



FEDERAL DEPOSIT INSURANCE CORPORATION

DIRECTIVE SYSTEM

TYPE AND NUMBER

Circular 2710.1

CONTACT

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DATE

November 20, 2015

DATE OF CANCELLATION (*Bulletins Only*)

TO: All Employees and Contractors
FROM: Segundo Pereira
Director, Office of Minority and Women Inclusion
SUBJECT: Equal Opportunity Policy

1. Purpose

To state the Federal Deposit Insurance Corporation's (FDIC) commitment to equal opportunity, affirmative employment, and diversity and inclusion principles. Also, to affirm the policy prohibiting discriminatory practices in the FDIC workplace and in any of its programs or activities and to promote the fair inclusion of minority and women-owned businesses (MWOBs) and small disadvantaged businesses (SDBs) in procurement opportunities and business activities at all levels.

2. Revision

FDIC Circular 2710.1, Corporation's Policy on Equal Opportunity, dated October 19, 2010, is hereby revised and superseded.

3. Scope

This Circular applies to all employees, applicants for employment, and persons doing business, with or for the FDIC.

4. Background

The FDIC is committed to the principles of equal opportunity in all of its programs, policies, and practices and promotes diversity and inclusion in its workforce as well as in its programs and activities. The Director, Office of Minority and Women Inclusion (OMWI), has the delegated responsibility for the FDIC diversity and inclusion, civil rights, and minority and women outreach programs. These programs ensure that the FDIC workplace is inclusive, free from unlawful discrimination and harassment, and provides equal opportunity and access to all employment and business activities.

5. Policy

It is the policy of the FDIC to prohibit discrimination and harassment in its workplace and in all of its programs and

Policy (cont.)

activities based on race, color, religion, sex (including pregnancy, equal pay, gender identity, and sexual orientation), national origin, disability (physical and/or mental), age (40 years or older), genetic information (information about an individual's genetic tests; or information about the genetic tests, or the manifestation of a disease or disorder in the individual's family members), status as a parent, and retaliation (for participating in the EEO complaint process or opposing discriminatory practices).

All employees have a responsibility to implement this policy by their conduct, decisions, and actions. Further, every effort shall be made to resolve complaints at the lowest level possible.

The FDIC is fully committed to removing any unlawful, or otherwise prohibited discrimination from its employment and personnel policies, procedures, programs, practices, and operations. All aspects of personnel operations, (including recruitment, hiring, promotions, training, awards, reorganizations, and retention of employees) shall be conducted consistent with equal employment opportunity principles, FDIC policies, applicable Federal laws, regulations, and executive orders.

Any unlawful or improper conduct that undermines the FDIC's efforts to prohibit discrimination will not be tolerated. Employees who commit such acts of prohibited discrimination may be subject to disciplinary action up to and including termination from employment. Moreover, supervisors or managers who fail to take appropriate disciplinary action against subordinates who commit acts of prohibited discrimination, including retaliation against or harassment of employees who engage in activity protected by this policy statement, are also subject to disciplinary action.

It is the policy of the FDIC to promote diversity in its workforce and inclusion in all of its programs and activities and provide employees with a work environment that embodies excellence and that acknowledges and honors the diversity of its employees.

The FDIC is fully committed to utilizing consistent standards and procedures to ensure the fair inclusion and utilization of MWOBs and SDBs in FDIC procurement opportunities and business activities, to the maximum extent possible.

