



Public Comment Regarding the Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Policies and Practices of Entities Regulated by the Agencies

Docket ID OCC-2013-0014

Public Comment from The Greenlining Institute

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February 7th, 2013

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The Greenlining Institute thanks the Offices of Minority and Women Inclusion (OMWIs) for the opportunity to comment on the “Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Request for Comment”. These OMWIs include those housed in the Office of the Comptroller of the Currency, Board of the Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Consumer Financial Protection Bureau, and the Securities and Exchange Commission.

I. Who We Are

Greenlining works to bring the American Dream within reach of everyone, regardless of race or zip code. Our coalition is comprised of over 40 national and statewide organizations, including more than a dozen community-based organizations, ethnic chambers and national consumer groups.^a We pursue a multi-issue platform of racial and economic justice to promote America’s future prosperity. Today, the majority of children born in the United States are non-white, and the nation is poised to become “majority-minority” by 2043. It is essential that our financial system is reflective of and ready to serve the needs of this consumer base. We comment from the perspective of promoting the interests of America’s new majority. We would like to thank the OMWIs for this opportunity to share our perspective on the proposed rule.

II. The Greenlining Institute’s Interest in these Proposed Interagency Standards

For over 20 years, The Greenlining Institute and its coalition have met with leaders from the largest depository banks in California and received annual data on workforce and supplier diversity. Of the banks that *have* diversity policies or initiatives, most have an internal tracking system, but do not proactively make the information public.

Workforce Diversity

Since 2003, Greenlining has published several reports on the workforce and board diversity of banks¹ and financial regulators.² These reports revealed that the demographic makeup of decision makers within the private sector has changed little over the past decade, and that diversity within the financial sector thins out as one moves up the organizational ladder. Without regulation to encourage a proactive investment in diversity, we anticipate that people of color will continue to be poorly represented in the sector.

Supplier Diversity

While Greenlining regularly collects data on procurement, this year we will publish our first supplier diversity analysis of the largest banks in California.^b This report entitled, “Escaping the Old Boy Network: The Banking Industry and Supplier Diversity” can be a resource and provide a snapshot of procurement practices among the nation’s largest depository banks.³ Major takeaways from this report include:

^a Greenlining also maintains a working group specifically devoted to our advocacy work with the Offices of Minority and Women Inclusion. Members organizations include: US Hispanic Chamber of Commerce, National Community Reinvestment Coalition, National Urban League Young Professionals- LA Chapter, National Council of La Raza, New America Alliance, California Reinvestment Coalition, Center for Responsible Lending, The E&J Commission, M and M Management Solutions LLC, Community Outreach and Mortgage Office, Azul Management Systems Institute, Minority Business RoundTable, Gonzalez Saggio & Harlan LLP, Howard University School of Law, and Castle Oak Securities, L.P.

^b Available February 24th, 2014 at <http://greenlining.org/publications/reports/>.

- 1) National contracting with minority business enterprises was nominal with median spending at just 5.96 percent;
- 2) Metrics currently employed by participating institutions varied dramatically, making comparisons within industry difficult; and
- 3) Banks are open to engaging with stakeholders to improve diversity practices and are seeking leaders and conveners to provide such guidance.

We believe that the findings of this report represent common experiences throughout the industry and that regulators are well positioned to create transparency and common metrics that better serve communities of color.

OMWIs Present Great Opportunities

The Proposed Interagency Standards and the OMWIs present great opportunities for communities of color. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 was created with the purpose of reforming the financial sector to create better and fairer products and services for consumers following the financial crisis of 2007-2009. This recent history demonstrated that the financial sector needed increased accountability to and investment in communities. Some members of Congress—largely lead by Representatives Frank and Waters and the Congressional Black Caucus-- recognized, however, that extra steps needed to be taken in regards to underrepresented groups. We agree with their motivation and belief that diversity within the financial sector will help better inform products, job creation, and contracting opportunities for the nation's new majority.⁴ The OMWIs' Proposed Interagency Standards will affect nearly 70,000 institutions, millions of jobs, and billions of dollars in contracting opportunities. It is critical that these Interagency Standards enable the spirit of the OMWIs to be actualized to the maximum extent possible.

To that end, we believe that the Proposed Joint Standards will be strengthened by incorporating the following recommendations. Where appropriate, each subsection of this comment letter was crafted to incorporate the five aspects in which OMWIs requested feedback, including:

- 1) Effectiveness of joint standards to promote diversity and inclusion;
- 2) Flexibility of joint standards to allow for assessment of a wide range of institutions;
- 3) Other factors that would be useful to assess diversity policies and practices and their need;
- 4) Appropriateness of proposed model to promote diversity and inclusion; and
- 5) Potential advantages or disadvantages of proposed model approach to assessment.

