



## Testimony of

**The Honorable Darryl L. DePriest, Esq.**

**Chief Counsel for Advocacy**

**U.S. Small Business Administration**

*U.S. House of Representatives*

*Committee on Small Business Subcommittee on Investigations,  
Oversight, and Regulations*

**Date:** February 10, 2016

**Time:** 1:00 PM

**Location:** Room 2360  
Rayburn Office Building  
Washington, D.C.

**Topic:** Oversight of the Office of Advocacy and the Office of the  
National Ombudsman at the SBA

Created by Congress in 1976, the Office of Advocacy of the U.S. Small Business Administration (SBA) is an independent voice for small business within the federal government. The Chief Counsel for Advocacy, who is appointed by the President and confirmed by the U.S. Senate, directs this office. The Chief Counsel advances the views, concerns, and interests of small business before Congress, the White House, federal agencies, federal courts, and state policy makers. Issues are identified through economic research, policy analyses, and small business outreach. The Chief Counsel's efforts are supported by Advocacy's staff in Washington, D.C., and by Regional Advocates throughout the country. For more information about the Office of Advocacy, visit <http://www.sba.gov/advocacy>, or call (202) 205-6533.

Chairman Hardy, Ranking Member Adams, and Members of the Committee, good afternoon. As the Chief Counsel for Advocacy, I would like to thank you for the opportunity to appear before the Committee today to discuss the Office of Advocacy and its many accomplishments during Fiscal Year 2015 (FY2015).

When the Office of Advocacy was first created in 1976, it was charged with providing small businesses with an independent and credible voice in the federal rulemaking process. Too often, small businesses have been unduly burdened by one-size-fits-all regulations from federal agencies.

During the past 40 years, the Office of Advocacy has facilitated greater consideration of small business impacts through economic research, regulatory flexibility trainings, comment letters, roundtables, publications, and collaboration with federal officials throughout government. Federal agencies treat Advocacy as a partner in the rulemaking process in the effort to reduce the regulatory burden on small business.

As the seventh Senate-confirmed Chief Counsel, I will ensure that the office continues to work with federal agencies to mitigate the potential costs of regulation on small entities. To further describe our dedication to this cause, I would like to update you on Advocacy's efforts and accomplishments on behalf of small business during FY2015.

### **Regulatory Outreach**

From draft until final proposal, Advocacy engages federal officials throughout the entire rulemaking process. Advocacy's roundtables, comment letters, and interagency discussions are vital to alerting federal officials to the potential impacts on small entities and producing alternatives to help reduce any burdens.

### **Roundtables**

Advocacy's regulatory roundtables gather federal officials, trade associations, and small business stakeholders from across the country for substantive presentations and open discussions about regulatory issues. During FY2015, Advocacy hosted 21 roundtables to highlight the concerns of small businesses on a wide range of topics that included: (1) occupational exposure limits and other safety requirements; (2) overtime pay; (3) regulation of small drones; (4) federal procurement; (5) national emission standards; and (6) tax reform. Notably, our staff conducted roundtables in Louisville, New Orleans, and Washington, D.C. to discuss the new overtime pay regulation, and in Des Moines, Albuquerque, and Washington, D.C. to discuss new federal procurement regulations.

### **Comment Letters**

Once a proposed rule has been published and is open for public comment, Advocacy will often submit written comments voicing the concerns of small entities. These comment letters are a major tool used by Advocacy to ensure federal officials consider the impacts on small business, as federal agencies are compelled by statute to respond. During FY2015, Advocacy submitted 28 comment letters to 15 different agencies on a variety of issues. The majority of these comment letters addressed either: (1) the need for flexible alternatives supporting small business; (2) inadequate analysis of the impact on small entities; (3) improper certification of the rule; or (4) requests for greater outreach to small entities.

## **Regulatory Impact**

The Office of Advocacy has worked for nearly forty years to create a more flexible regulatory environment for small business in the United States. Advocacy's positive impact on the federal rulemaking process can be seen in many ways: (1) as first-year cost-savings; (2) as greater consideration of small business concerns in particular areas; and (3) as greater compliance with the RFA by federal agencies. Taking each of these parts into account provides an accurate portrayal of Advocacy's success.

## **Cost Savings**

During FY2015, Advocacy achieved over \$1.6 billion in first-year cost savings as a result of its efforts on behalf of small business. Generally, savings come from the difference in cost between the proposed rule and the final rule. These savings resulted from eleven separate rules proposed by five different agencies: (1) the Department of Energy; (2) the Food and Drug Administration; (3) the Occupational Safety and Health Administration; (4) the Bureau of Land Management; and (5) the Environmental Protection Agency.

