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## **Proposed Minority and Women Inclusion Amendments**

**Comments by Ralph G. Moore, President of RGMA**

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**Agency Name: Federal Housing Finance Agency**

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Thank you for the opportunity to comment on the proposed amendments to the Federal Housing Finance Agency regulations on **Minority and Women Inclusion**. As a leading expert in the field of minority and women business development and supplier diversity for over 40 years, I am compelled to share my insights on this important program and proposed changes. In addition, my firm, RGMA, has provided supplier diversity training to the Federal Home Loan Bank System, and OMWI Program consulting services to the Federal Home Loan Bank of Indianapolis.

### **Overview**

RGMA commends FHFA for developing proposed amendments to the regulations contained in 12 CFR part 1207 which provides a set of impactful recommendations for enhancing the effectiveness of the Minority and Women Inclusion initiative. It is refreshing to see an agency go beyond the letter of the regulations and speak to the “spirit of the obligation to promote diversity and ensure inclusion”. We have targeted our comments in an effort to share lessons learned as a result of advising scores of F500 Corporations and governmental agencies in the area of strategic planning, MWBE development and Second Tier Program Development. The following topics are covered in this document:

- Strategic Planning
- Second Tier Program Development
- Diversity Spend with Non-Diverse-Owned Businesses
- Increasing the Material Clause Threshold from \$10,000 to \$25,000

### **Strategic Planning**

We applaud FHFA for recommending that regulated entities establish a strategic plan for driving attainment of the regulatory requirements associated with diversity and inclusion (D&I) activities. We are, however, concerned that the recommendation provides regulated entities an option to develop a stand-alone strategic plan **OR** incorporate the D&I strategic plan into its existing strategic planning process. Experience has taught us that it is prudent to initiate the strategic planning process as an independent activity which enables the key D&I stakeholders to

“get up to speed” without the rigors or scheduling pressures associated with trying to develop the initial D&I strategic plan within the entities overall strategic planning process. However, once the D&I function has established a strategic plan, we strongly recommend the integration of that process within the overall strategic planning process for the following reasons:

- Separate strategic planning processes creates the perception that pursuit of D&I objectives creates “more work” for staff members that manage the human resources and contracting processes;
- Most organizations struggle to maintain and monitor one strategic plan. To task a relatively small organization to attempt to develop and maintain a separate D&I strategic plan that has executive leadership accountability would be difficult to do;
- Maintaining a separate D&I strategic plan undercuts the long-term objective of establishing a seamless human resource and contracting process that incorporates D&I as a core value.

Therefore we suggest that FHFA consider requiring regulated entities to develop their initial D&I strategic plan as a stand-alone document with the caveat that they be required to incorporate the D&I strategic plan within the entity’s overall strategic plan within one to two years after the initial submission.

### **Second Tier Program Development**

The concept of utilizing Second Tier Sourcing was first established by The Chrysler Corporation and introduced at the National Minority Supplier Development Council (NMSDC) 1995 Program Managers’ Seminar that was facilitated by Ralph Moore and RGMA. NMSDC took the lead in developing guidelines for the recommended structure, counting and reporting of second tier sourcing activity and convened two Second Tier Task Forces, one in 1998 and the second in 2004, both of which were facilitated by Ralph Moore. In addition, RGMA has presented dozens of Second Tier seminars and workshops over the years. With that said, we applaud FHFA for proposing the inclusion of this important tool for expanding the utilization of diverse business enterprises within the sourcing process of regulated entities.

Having designed and implemented Second Tier Programs for major corporations such as Walmart and Time Warner - and for smaller regional based organizations, we have learned that there are many approaches to establishing a Second Tier Program. Critical questions must be addressed including the following:

- Will FHFA accept both direct and indirect Tier Two spend?
- How should the regulated entity report Second Tier spend?
- What percent of prime contractors should be included in the Second Tier Program?

- Will the prime suppliers be required to report activity with only certified diverse suppliers?

Rather than try to conduct a Second Tier Forum within this document, we recommend that FHFA convene a Second Tier Webinar for providing guidance to the twelve banks in the system in terms of the FHFA Second Tier Program requirements.