III. Proposed Approach to Assessment Promotes Diversity and Inclusion to the Minimum, Not Maximum, Extent Possible

The Proposed Interagency Policy Statement cites Section 342 (b)(4) several times, which reads that “[no assessment] may be construed to mandate any requirement on or otherwise affect the lending policies and practices of any regulated entity, or to require any specific action based on the findings of the assessment”. Greenlining acknowledges that diversity standards cannot be tied to lending, nor can the OMWIs use enforcement for a regulated entities' poor performance/non-compliance. This provision does not however, prohibit the OMWIs from creating more stringent assessment standards than currently presented. We would like to highlight Section 342(c)(1), which reads “The Director of each Office shall develop and implement standards and procedures to ensure, to the **maximum** extent possible, the fair inclusion and utilization of minorities, women, and minority-owned and women-owned businesses in all business and activities of the agency at all activities...”. The Proposed Interagency Standards are currently setting **minimum** standards for industry and not realizing their full potential. Generally, we urge the interagency OMWIs to strengthen the standards and recognize that Section (b)(4) does not make thorough assessments prohibitive and that it only 1) prohibits creating diversity standards that are connected to lending and 2) penalizing entities for an unsatisfactory assessment.

A. Effective Self-Assessments Must be Standardized

Recommendation: Have Assessments of Regulated Entities' Performance Conducted by Agencies

Section 342(b)(2)(C) requires each OMWI to develop standards to “[assess] the diversity policies and practices of entities regulated by the agency”. The Agencies have unnecessarily interpreted “assessment” to mean “self-assessment”, which is the minimum form of evaluation. Self-assessments would inherently contain bias from regulated entities and defeat the purpose of regulatory oversight. The interagency OMWIs must set consistent standards in order to conduct a proper assessment and truly understand entities’ diversity practices. Ideally, the Agencies would issue a “data call”, the regulated entities would fill out and submit that data call, and then the OMWIs would assess and evaluate the results.

Recommendation: Standardize Assessments

Regardless of which entity ultimately conducts the assessments, Greenlining’s most pressing concern with the current statement is the lack of standardized evaluation criteria. The Proposed Interagency Standards contain excellent, big picture recommendations on successful “best practices”. Unfortunately, these are subject to interpretation and in current form are more of a list of *recommendations* rather than a set of *standards*. We anticipate that financial institutions will elect to only report on initiatives, rather than data, they currently have in place that present the company in the best light. In such form, stakeholders will be unable have a uniform comparison across financial institutions and gain access to transparent data. We strongly urge the Agencies to issue standardized surveys in order to gain a comprehensive understanding of institutions’ performance.^c

Regulatory Models

We recommend referencing two successful models of standardized surveys on supplier diversity from California regulatory bodies in the public utility and insurance sectors. The California Public Utilities Commission and California Department of Insurance both have robust supplier diversity data calls for regulated entities.^{5,6} These standardized surveys provide clear instructions for institutions, offer comprehensive data on supplier diversity in each sector, and allow stakeholders to compare institutions based on common metrics.

Other Models

Every year, Greenlining conducts a number of annual supplier diversity reports in the utility and insurance sectors. These reports use public data available and illustrate how standardized surveys help stakeholders see general trends, opportunities, and challenges in supplier diversity.^{7,8}

Recommendation: Create Advisory Board

We recognize that creating a standardized survey for a wide range of regulated entities is a difficult task, and suggest creating an advisory board to provide feedback and guide the OMWIs in crafting a data call. Most of the OMWI Directors have strong expertise in EEO compliance and have been working to gain deeper proficiency in procurement. Utilizing a larger network of experts can better inform OMWI decisions and alleviate potential blind

^c Many of the recommendations in the Proposed Interagency Standards could be rewritten and incorporated into the survey. For example, one standard under the Organizational Commitment to Diversity and Inclusion section is currently written as “The entity has a diversity and inclusion policy that is approved and supported by senior leadership, including senior management and the board of directors”. This could be phrased into a survey question as, “Does the company have a diversity and inclusion policy? If **yes**, please provide. Additionally, if the statement is publically supported by senior leadership, including senior management and the board of directors, please provide the supporting documentation or website link below. If **no**, please explain below. Additionally, please include if the company plans to have a diversity policy statement in the next 12 months”.

spots. Advisory Board Members could include representatives from financial institutions, nonprofits, academia, and experts from other sectors/agencies that have successfully created diversity programs and should be diverse in their ethnic and gender makeup. This is a popular tactic used throughout the sector, including the Community Advisory Board of Bank of America⁹ and four advisory groups of the Consumer Financial Protection Bureau.¹⁰ Greenlining utilized this approach in crafting the data request for our supplier diversity banking report. Other models include the California Department of Insurance's Diversity Task Force, which has advised the agency in creating a supplier diversity data call and guidance on shaping its initiative from the ground-up.¹¹ In addition to helping craft the survey, the mission of the group is to:

- 1) Identify and promote insurance companies that are actively engaged in diversity issues;
- 2) Explore the status of diverse representation on insurance company governing boards;
- 3) Identify actions that the Department of Insurance can take to encourage insurance companies to increase procurement with diverse suppliers;
- 4) Provide recommendations in regards to current legislation and suggest changes to existing law; and
- 5) Prepare an annual report to the Department that summarizes the collected information from their data call.

