"Rebuilding Neighborhoods One Block at a Time"

Philadelphia Association of
Community Development Corporations

2 pages

53

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

Attention: Docket No. 2000-44

Dear Manager:

I am writing on behalf of the Philadelphia Association of Community Development Corporations (PACDC), an association made of over 60 organizations involved in community development in the Philadelphia area, to comment on the proposed Community Reinvestment Act (CRA) "sunshine" regulations.

The sunshine statute strikes at the heart of CRA. The essence of the Community Reinvestment Act is encouraging members of the general public to articulate credit needs and engage in dialogue with banks and federal banking agencies. In Philadelphia, CRA has stimulated collaboration for the purpose of revitalizing lower income neighborhoods. The sunshine statute, by making CRA-related speech suspect, threatens to reverse more than twenty years of bank-community partnerships and progress.

The sunshine statute requires banks, community 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 about how to help the bank make more loans and investments in low- and moderate-income communities. Many private sector organizations will simply do less CRA-related business since they will not want to deal with the disclosure requirements. The result will be fewer loans and investments reaching the neighborhoods PACDC's members work in. Our already challenging job of working to revitalize communities will become significantly harder.

CRA Contacts

Because of the profound damage that the CRA contact portion of the sunshine provision will cause, PACDC asks 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. CRA contracts should be eliminated by the Federal Reserve as a trigger for disclosure.

Material Impact

Instead of using CRA contacts as a trigger for disclosure, we believe that the federal banking agencies should revise their material impact standard. CRA agreements or contracts should not be required to be

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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.

To make the sunshine regulation more reasonable, we suggest that it should focus on agreements made during the public comment period on a merger application or during the time period when a CRA exam is announced and when the exam occurs.

Means of Disclosure

Under the procedures of general operating grants, we are asking 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.

We also support 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.

Who Must Report

PACDC 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. While other organizations may have received grants and loans under the agreement, it would be logistically impractical for the negotiating party to report on how the grants and loans were used by the other parties. In many cases, large banks may be making relatively small grants to hundreds of community groups over a multi-state area. 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.

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 revitalizing inner city and rural communities. We urge the federal banking agencies to adopt our suggestions for streamlining the sunshine regulation. We will be working with our members and other integral organizations to change this burdensome set of requirements. PACDC plans to fight these requirements as long as they impede the rebirth and revitalization of Philadelphia's underserved neighborhoods.

Sincerely,

Rick Sauer
Executive Director

cc: NCRC