

From: Hurwitz, Evelyn S on behalf of Public Info
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To: Gottlieb, Mary H
Subject: FW: docket no 2000-44

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From: Arabella Martinez [mailto:amartinez@unitycouncil.org]
Sent: Friday, July 21, 2000 9:01 PM
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Subject: docket no 2000-44

July 21, 2000

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

Attention: Docket No. 2000-44

As the Chief Executive Officer of The Unity Council, a community development corporation, I urge you to make important changes in the proposed "sunshine" regulations. While I appreciate that the federal banking agencies had a difficult task of developing regulations for a confusing and mean-spirited statute, I believe that these changes are necessary. I further recognize that the regulatory agencies have taken steps to reduce burden for neighborhood organizations, banks, and other parties interested in community development.

However, the sunshine statute strikes at the heart of the Community Reinvestment Act (CRA). The essence of the Community Reinvestment Act encourages 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 suspect, threatens to reverse more than twenty years of bank-community partnerships and progress.

Requiring banks, community development organizations, and a large number of other parties to disclose private contracts to federal agencies if the parties engage in so-called CRA "contacts" or discussions on methods to facilitate bank loans and investments in low- and moderate-income communities will be too cumbersome for all involved. Many private sector organizations will likely do less CRA-related business because of these disclosure requirements. The result will be fewer loans and investments reaching the communities. Revitalizing communities will become much more difficult.

Because of the profound damage that the CRA contact portion

of the sunshine provision will cause, The Unity Council asks that the federal banking agencies refrain from implementing the CRA contact rules until the Department of Justice's Office of Legal Counsel gives its opinion on the constitutionality of the provision. In addition, as the Federal Reserve Board has the discretionary authority to exempt agreements or contracts from disclosure based on CRA contacts, The Unity Council asks the Federal Reserve to eliminate all CRA contacts as a trigger for disclosure.

Further, instead of using CRA contacts as a trigger for disclosure, we believe that the federal banking agencies should revise their material impact standard. The federal banking agencies have proposed that agreements are subject to disclosure if they specify any level of CRA-related loans, investments, and services. The Unity Council believes 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, since 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.

Also, if the material impact standard is not changed, the agencies will be deluged with thousands of letters, written understandings, or contracts about these types of loans and grants made to nonprofit organizations and for-profit companies working in low- and moderate-income communities.

Under the procedures of general operating grants, The Unity Council 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.

The public record from the Congressional deliberations over the Gramm-Leach-Bliley Act support the use of the IRS 990 form. The Manager's report accompanying the legislation states that a Federal income tax return is an acceptable means of disclosure. In addition, Representatives Jim Leach (R-IA) and John LaFalce (D-NY) engaged in a colloquy on the eve of the House vote on Gramm-Leach-Bliley in which they emphasized the use of Federal income tax returns as satisfying the disclosure requirements.

The Unity Council 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.

The Unity Council agrees with the Federal agencies that non-governmental parties should not be required to submit annual reports during the years in which they did not receive grants or loans under the agreement. Moreover, in many cases, large banks may be making relatively small grants to hundreds of community groups over a multi-state area; thus it is also unreasonable for the non-negotiating parties to be required to report since they may not even be aware that they received grants or loans because of a CRA

agreement.

We believe that these suggestions reduce burden and the damage to the revitalization of inner city and rural communities that the "sunshine" regulations would cause in their present form. We urge the federal banking agencies to adopt our suggestions for streamlining the sunshine regulation. We will work with 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 because they want to do business in and help revitalize traditionally underserved neighborhoods.

Sincerely,

Arabella Martinez
Chief Executive Officer