Recommendation: Utilize Advisory Board to Craft Scalable Survey Based on Entities' Size

Greenlining understands that the OMWIs are concerned with asset size in determining the scope of these standards. An advisory board would be very helpful in determining what aspect of entities' size are most important in creating thresholds, and what questions should be asked based on that criteria. We offer a general suggestion that all institutions should be given the same questionnaire, with certain sections marked "optional" based on size. Specific recommendations on the scope of questions and threshold for participation can be found later in this letter under the respective workforce and supplier diversity subsections.

B. Voluntary Disclosure: Reinforcing Diversity is a "Nice To Do" Not a "Must Do"

Recommendation: Mandate Regulated Entities Disclose Data to OMWIs and Make Data Public

The Proposed Interagency Standards allow regulated entities to "[voluntarily disclose their self-assessments] to the appropriate agency and other information the entity deems relevant". This invites the financial sector to treat the OMWIs, and their oversight, as optional and irrelevant. The OMWIs must use their influence as regulators to **require** that financial institutions disclose diversity data through regular assessments. Diversity and inclusion are not top priorities of most financial intuitions. Without the firm requirement to submit assessments, few regulated entities will share information.

The OMWIs were created because the financial sector had long underutilized women and people of color, both in the workforce and in contracting opportunities. Longitudinal reports illustrate that these disparities exist on a systematic level, and have remained mostly unchanged since the Great Recession of 2007-2009.^{12, d} The Proposed Interagency Standards repeatedly mention the OMWIs' value in creating transparency around diversity in the financial sector. Greenlining, along with stakeholders like SEC Commissioner Luis Aguilar, strongly support this value and urge the OMWIs to strengthen their Interagency Standards to mandate reporting and actualize this value.¹³

^d For example, total minority senior level representation in the financial sector from 2007-2011 ranged from 10.0%-10.8%. Total minority first- and mid-level representation ranged from 18.7%-20.4% (<http://www.gao.gov/assets/660/653814.pdf>, page 13). Senator Bob Menendez's Fortune 500 of Corporation reports for 2013 revealed that minority businesses represent 7.02% of total procurement.

Transparency with public data sharing is most effective when backed by strong policies, and a regulatory body that keeps track of such information.^e Efforts to collect data on workforce and supplier diversity currently exist, but without regulation, often yield low participation and/or results in aggregate data that prevents in-depth analyses.^{f,14} Without such data, there is no way to identify specific deficiencies, nor suggest solutions for improvement. Furthermore, more transparency creates organic competition among competitors that generates incentives for industry leaders to improve their numbers.

Finally, many have wrongfully claimed that disclosing diversity data is detrimental to industry operations. Below, we share our insights on the inconsistencies of these claims:

1) Section 342 does not violate any current Civil Rights statutes

Some stakeholders conflate the notion of “diversity and inclusion” with prescribed allocation or a “quota system”. A fitting example is the November 4th, 2013 comment letter submitted to the OCC by four members of the eight-member U.S. Commission on Civil Rights; the letter was not submitted on behalf of the Commission as a whole.¹⁵ The individuals incorrectly state that the “The Proposed Statement requires, or at least strongly encourages, financial institutions to use numerical quotas based on race, ethnicity, and sex to ensure compliance”. Further, the letter continues, “Such use of classifications and preferences by the government based on race, ethnicity, or sex raises serious constitutional concerns”.

Greenlining supports the use of metrics to create transparency that allows stakeholders to identify successes and opportunities for growth. Neither Section 342 nor the Proposed Standards suggest using that transparency to impose discrimination in any capacity. Indeed, the U.S. Equal Employment Opportunity Commission has already expressly addressed this issue and approved an agency’s collection of ethnic and gender data as lawful:

“... an agency's collection and analysis of data by protected group is not unlawful. Neither *Adarand* nor any other controlling authority prohibits such collection and analysis. As is specifically noted in the DoJ Memorandum, "*Adarand* ... does not preclude tracking participation [by protected class] in the agency's workforce through the collection and maintenance of statistics or the filing of reports with the Equal Employment Opportunity Commission." DoJ Memorandum, p. 4. The purpose of the data collection is to allow the evaluation of policies, practices or procedures which may be impacting the employment opportunities of any protected group. Of course, agencies must ensure that the data collected are used appropriately for the purpose of developing and monitoring affirmative employment programs”.¹⁶

2) The disclosure of diversity data as a violation of trade secrets or proprietary information is unfounded

Greenlining’s advocacy work has exposed us to hundreds of companies (private and public) that are able to report and publically share their diversity data without detriment. We greatly question entities that claim otherwise. For example, the December 20, 2013 comment letter submitted to the SEC by the U.S. Chamber of Commerce states, “[the assessments] may contain proprietary, privileged or confidential information.