### **Diversity Spend with Non-Diverse-Owned Businesses**

Again, I applaud FHFA's courage for tackling this controversial topic that has been debated by business diversity practitioners and supplier diversity advocates for the last 30 years. Yes, there should be acknowledgement and incentives for professional services firms that hire and assign minority, women and other diverse individuals to lead engagements with regulated entities, but the challenges reside in three major questions:

1. How do you determine that the diverse "partner or engagement manager" is in fact the "lead" representative for a given project for the non-minority owned firm?
2. How do you report the "Diversity Spend" to FHFA?
3. Will this category of spend be recognized as equal to Tier One spend with certified minority professional services firms?

Space and time prevents me from delving into this debate within this document, but these are just three of the questions that will require attention before fully implementing this amendment.

### **Increasing the Material Clause Threshold from \$10,000 to \$25,000**

The proposed amendment to increase the material clause threshold from \$10,000 to \$25,000 "to alleviate administrative burdens that regulated entities encounter when routinely purchasing lower-value goods such as materials and supplies necessary for day-to-day operations" appears to be a reasonable amendment. "Alleviating administrative burdens" is a desirable outcome as we are all too familiar with the "red tape" commonly associated with the procurement process. However, we must be careful as this is one of the prevailing arguments that opponents to affirmative action have used since President Richard Nixon signed Executive Order 11458 in March of 1969.

Given that perspective, if FHFA believes that the regulations contained in 12 CFR part 1207 will "Ensure that the regulated entities fulfill the letter and spirit of their legal obligation to promote diversity and ensure the inclusion and utilization of minorities, women, and individuals with disabilities as well as minority-, women-, and disabled-owned businesses, in all their business and activities;" then RGMA's position in that the administrative burden associated with a \$10,000 threshold versus a \$25,000 threshold is a reasonable investment.

In addition, there are a number of diverse businesses that base their go-to-market strategy on winning a series of contracts in the \$10,000 to \$25,000 range.

Let it be clear that we look forward to the day when the recommended D&I practices are embedded in the culture of the FHFA regulated entities and therefore there would not be a need to have ANY material clause thresholds, but that day has yet to arrive.

### **Summary**

We view these proposed amendments as useful tools for enhancing D&I not only for FHFA regulated entities, but also as the framework for other federal agencies impacted by the Dodd-Frank Regulations. Overall, we are excited that FHFA has invested the time and effort to provide guidance on existing issues such as specific reference to ensure that Capital Markets Transactions, Affordable Housing and Community Investment Programs are incorporated in the regulations. We were also pleased to discover fresh thinking on strategic planning and the utilization of Second Tier Program Management as tools for enhancing the process. We look forward to continuing our work with FHFA and the FHLBanks in assisting to demonstrate the value of Diversity and Inclusion throughout the system.

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Ralph G. Moore, CPA, is president of Ralph G. Moore & Associates (RGMA). Founded in 1979, Mr. Moore leveraged the skills he cultivated at Arthur Andersen & Co. to build one of America's premier supplier diversity and minority business development consulting firms. RGMA has trained more supplier diversity professionals than any other firm in the world. Major clients have included Major League Baseball, Walmart, Federal Reserve Board, UBS, National Minority Supplier Development Council, The Walt Disney Company, SBA and DuPont.

In addition, Mr. Moore has conducted training seminars throughout the United States as well as South Africa, France, United Kingdom and Canada. He has also been a popular panelist for numerous minority business development workshops and conferences. Mr. Moore is highly respected for his past and current board leadership in numerous business development and civic organizations including the City Colleges of Chicago, the University of Chicago Medical Center and the Chicago History Museum. In addition, Mr. Moore sits on the Supplier Diversity Advisory Councils for both Procter & Gamble and Macy's.

Mr. Moore has received numerous awards and recognitions including the prestigious National Minority Supplier Development Council Leadership Award which is their highest honor awarded a CEO of a minority business and he was recently inducted into the Minority Business Hall of Fame housed at the University of Washington.