6. Authorities

The sources of authority for the FDIC's equal opportunity policy may be found in the following Federal statutes, regulations, and executive orders:

a. Federal Statutes

- (1) Title VII of the Civil Rights Act of 1964, as amended, makes it unlawful for a Federal employer to discriminate

Authorities (cont.)

against an employee (or applicants for employment) based on race, color, religion, sex (including pregnancy), national origin, or retaliation, 42 U.S.C. §2000e-16;

(2) Equal Pay Act of 1963, as amended, protects men and women who perform substantially equal work within the same organization from sex-based wage discrimination, 29 U.S.C. §206(d);

(3) The Rehabilitation Act of 1973, as amended, makes it unlawful to discriminate or retaliate against qualified individuals with disabilities including Federal employees, applicants for employment or the public and requires Federal agencies to provide reasonable accommodations and accessibility to all FDIC programs and activities including employment and facilities, 29 U.S.C. §791;

(4) The Age Discrimination in Employment Act of 1967, as amended, makes it unlawful to discriminate or retaliate against an employee (or applicant for employment) who is 40 years of age or older, 29 U.S.C. §621;

(5) Section 1216(a) and (c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, applies Executive Order 11478, as amended, to the FDIC, 12 U.S.C. §1833e(a) and provides for a Minority and Women Outreach Program to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women in all contracts entered into by the FDIC;

(6) Titles I and V of the Americans with Disabilities Act of 1990, as amended, define “a qualified individual with a disability” for purposes of the Rehabilitation Act of 1973, as amended, and excludes individuals engaged in the illegal use of drugs, 42 U.S.C. §§12102, 12114;

(7) Civil Rights Act of 1991, as amended, provides monetary damages for employees (and applicants for employment) in cases of intentional employment discrimination based on race, color, religion, sex, sexual harassment, national origin, or disability, 42 U.S.C. §1981a;

(8) Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, (the No FEAR Act) requires each Federal agency to post summary statistical data pertaining to complaints of employment discrimination filed against it by employees and applicants for employment, 5 U.S.C. §2301;

(9) Americans with Disabilities Act Amendments Act of 2008, expands the definition of a disability by reinstating a broad

Authorities (cont.)

scope of protection to be available under the Americans with Disabilities Act, 42 U.S.C. §12101;

(10) Title II of the Genetic Information Nondiscrimination Act of 2008, makes it unlawful for an employer to discriminate against an employee (or applicants for employment) based on genetic information (information about an individual's genetic tests; or information about the genetic tests, or the manifestation of a disease or disorder in the individual's family members, 42 U.S.C. §2000ff;

(11) Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, provides for the development of standards for equal employment opportunity in the FDIC workforce, increased participation of MWOBs in FDIC programs and activities, and assessing the diversity policies and practices of entities regulated by the FDIC.

b. Federal Regulations

- (1) 5 C.F.R. Part 724, U.S. Office of Personnel Management's No FEAR Act notice posting and training requirements;
- (2) 12 C.F.R. Part 361, FDIC's minority and women outreach program contracting guidelines;
- (3) 12 C.F.R. Part 352, FDIC's nondiscrimination on the basis of disability guidelines;
- (4) 29 C.F.R. Part 1604, Equal Employment Opportunity Commission's (EEOC) sex discrimination guidelines;
- (5) 29 C.F.R. Part 1605, EEOC's religious discrimination guidelines;
- (6) 29 C.F.R. Part 1606, EEOC's national origin discrimination guidelines; and
- (7) 29 C.F.R. Part 1614, EEOC's federal sector EEO guidelines including No FEAR Act public website postings.

c. **Executive Orders.** These are orders issued by the President pursuant to the Constitution and other Federal statutes which may be applicable to the FDIC.

- (1) Executive Order 11478 (1969), as amended, prohibits discrimination against Federal employees (and applicants for employment) based on race, color, religion, sex, age, national origin, disability, sexual orientation, gender identity, or status as a parent;

Authorities (cont.)