^e See AB 53 and GO 156

^f For example, Senator Bob Menendez’s (D-NJ) annual Corporate Diversity Report of the top Fortune 500 companies yielded a response rate of 40% and no individual company data was represented, presumably to obtain buy-in from participating institutions.

Making this type of material available to the public could expose employers to potential legal liability and expose trade secrets to competing entities”.¹⁷

Lending and Employment

Since 1975 financial institutions have been required to maintain and disclose data on lending practices, including information on lending by ethnic group through the Home Mortgage Disclosure Act.¹⁸ Likewise, the Small Business Administration regularly tracks data on its lending to minority-owned businesses.¹⁹ Finally, detailed data on the distribution of diversity in workforces is annually filed with the Equal Employment Opportunity Commission.²⁰ The collection and publication of this data has created transparency for decades without endangering lending or employment within entities.

Procurement and Supplier Diversity

Under California Public Utilities Commission (CPUC), the state’s 11 competitive, oligopolistic public utilities have reported internal supplier diversity data for the past 20 years. Last year, water companies also started reporting such information.²¹ Under the California Department of Insurance (CDI), the 207 insurance companies that collect over \$100 million in premiums in the state publically report vendor diversity data as well.²² Eight of the largest banks in the nation recently shared data with Greenlining for a public February 2014 report (attached). The data calls used in these three industries do not ask for the specific information of diverse business enterprises or recruitment strategies/firms, nor do they make contract language public. The OMWIs can follow the best practices of the CPUC and CDI in crafting data requests and involve representatives from industry to ensure received information is informative without being exceedingly granular.

3) The costs associated with Section 342 are not massive

Tracking and reporting on one’s diversity policies and practices will not hinder the performance or safety and soundness of regulated entities. Much of the resistance to the Proposed Standards is not specifically to Section 342, but to new compliance requirements to the Dodd-Frank Act as a whole. The November 5, 2013 comment letter submitted to the FDIC by Pinnacle Bank is an example. The \$3.7 billion community bank wrote, “The additional expense that will be incurred in implementing and complying with the standards will be substantial. This will add to the additional employee and software compliance expense already imposed on banks by the Dodd-Frank mortgage regulations and wire transfer remittance rules. Implementing these new standards for a bank of our size will require retaining a full time professional experienced in both bank employment and bank procurement.”^g

The OMWIs were created as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 because of a crisis that was caused by a financial system that was not held accountable to nor reflected consumers. Regulated entities should invest in staff that understand and ensure diversity and inclusion are addressed. The associated costs with additional Dodd-Frank compliance should not affect the minimal oversight of the OMWIs. We support the OMWIs creating a scalable survey based on size. Regardless of the actual cost, some members of industry will push back against any policy. In short, diversity will remain a “nice to do” until it is a “must do”.

Recommendation: Publish Assessments on OMWIs’ Website

^g Attached

To ensure that the Interagency Standards promote transparency to the fullest extent possible, it is important that the assessments are publically available to all stakeholders in a centralized location. The FDIC’s “Summary of Deposits”, which is able to show aggregate trend reports and individual bank information,²³ is a great example of a large database with performance assessments. Specific to supplier diversity reports, the CPUC and the CDI also have links to annual reports of regulated entities.^{24,25} The OMWIs should provide links on the website to annual assessments of their respective top 500 regulated entities by revenue.

This simple “sunshine” creates new incentives for regulated entities to invest in diversity programming and has shown to produce tremendous results. In 2012, California’s public utility companies spent more than \$8 billion with diverse owned businesses—without any quotas, mandates, or penalties from regulators. As another example, due to Greenlining’s 2014 supplier diversity banking report, banks have already pledged to create and expand collection of supplier diversity data.^h

Recommendation: Host Biannual Regulated Entities’ Summit on Diversity

An additional best practice is for regulators to hold a biannual public meeting on diversity. This format helps hold companies accountable and creates a formal space to discuss company successes and challenges. This structure is used by the CPUC and the CDI and yields incredible results. It also allows company executives and diversity officers to give context to their performance. We suggest a regular convening that includes, but is not limited to:

- 1) A presentation analyzing regulated entity assessments (could be conducted by OMWIs, Advisory Group, Government Accountability Office, or combination);
- 2) Panels of industry experts and leaders to discuss best practices and widespread challenges to increasing workforce and supplier diversity;
- 3) Networking component to facilitate relationship building between diverse-suppliers and procurement officers and hiring managers with professional group associations and recruiters.

