by conflict counsel. The Board will not be represented at the State Tax Commission de novo review except on issues of law as determined by an affirmative vote of five (5) Board members.
- F. The Board may review any consideration of appeal to a higher court as provided by law.

IX. TAXES

- A. Taxes are due and payable in the appropriate County office on the statutory deadline, regardless of the status of any appeal to the Board, the State Tax Commission, or to any court of competent jurisdiction. Failure to pay the amount due, as shown on the most current tax notice, shall result in the imposition of penalties and interest as provided by law. Failure to pay personal property taxes when due may subject the property to seizure and sale as provided by UCA § 59-2-1303.

- B. An overpayment resulting from a final non-appealable decision issued by the Board, the State Tax Commission or a court of competent jurisdiction, shall be refunded consistent with state statute, with interest as provided by law.
- C. If an underpayment results from a decision issued by the Board, the State Tax Commission or a court of competent jurisdiction, no penalty or interest shall be due on the underpayment if paid within 30 days of notice of such increase.
- D. All refunds of taxes resulting from a decision of the Board will be issued to the owner of record as of the time the refund is made. It is the responsibility of the owner, former owners, or buyers of the parcel in question to arrange further distribution.

X. EXEMPTIONS

- A. Exemption of certain tangible personal property under UCA § 59-2-1115.
 - 1. Application Required. Consistent with UAC Rule R884-24P-68, an application for this personal property exemption must be completed and signed by the taxpayer or taxpayer's duly authorized representative and timely filed with the Assessor. A complete application requires an asset listing that complies with UAC Rule R884-24P-33 for personal property filing. Neither the Board nor the Assessor will consider or act on an incomplete, unsigned, or untimely filed application. The exemption application will be included on the annual Statement of Personal Property mailed out by the Assessor.
 - 2. Filing Deadline. An application for exemption must be received by the Assessor or post marked on or before the certified letter date established by the Assessor for each taxpayer. The certified letter date is approximately 60 days after the annual Statement of Personal Property is mailed out by the Assessor.
 - 3. Assessor to Perform the Initial Review. The Assessor, as custodian of the record, will perform the initial exemption review and submit its recommendation for exemption in the annual exemption listing to the Board referenced below in paragraph 6. If a taxpayer claims the exemption and the Assessor disagrees, the Assessor will inform the taxpayer in writing of the reasons for recommending denial of the application for exemption and provide the taxpayer with notice of the right to appeal within 30 days the Assessor's recommended denial to the Board.
 - 4. Abatement of Penalties and Fees. As provided by County Ordinance 3.67.020(d) for routine requests involving nominal amounts, the Board grants the Assessor authority to abate fees and penalties for taxpayers where such fees and penalties have been imposed and it is subsequently determined that the account is exempt.
 - 5. Exemption Revocation. In matters of escaped property over which it has jurisdiction, the Board shall revoke any exemption granted herein upon a finding that the total aggregate fair market value of a taxpayer's taxable tangible personal property exceeds \$3,500.
 - 6. Annual Exemption Listing. At the end of each calendar year, the Assessor will provide the Board with an exemption listing that details the aggregate taxable value and recommended amount of tax to be exempted. As soon as practicable thereafter, the Board shall act to approve or deny the exemption listing.
- B. Applications by non-profit entities for exemption based on exclusive religious, charitable, and educational use, must be filed with the County Auditor by March 1st. Contact the Auditor for application forms and procedures.