

From: Hurwitz, Evelyn S on behalf of Public Info
Sent: Friday, July 21, 2000 4:43 PM
To: Gottlieb, Mary H
Subject: FW: Sunshine Provision

-----Original Message-----

From: Louise Cooper [mailto:lcooper@womensinitiative.org]
Sent: Friday, July 21, 2000 4:36 PM
To: 'public.info@ots.treas.gov'
Subject: Sunshine Provision

July 19, 2000

Manager
Dissemination Branch Information Management & Services Division
Office of Thrift Supervision
1700 G Street NW
Washington DC 20552

Attention: Docket No. 2000-44

Dear Sir/Madam:

As an Executive Director of a community development organization, I urge you to make significant changes in the proposed "sunshine" regulations. While we appreciate the steps the regulatory agencies have taken to reduce the burdens of this statute for neighborhood organizations, banks, and other parties interested in community development, we believe that this provision has real problems for community organization such as ours.

My organization has spent years developing strong partnerships with banks. We would not have been able to develop these partnerships without a strong Community Reinvestment Act (CRA). Women's Initiative has benefited from the CRA by receiving considerable local support from banking institutions in the San Francisco Bay Area. These institutions have provided funds to support the work of Women's Initiative since its inception, providing essential funds with which to provide small business development technical assistance and financing services to the Bay Area's low-income women entrepreneurs. Hundreds of thriving small businesses have been created as a result.

I believe that the sunshine statute strikes at the heart of CRA. The essence of the Act is to encourage members of the general public to articulate credit needs and engage in dialogue with banks and federal banking agencies. CRA stimulates collaboration for the purpose of revitalizing inner city and rural communities. The sunshine statute, by making CRA-related speech and agreements subject to excessive disclosure requirements, threatens to reverse more than twenty years of bank-community partnerships and progress.

As a private sector organization, I find it troublesome that I have to disclose a contract I have with a bank and provide detail on how I spent grant or loan dollars under the contract. This will require my organization to generate a new budget and report a new contract for each bank we work with. While this is an administrative burden on my already overworked staff, I am more troubled by the effect it will have on our banking partners.

Many banks will simply do less CRA-related business since they will not want to deal with the disclosure requirements. In my experience, banks tend to be competitive in their pricing and products. The agreements I am able to negotiate are based on a long relationship of mutual respect. Banks will not be likely to want anyone to request similar terms without having similar relationships or deals. In addition, the rule requires that I report everything through the bank that already feels burdened by paperwork. The result will be fewer loans and investments reaching my community. My job of revitalizing communities will become much harder.

CRA Contacts

Because of the profound damage that the CRA contact portion of the sunshine provision will cause, we ask that the federal banking agencies refrain from implementing the CRA contact rules until they have sought an opinion from the Department of Justice's Office of Legal Counsel regarding its constitutionality. In addition, the Federal Reserve Board has the discretionary authority to exempt agreements or contracts from disclosure based on CRA contacts. My organization asks the Federal Reserve to eliminate all CRA contacts as a trigger for disclosure.

Instead of using CRA contacts as a trigger for disclosure, we believe that the federal banking agencies should revise their material impact standard. We recommend that a CRA agreement or contract should not be required to be disclosed unless it requires a bank to make a greater number of loans, investments, and services in more than one of its markets. The federal banking agencies have proposed that agreements are subject to disclosure if they specify any level of CRA-related loans, investments, and services. But only a higher number of loans and investments in more than one market is likely to have a material impact on a CRA rating or a decision on a merger application.

Under the procedures of general operating grants, my organization asks the Federal agencies to specify in the final regulation that the use of IRS Form 990 is an acceptable means of disclosure. In their preamble to the draft regulation, the federal agencies state that the 990 form provides more than enough detail for satisfying disclosure requirements. Codifying the use of 990 forms would simplify reporting requirements and reduce burdens for nonprofit organizations that are very familiar with the 990. My

organization also supports the proposed reporting procedures for specific grants. If a nonprofit organization received grants or loans for a specific purpose such as purchasing computers or providing financial literacy counseling, the nonprofit organization should be able to comply with the disclosure requirement by describing the specific activity in a few sentences.

While it may be impossible for the so-called "sunshine provision" to be a non-meddlesome regulation, we believe that our suggestions reduce burden and the damage it causes to community organizations that revitalize inner city and rural communities. We urge the federal banking agencies to adopt our suggestions for streamlining the sunshine regulation.

We must also add that we will be working with the National Congress for Community Economic Development and the National Community Reinvestment Coalition, community organizations, local public agencies, banks, and other concerned parties to repeal this counter-productive statute so that the private sector will not be burdened with disclosure requirements simply because they want to do business in and help revitalize traditionally underserved neighborhoods.

Sincerely,

Barbara J. Johnson
Executive Director, Women's Initiative for Self Employment, San Francisco, CA