C. Data Collection: More Timelines and Next Steps Needed

The Proposed Interagency Standards do not outline specific procedures on the data collection process or follow-up after data collection. It is important to establish a regular timeline in the Joint Standards to ensure consistency and clarity. In this vein, we offer three key suggestions:

Recommendation: Define “Appropriate Agency” as Primary Regulator

The Proposed Standards currently read that the disclosure of assessments should go to the “appropriate Agency”. This may lead to some confusion for regulated entities over what constitutes “appropriate”. We suggest defining “appropriate” as “the OMWI that is housed within the entity’s primary regulator” to give more direction and avoid duplication in submissions.

Recommendation: Establish Regular Timelines for Regulated Entities to Submit Assessments and for OMWIs to Post Data

The interagency OMWI group has a large number of regulated entities, and we anticipate that the data collection and analysis process will be extensive. The Proposed Standards do not establish any deadlines or frequency of data collection. Setting a reasonable benchmark to measure and track progress is critical to forming an effective policy. We propose sending a data survey every 2 years starting 9 months after the Final Standards are published. We also

^h Our report contains public pledges from the following banks: First Republic Bank is committed to creating a formal supplier diversity program, Union Bank is seeking to establish tracking mechanisms for each state, and Comerica will now begin tracking their procurement with vendors by Tiers.

suggest a 6 month deadline following the data call for regulated entities to submit data, and that the OMWIs make that data public 6 months from that date.ⁱ

Recommendation: OMWIs Should Publish Biannual State of Diversity Report

Following assessment collection, the Proposed Standards only mention that “The Agencies will monitor the information submitted over time for use as a resource in carrying out their diversity and inclusion responsibilities”. **We request more information about the OMWIs’ plans to utilize the important information gleaned from assessments.** It is likely that the status quo of poor diversity and inclusion will continue if the Agencies solely monitor regulated entities with no further action. This is not to suggest that the OMWIs implement penalties, but rather commit to using their resources and expertise to conduct research and analyze the state of diversity in the financial sector.

IV. Organizational Commitment to Diversity and Inclusion

Greenlining commends the OMWIs for creating a section in the Proposed Standards specifically devoted to the role of leadership within organizational commitment to diversity and inclusion. We fully agree: public buy-in from leadership is crucial to making diversity and inclusion truly part of company culture and a core value. However, as previously mentioned, the Standards as written appear as more of a list of “best practices” than assessment criteria. Below, please find an example survey using concepts from the suggested Interagency Proposed Standards. Additional questions/fields of evaluation are accompanied by footnotes to provide explanations for why they should be included in the survey. We do not believe leadership questions are a burden on regulated entities, and therefore suggest that all of the questions are required. To reiterate, it is essential that the Final Interagency Standards create a standardized questionnaire for regulated entities.

Recommended Standards to Assess “Organizational Commitment to Diversity and Inclusion”:

- 1) Does the company have a strategic plan? If yes, are diversity and inclusion considerations included?
 - a) Is workforce diversity included? If yes, please provide a summary below.
 - b) Is supplier diversity/procurement/contracting included? If yes, please provide a summary below.
- 2) Does a member of senior leadership publically support the company’s diversity policy? If yes, please provide supporting documentation (website link or attachment acceptable) and the employee’s title within the company. If multiple senior leaders publically support the company’s diversity policy, please provide information on the highest ranking employee.
 - a) Where is this public support available? (e.g. shareholder meetings, annual reports to community-based advocates)?
- 3) Does the company provide regular progress reports on diversity progress to the board and/or senior management? If so, please provide summary (including but not limited to frequency of reports, content of reports, and what leadership positions review these reports).
- 4) Does the company conduct equal employment opportunity and/or diversity and inclusion education and training? If yes, please provide:
 - a) Description of the program(s) offered around diversity and inclusion.
 - b) Interval/regularity of how frequently this happens.

ⁱ This research report by the GAO 2013 shows that Agencies are inconsistent in using fiscal vs. calendar year. The interagency group should decide as a group which time period to utilize. (<http://www.gao.gov/assets/660/653814.pdf>)

- c) Employee participation rates broken down by hierarchy in the company (e.g. officials and managers, professionals, technicians, sales workers, administrative support workers, craft workers, operatives, laborers and helpers, and service workers).
- 5) Does the company have a senior level official who oversees and directs the company's diversity efforts? What is their title and standing within the company?
- 6) Does the company take proactive steps to promote a diverse pool of candidates, including women and minorities, in its hiring, recruiting, retention, and promotion, as well as in its selection of board members, senior management, and other senior leadership positions? If so, please describe below.