For the majority of rules, the first-year cost-savings arises from a one-time implementation cost. However, for rules such as OSHA's final *Cranes and Derricks in Construction* rule, the first-year cost savings arises from a delay in implementation over a number of years. Under the *Cranes and Derricks in Construction* final rule, the initial implementation of the rule was delayed for three years. Advocacy's efforts resulted in over \$13 million in savings for each year, saving small businesses \$40 million cumulatively over those three years.

## **Greater Consideration of Small Business Concerns**

Advocacy's efforts have also produced positive outcomes that are not quantifiable and are not captured in cost-savings projections. Advocacy's partnering approach to federal agencies and small business trade associations often help facilitate greater consideration of small business concerns in federal rulemakings and federal initiatives. For example, during FY2015, Advocacy obtained greater consideration of small business concerns in three federal rulemakings and three federal initiatives. Advocacy's engagement of federal officials from the Food and Drug Administration and the Federal Communications Commission produced more flexible regulations on animal food controls and on competitive bidding rules, respectively. Advocacy's leadership and hard work on a federal cybersecurity framework resulted in the National Institute of Standards and Technology conducting a panel on the impacts of federal cybersecurity regulations on small federal contractors. Similarly, Advocacy provided valuable regulatory advice to the agencies involved in the Transatlantic Trade and Investment Partnership negotiations. Advocacy's participation in several rounds of negotiations helped garner greater consideration of small business issues on the international stage.

## **Greater Compliance with the RFA**

Advocacy has established cooperative relationships with most federal agencies, and has successfully facilitated greater compliance with the RFA throughout the government. As federal agencies have become more familiar with the RFA and have actively partnered with Advocacy, agencies throughout the government have produced more flexible and less burdensome regulations. Such success has been achieved through Advocacy's respected publications, technical assistance, and formal trainings on the RFA.

Since 2002, Advocacy has conducted formal trainings on RFA compliance for federal agencies and other stakeholders. These trainings have been a valuable resource in achieving greater regulatory flexibility and greater consideration of small business concerns. Over the past thirteen years, Advocacy has conducted

trainings for 18 cabinet-level departments and agencies, 67 separate component agencies and offices, 22 independent agencies, and various special groups including congressional staff, small business organizations, and trade associations. In FY2015 alone, Advocacy conducted trainings for 126 federal officials from a variety of different agencies, exceeding our annual goal by over 25 percent.

In addition to these formal trainings, Advocacy offers federal agencies technical assistance regarding RFA compliance. Throughout the rulemaking process, Advocacy is in daily contact with agencies to provide technical assistance in complying with the RFA. Such assistance can include: (1) estimates of the numbers of businesses likely to be affected by a proposal; (2) legal opinions on RFA issues; (3) the review of draft materials; (4) arranging roundtables with affected industry representatives; and (5) other assistance specific to each case.

### **Economic Research and Outreach**

Since its creation, Advocacy has provided current and policy-relevant information on important issues affecting small businesses. During FY2015, the Office of Advocacy provided small business owners, researchers, policymakers, and other stakeholders with 26 contracted and internal research publications on several topics relevant to today's economy, including: (1) access to capital; (2) employment; (3) innovation; (4) veterans; and (5) minority- and women-owned businesses.

During FY2015, Advocacy also established a new program series entitled "Small Business Economic Research Forums." These forums provide interested parties with an opportunity to discuss relevant small business issues with our research team and other stakeholders. These forums also inform Advocacy's staff of the cutting-edge topics that are affecting small businesses across the country. During the series' inaugural year, eight research forums were held on topics such as consumer credit, student loan debt, tax exemptions, and new sources of capital.

### **Communications Outreach**

Advocacy's information team keeps in touch with concerned stakeholders through Advocacy's website, various publications, email alerts, and social media presence. Our monthly newsletter, *The Small Business Advocate*, reaches nearly 37,000 electronic subscribers. In addition, our specialized email alerts provide valuable information to thousands more, including over 28,000 research subscribers and over 25,000 regulatory subscribers. Advocacy also frequently updates stakeholders on Facebook, Twitter, and Advocacy's blog.

### **Regional Advocates**

The ten Regional advocates play a vital role in maintaining an open dialogue with the vast majority of small entities that operate outside of the Washington, D.C. area. They interact directly with small business owners, small business trade associations, and state officials to educate them about the benefits of regulatory flexibility. Regional advocates conduct outreach to identify areas of concern for small business and assist headquarters staff with specific actions, such as recommending participants for Small Business Regulatory Enforcement Fairness Act panels that require small entity representatives. They also alert businesses in their respective regions about regulatory proposals that could affect them. During FY2015, Advocacy's regional advocates participated in more than 500 outreach events, exceeding their annual goal of 360.

## **Conclusion**

In closing, I would like to thank the Committee and its staff for its continued support of the Office of Advocacy. As Chief Counsel, I look forward to working closely with you on the important issues affecting small entities across this country. If there are any questions, I would be pleased to answer them.