- (2) Executive Order 13087 (1998), prohibits discrimination against Federal employees (and applicants for employment) based on sexual orientation;
- (3) Executive Order 13145 (2000), prohibits discrimination against Federal employees (and applicants for employment) based on genetic information;
- (4) Executive Order 13152 (2000), prohibits discrimination against Federal employees (and applicants for employment) based on the individual's status as a parent;
- (5) Executive Order 13160 (2000), prohibits discrimination based on race, color, religion, sex, national origin, disability, age, sexual orientation, or status as a parent in federally conducted education and training programs;
- (6) Executive Order 13163 (2000), increases employment opportunities in the Federal Government for 100,000 individuals with disabilities;
- (7) Executive Order 13164 (2000), requires Federal agencies to establish procedures to facilitate the provision of reasonable accommodation for individuals with disabilities;
- (8) Executive Order 13166 (2000), improves access to Federal programs and activities for persons with limited English proficiency;
- (9) Executive Order 13171 (2000), improves the representation of Hispanics in Federal employment;
- (10) Executive Order 13548 (2010), increases Federal employment of individuals with disabilities; and
- (11) Executive Order 13583 (2011), requires Federal agencies to develop and implement a more comprehensive, integrated, and strategic focus on diversity and inclusion.

7. Accountability and Monitoring

Each Division and Office has a continuing responsibility to identify and implement strategies for achieving and maintaining a diverse workforce at all levels. These strategies shall be developed in concert with OMWI and the Division of Administration (DOA), Human Resources Branch, consistent with the FDIC's Affirmative Employment Program, whenever it has been determined that a statistically significant imbalance exists in a Division or Office work force. Each division and office must review its workforce statistics at least annually and adjust its strategies as appropriate.

Accountability and Monitoring (cont.)

Managers and supervisors must work toward developing and implementing positive initiatives that achieve measurable results with regard to workforce diversity and contracting. Managers and supervisors are assessed regarding their performance in these areas.

An assessment of the workforce profile will be prepared and disseminated annually by OMWI to Division and Office Directors and to the Office of the Chairman. Upon availability of contract management data, the Acquisition Services Branch, DOA, will prepare quarterly statistical charts on the use of MWOBs and SDBs for contracting and disseminate this information to the Office of the Chairman and to Division and Office Directors.



8. Guidelines and Procedures

- a. The procedures for initiating and processing EEOC complaints of alleged employment discrimination are contained in FDIC 2710.2, EEOC Discrimination Complaint Process.
- b. The procedures for initiating and processing FDIC complaints of alleged employment discrimination are contained in FDIC 2710.4, FDIC Discrimination Complaint Process.
- c. The procedures for initiating a complaint of harassment discrimination are contained in FDIC 2710.3, Anti-Harassment Program.
- d. The FDIC's Equal Employment Opportunity Program ensures equal access to employment for all qualified individuals through the implementation of the EEOC's Management Directive 715, and the U.S. Office of Personnel Management's Disabled Veterans Affirmative Action Program. These programs assist in the identification and elimination of barriers to recruitment, hiring, retention, and promotion of women, minorities, individuals with disabilities, and disabled veterans.
- e. The procedures for providing reasonable accommodation to individuals with disabilities are contained in FDIC 2710.5, Procedures for Providing Reasonable Accommodation to Individuals with Disabilities.
- f. Information on the FDIC's Contracting Outreach Program is available in FDIC 3700.16, FDIC Acquisition Policy Manual (APM) and the FDIC's Guide for Outside Counsel.
- g. The FDIC's Minority and Women Outreach Program may be amended from time to time to establish rules and strategies for achieving diversity in the awarding of contracts to MWOBs and SDBs. See 12 C.F.R. Part 361, § 342 Dodd-Frank Act, and FDIC 2710.14, Corporate Outreach Program.

9. Principal OMWI Officials

Questions relating to complaint processing, Affirmative Employment, Diversity and Inclusion, and/or the Minority and Women Outreach Program:

- a. Chief, Complaints Processing Branch
(703) 562-6073 or for TTY (703) 562-2473
- b. Chief, Diversity and Affirmative Employment Section
(703) 562-6062
- c. Chief, Minority and Women Business and Diversity and Inclusion Branch (703) 562-2623

10. Effective Date

The provisions of this Circular are effective immediately.