V. Workforce Profile and Employment Practices

The Proposed Interagency Standards provide excellent indicators for the design of successful workforce diversity policies and practices. We suggest creating two categories of questions for regulated entities based on size. The recommended standards below provide examples of scalable, standardized questions that encompass several themes in the current Proposed Interagency Standards.

Sized Based Workforce Diversity Survey Questions

The following questions were created to address the OMWIs' concern about assessing a wide range of institutions. We suggest creating size categories for regulated entities with employees from 1-99 and 100 or more to remain consistent with existing requirements on reporting workforce diversity by the Equal Employment Opportunity Commission (EEOC).^j These requirements help inform regulated entities on the distribution of diversity throughout their company. Thus, they should also be able to answer more in-depth questions regarding qualitative programming in workforce diversity.

Recommended Standards to Assess "Workforce Profile and Employment Practices":

- 1) Please utilize the provided table to report statistics on the company's workforce diversity composition.^k
 - a) Companies with 1-99 employees should submit figures on ethnic composition^l, broken down by gender.
 - b) Companies with 100 or more employees should submit figures on ethnic composition, broken down by gender for the 9 hierarchical categories as specific by MD-715 Table A3-1.^m

^j The Employer Information Report EEO-1 (EEO-1 Report) is required to be filed annual with the EEOC by (a) private employers with 100 or more employees or (b) federal contractors who have 50 or more employees, and are prime contractors or first-tier subcontractors, with contracts of \$50,000 or more.

^k OMWIs should standardize the reporting period in which these statistics are reported (e.g. previous fiscal year vs. calendar year).

^l Here and throughout this paper, we define ethnic categories as the 7 listed in the EEOC's MD-715 form (including African American, Asian American, American Indian or Alaska Native, Hispanic/Latino, White, Native Hawaiian or Other Pacific Islander, and two or more races).

^m We believe the EEOC MD-715 Table A3-1 provides an excellent template the OMWIs could utilize in their data call to standardize how large entities thoroughly track their workforce demographics using both total numbers and percentages. Essentially, the table disaggregates ethnic data by gender and by nine hierarchical levels within the company. For regulated entities that do not fit this category (i.e. are smaller than 100 employees), we suggest creating a template that disaggregates the workforce by ethnic group and gender, but leaves hierarchical statistics an optional field. It is critical that gender breakdown within each ethnic category is provided to promote maximum transparency of any existing disparities in representation. In

- 2) Does the company consider diversity in its recruitment strategies? If yes, please describe.
- 3) Please utilize the provided table to report statistics on the number of applicants and resulting hires.
 - a) Companies with 1-99 employees should submit figures on ethnic composition, broken down by gender for both categories.
 - b) Companies with 100 or more employees should submit figures on ethnic composition, broken down by gender for the 9 hierarchical categories as specific by MD-715 Table A3-1.
- 4) Please utilize the provided table to report statistics on the number of separations, both voluntary and involuntary.
 - a) Companies with 1-99 employees should submit figures on ethnic composition, broken down by gender for both categories.
 - b) Companies with 100 or more employees should submit figures on ethnic composition, broken down by gender for the 9 hierarchical categories as specific by MD-715 Table A3-1.
- 5) Does the company conduct outreach to minority and women organizations (i.e. trade associations, chambers of commerce, etc.) to create diverse applicant pools? If yes, please list the names of all organizations and their affiliation with the company.
 - a) Companies with 100 or more employees should supply number of resulting hires from this participation.
- 6) Does the company conduct outreach to educational institutions serving significant minority and women student populations to create diverse applicant pools? If yes, please list the names of all institutions and their affiliation with the company.
 - a) Companies with 100 or more employees should supply number of resulting hires from this participation.
- 7) Does the company participate in conferences, workshops, and other events to attract minorities and women and inform them of employment and promotion opportunities? If yes, please list the names of all events, the hosting institution, and in what capacity your company participated (e.g. sponsor, representative, presenter).
 - a) Companies with 100 or more employees should supply number of resulting hires from this participation.
- 8) Does the company consider diversity in career and pipeline development, especially for leadership positions? If yes, please describe.

VI. Procurement and Business Practices-Supplier Diversity

As mentioned, Greenlining has extensive experience with corporate sector supplier diversity. Over time, we have seen two major problems with established supplier diversity programs: 1) data is typically not publically available and 2) individual, internal metrics complicate, if not prevent comparing across like companies. The OMWIs have the ability to address both issues through the Final Interagency Standards. Below, please find a list of recommended questions to promote transparency of spend, particularly with respect to professional service industries. We recommend utilizing size categories proposed in the aforementioned workforce diversity section.

