within the general area to meet the needs to the Order 106 market and states supplemental milk supplies will not be needed.

The proposal would allow a supply plant that has been associated with the Southwest Plains market during the months of September 1998 through January 1999 to qualify as a pool plant without shipping any milk to a pool distributing plant during the following months of September 1999 through August 2000 or until implementation of Federal order reform. The proposed action would also suspend the requirement that a producer's milk must first be received at a pool distributing plant during the month before the milk is eligible to be diverted to nonpool plants. Thus, this rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provisions of the order regulating the handling of milk in the Southwest Plains marketing area is being considered for the months of September 1, 1999, through August 31, 2000, or until implementation or Federal order reform:

In § 1106.6, the words ''during the month''.

In § 1106.7(b)(1), beginning with the words ''of February through August'' and continuing to the end of the paragraph.

In § 1106.13, paragraph (d)(1) in its entirety.

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 7th day after publication of this notice in the **Federal Register**. The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Programs during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed rule would suspend a portion of the supply plant shipping standard and the producer delivery requirement of the Southwest Plains order for the period of September 1999 through August 2000 or until completion of Federal order reform. The proposed suspension would allow a supply plant that has been associated with the Southwest Plains order during the months of September 1998 through January 1999 to qualify as a pool plant without shipping any milk to a pool distributing plant during the following months of September 1999 through August 2000 or until completion of Federal order reform. Without the suspension, a supply plant would be required to ship 50 percent of its producer receipts to pool distributing plants during the months of September through January and 20 percent of its producer receipts to pool distributing plants during the months of February through August to qualify as a pool plant under the order.

The proposed rule would also suspend the requirement that a producer's milk must be received at a pool plant during the month before it is eligible for diversion to a nonpool plant. By suspending this provision, producer milk would not be required to be delivered to pool plants before going to unregulated manufacturing plants.

According to Kraft, the proponent of the suspension, supplemental milk supplies will not be needed to meet the fluid needs of distributing plants. Kraft anticipates that there will be an adequate supply of direct-ship producer milk located in the general area of distributing plants available to meet the Class I needs of the market. The handler notes that the supply plant shipping provision and the producer delivery requirement have been suspended since 1993 and 1992, respectively.

Kraft states there is no need to require producers located some distance from pool distributing plants to deliver their milk to such plants when their milk can more economically be diverted directly to manufacturing plants in the production area. Thus, the handler contends the proposed suspension is necessary to prevent the uneconomical and inefficient movement of milk and to ensure producers historically associated with Order 106 will continue to have their milk pooled under the order.

Accordingly, it may be appropriate to suspend the aforesaid provisions from September 1, 1999, through August 31, 2000, or until implementation of Federal order reform.

List of Subjects in 7 CFR Part 1106

Milk marketing orders.

The authority citation for 7 CFR Part 1106 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: August 3, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99–20288 Filed 8–5–99; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 361

RIN 3064–AB95

Minority and Women Outreach Program—Contracting; and Individuals With Disabilities Outreach Program

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Withdrawal of proposed rule.

SUMMARY: On April 14, 1997, the FDIC published a proposed rule to provide that the FDIC certify the eligibility of businesses and law firms for the minority and women contracting program (62 FR 18059). The formal certification procedure would have replaced the current self-certification of minority- and women-owned businesses and law firms. As published elsewhere in this issue of the **Federal Register**, the FDIC is proposing to amend its outreach and procurement regulation to provide solely an outreach program that is consistent with the Constitution and applicable federal statutes, case law and regulations. As explained in that proposal, the FDIC will no longer grant a price evaluation adjustment in the procurement program based solely on race and gender criteria; thus, a formal certification procedure is no longer necessary. The proposed rule would have also established an outreach program for individuals with disabilities. In1997, the FDIC issued a policy including persons with disabilities in its outreach program. This policy prohibits discrimination against individuals with disabilities who participate, or are interested in participating, in FDIC-sponsored programs and activities, including its outreach program. Thus, although the FDIC as a matter of policy has expanded the outreach program to include individuals with disabilities, the regulation should conform to the statutory requirement and thus cover

only minorities and women. An FDIC statement of policy [1] provides that if a significant period of time elapses following the publication of a proposed rule or policy without final action, the Board will consider withdrawing the proposal. Pursuant to this policy, the FDIC is formally withdrawing the proposal.

FOR FURTHER INFORMATION CONTACT: Judith M. Wood, Chief, Diversity Branch, Office of Diversity and Equal Opportunity, (202) 416–2456; or Gladys C. Gallagher, Counsel, Legal Division, (202) 898–3833, FDIC, 550 17th Street, NW, Washington, DC 20429.

By order of the Board of Directors.