Recommended Standards to Assess “Procurement and Business Practices—Supplier Diversity”:

- 1) Does the company have a supplier diversity program or policy? If yes, please provide a description below.

Greenlining’s experience, we have often found that women of color are the most underrepresented in leadership positions when compared to their peers.

- 2) Does the contract language mention the use of diverse-owned firms in Tier 1 or Tier 2 spend? If yes, please provide below.
- 3) Please provide total annual contract spending with no exemptions.ⁿ
- 4) Please provide demographic data of your total procurement spend.
 - a) For companies with 1-99 employees, provide total dollars spent with minority-owned (disaggregated by ethnic category) and women-owned businesses. If applicable, please indicate if your institution tracks certified vs. non-certified diverse-owned businesses.^o
 - b) For companies with 100 or more employees, provide total dollars spent with diverse-owned businesses, with gender breakdown for each ethnic group. If applicable, please give total spend for dollars spent with certified vs. non-certified diverse-owned businesses.
- 5) Please provide demographic data of your procurement spend, broken down by Tier 1 and Tier 2 spend.
 - a) For companies with 1-99 employees, provide dollars spent with minority-owned (disaggregated by ethnic category) and women-owned businesses. If applicable, please indicate if your institution tracks certified vs. non-certified diverse-owned businesses.
 - b) For companies with 100 or more employees, provide dollars spent with diverse-owned businesses, with gender breakdown for each ethnic group. If applicable, please give total spend for dollars spent with certified vs. non-certified diverse-owned businesses.
- 6) Please provide demographic data on new and current contracts.
 - a) For companies with 1-99 employees, please provide the total number of new contracts awarded and number going to minority- and women-owned businesses. Also provide the number of currently committed contracts.
 - b) For companies with 100 employees or more, please provide the total number and monetary value of new contracts awarded and number going to minority- and women-owned businesses. Also provide the number and monetary value of currently committed contracts.
- 7) Please provide demographic data on contracting dollars by industry, as classified by the North American Industry Classification System (NAICS).^p This includes the specific professional services industries outlined in Section 342(b)(2)(B).^q
 - a) For companies with 1-99 employees, please provide the total spend of the company in each of these fields for industries outlined by Section 342(b)(2)(B)-- total spend with minority-owned businesses (disaggregated by ethnic group), and total spend with woman-owned businesses. Also provide information for the additional top 5 industries with corresponding NAICS codes.
 - b) For companies with 100 employees or more, please provide the total spend of the company in each of these fields for industries outlined by Section 342(b)(2)(B)-- total spend with minority-owned businesses (disaggregated by ethnic group), and total spend with woman-owned businesses. Also provide information for the additional top 10 industries with corresponding NAICS codes.

ⁿ One reason that it is currently difficult to compare an institutions' supplier diversity spend against another is due to varied definitions of "total spend". Entities will discount different categories that they proffer have no opportunity to contract with a diverse-owned business (like postage, airline travel, etc). Taking away the entities' discretion of what they can include in "total spend" is the most efficient method to create consistency and transparency in this field.

^o Third party certification companies, like the National Minority Supplier Development Council exist to verify diverse-owned businesses. Some institutions will only count certified businesses as part of their diverse spend, and so the distinction is important to include.

^p Disparities among industries in supplier diversity spending are common. It is essential for financial institutions to understand what fields have the greatest successes and opportunities for growth.

^q Includes: financial institutions, investment banking firms, mortgage banking firms, asset management firms, brokers, dealers, underwriters, accountants, investment consultants, legal services, insurers or guarantees of debt, insurers or guarantees of equity, insurers or guarantees of securities, and sale of assets.

- 8) Does the company collect information on the demographics of the workforce for contractors and subcontractors? This would include information on the workforce, disaggregated by ethnicity and gender. If so, please provide information and a summary below.
- 9) Does the company participate in conferences, workshops, and other events to network with diverse owned businesses? If yes, please list the names of all events, the hosting institution, and in what capacity your company participated (e.g. sponsor, representative, presenter).
 - a) Companies with 100 or more employees should supply the number of resulting contracts from this participation.
- 10) Does the company conduct outreach to diverse-owned businesses or representative organizations? If yes, please list the names of all organizations and their affiliation.
 - a) Companies with 100 or more employees should supply the number of resulting contracts from this participation.
- 11) Does the company publicize its procurement opportunities? If yes, please indicate where these are viewed. Are any of these with ethnic media outlets or representative organizations?

VII. Practices to Promote Transparency of Organizational Diversity and Inclusion

Greenlining supports the OMWIs explicit dedication to promote transparency of diversity and inclusion. Many of our previous suggestions incorporate values of transparency. Please find additional content not formally addressed in the proposed rules that may benefit sharing with stakeholders.

Recommended Standards to Assess “Practices to Propose Transparency of Organizational Diversity and Inclusion”:

- 1) Does the company have a diversity and inclusion strategic plan?
 - a) If yes, please provide website link or attach to this document.
 - b) If no, is there a plan to establish one in the next 12 months?
- 2) Does the company share current employment opportunities with minority and/or women affiliated organizations/outlets? If yes, please list organizations/outlets.
- 3) Does the company share current procurement opportunities with minority- and/or women- owned businesses of professional associations? If yes, please list organizations/outlets.
- 4) Does the company share future employment opportunities with minority and/or women affiliated organizations/outlets? If yes, please list organizations/outlets.
- 5) Does the company share future procurement opportunities with minority- and/or women- owned businesses of professional associations? If yes, please list organizations/outlets.
- 6) Does the company track the demographics of participants in any mentorship and development programs for employees? If yes, please describe.
 - a) For companies with 1-99 employees, please provide the number of ethnic minorities and women that participated.
 - b) For companies with 100 or more employees, please provide the number of minorities disaggregated by ethnic group and women that participated.
- 7) Does the company track the demographics of participants in any mentorship and development programs for contractors? If yes, please describe.
 - a) For companies with 1-99 employees, please provide the number of minority- and woman-owned businesses that participated.
 - b) For companies with 100 or more employees, please provide the number of minority- (disaggregated by ethnic group) and woman-owned businesses and women that participated.

- 8) Please provide appropriate staff contact information for candidates interested in employment opportunities.^r
 - a) Contact Name (Optional):
 - b) Title (Optional):
 - c) Phone Number:
 - d) E-mail Address:
 - e) Mailing Address:
 - f) Website (Optional):
- 9) Please provide appropriate staff contact information for interested businesses seeking contracting opportunities.
 - a) Contact Name (Optional):
 - b) Title (Optional):
 - c) Phone Number:
 - d) E-mail Address:
 - e) Mailing Address:
 - f) Website (Optional):
- 10) Does the company have a public webpage addressing the company's commitment to diversity and inclusion? If yes, please provide the link below.

VIII. Conclusion

Greenlining is excited for a robust set of standards and guidelines to lead the financial services sector into the 21st Century: ensuring that its employees, products and the business it procures includes the growing new majority. Section 342 and the interagency OMWI group have the potential to achieve this goal.

To make this a reality, Greenlining strongly urges the OMWIs to create uniform reporting templates and require that all regulated entities submit this information every 2 years. In its current form, the Proposed Standards do not provide sufficient detail, uniformity, or accountability mechanisms to ensure the OMWIs' vision is realized. During the comment review process, the interagency OMWI group should consider strengthening its overall standards in the following capacities:

- 1) Have assessments of regulated entities' performance conducted by Agencies;
- 2) Standardize assessments;
- 3) Create advisory board;
- 4) Utilize advisory board to craft scalable survey based on entities' size;
- 5) Mandate regulated entities disclose data to OMWIs and make data public;
- 6) Publish assessments on OMWIs' website;
- 7) Define "appropriate agency" as "the OMWI that is housed within the entity's primary regulator";
- 8) Establish regular timelines for regulated entities to submit assessments and for OMWIs to post data;
- 9) OMWIs should publish biannual state of diversity report; and
- 10) Generally bolstering standards to assess organizational commitment to diversity, workforce diversity, supplier diversity, and practices to promote transparency.

The importance of creating effective, strong standards within the parameters of Section 342 cannot be understated. Women and people of color have historically been underrepresented in the financial sector, and will likely continue to do so without regulatory incentive. Increasing diversity and inclusion will enhance the financial industry's knowledge and capacity to better serve its current and future customers. Doing so will improve the sector's ability to

^r Providing the contact information for hiring and procurement officials at companies will increase transparency and provide useful information for women and people of color seeking to join the financial sector in varying capacities. The California Department of Insurance's biannual supplier diversity data call requests similar information and can be found here : <http://www.insurance.ca.gov/diversity-new/3-dc/upload/KaiserPermanenteInsurance.pdf>

reach a growing consumer base and its capacity to be a tool for economic development. Diversity cannot continue to be considered a “nice to do”.

We recognize that the interagency OMWIs have an uphill battle in creating fair, effective and impactful diversity standards for regulated entities. We strongly urge the group to utilize stakeholder expertise including those in the nonprofit, private, and regulatory sectors in crafting the Final Interagency Joint Standards, and offer ourselves as a partner to support this work.

For the above-stated reasons, Greenlining respectfully requests that the Agencies consider our suggestions to amend and strengthen the Interagency Joint Standards.

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