Dated at Washington, D.C., this 27th day of July 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–20127 Filed 8–5–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 361

RIN 3064–AC21

Minority and Women Outreach Program—Contracting

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation (FDIC) is proposing to amend its regulation establishing an outreach program for minority- and women-owned businesses and announcing its intention to utilize that portion of the Federal Affirmative Action Contracting Program, set forth in the Federal Acquisition Regulations, providing contracting benefits to Small Disadvantaged Businesses. The FDIC will no longer grant price evaluation adjustments based solely on race and gender criteria. The FDIC will, however, continue its outreach programs for minorities, women, and individuals with disabilities and entities owned by them.

DATES: Written comments must be received on or before October 5, 1999.

ADDRESSES: All written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), between the hours of 7:00 a.m. and 5:00 p.m. on business days. Comments may also be faxed: (202) 898–3838 or submitted via Internet: comments@FDIC.gov. Comments will be available for inspection and photocopying in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Martin Blumenthal, Counsel, Legal Division, Corporate Operations Branch, Corporate Legal Issues Section, Contracting Law Unit (202) 736–0756; David McDermott, Acquisition and Corporate Services Branch, Division of Administration, (202) 942–3434; Rita Wiles Ross, Counsel, Legal Division, Corporate Operations Branch, Legal Operations Section, Outside Counsel Unit, (202) 736–3072; or Judith M. Wood, Chief, Diversity Branch, Office of Diversity and Economic Opportunity, (202) 416–2456.

SUPPLEMENTARY INFORMATION:

I. Background

FDIC Minority- and Women-Owned Business Outreach Program

In 1989, with enactment of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), Congress mandated that the FDIC augment its program for contracting activities by prescribing

> ''regulations to establish and oversee minority outreach program[s] * * * 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 agency * * *'' 12 USC 1833e(c).

In response, the FDIC adopted a regulation that obligates and requires the Corporation to engage in outreach efforts to identify and register minority- and women-owned businesses (MWOBs) that can provide the goods and services utilized by the FDIC. 12 CFR 361.6(b); Minority and Women Outreach Program—Contracting, 57 FR 15004 (April 24, 1992). In addition, to ensure that MWOBs are ''being included in each solicitation, the solicitation process will include: * * * (3) Allowing qualified MWOBs a 3% price advantage and additional technical consideration for competitively bid services; * * *'' 12 CFR 361.8(b)(3).[1]

In soliciting and awarding contracts for legal services, the Legal Division ''actively seeks to engage firms owned by minorities and women, both directly and in association with other firms.'' 12 CFR 361.11(c). However, there is no price evaluation adjustment or other technical considerations available in contracting for legal services.

The Supreme Court has held that all racial classifications, whether imposed by federal, state, or local governments, must be analyzed by a reviewing court under strict scrutiny. Adarand Constructors, Inc. v. Pena, 515 U.S. 200, 227; 115 S.Ct. 2097, 2113 (1995). To be sustained, federal racial classifications, like those of a State, must serve a compelling governmental interest and must be narrowly tailored to further that interest. 515 U.S. at 229. In this context, a compelling governmental interest may include past discriminatory barriers, whether such barriers were a result of intentional acts of the federal government or passive complicity in the acts of discrimination by the private sector. Richmond v. J.A. Croson Co., 488 U.S. 469, 493 (1989). These decisions relate to programs that confer a benefit on the basis of race. They do not address outreach efforts where an agency only seeks to increase the pool of available MWOB contractors.

There does not appear to be a finding of discrimination underlying 12 U.S.C. 1833e. The FDIC does not believe such a finding is necessary to sustain an outreach program, because, unlike a program that awards financial benefits to contract with MWOBs, a pure outreach program has ''no winners or losers.'' It only increases the potential pool of MWOB contractors, and it does not affect the award process or favor one group of contractors over another based on considerations of race, ethnicity, or gender.

However, as noted above, the FDIC program has gone beyond the pure outreach mandate of section 1833e, and through the regulation, applies a price evaluation adjustment to awards to MWOB contractors for non-legal services. To pass strict scrutiny, such a program requires findings of past discrimination establishing a compelling governmental interest, Richmond v. J.A. Croson Co., 488 U.S. 469, 493 (1989), but there was no finding of past discrimination in the rulemaking adopting part 361. Thus, to the extent it included a price evaluation

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[1] Development and Review of FDIC Regulations and Policies, 63 FR 25157 (May 7, 1998).

[1] The FDIC's Division of Administration has issued an Acquisition Policy Manual (APM) establishing policies and procedures in contracting for non-legal services. The APM provides for the application of the 3% price evaluation adjustment for awards of $50,000 or more. APM at Chapter 6, § D.6. There is no provision for the award of ''additional technical consideration(s).''