



OFFICE OF ADVOCACY  
U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

February 4, 2005

**Via Facsimile and Electronic Mail**

The Honorable Alex Acosta  
Assistant Attorney General for Civil Rights  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Ave., NW  
Suite 5642  
Washington, DC 20530

**Re: Advance Notice of Proposed Rulemaking; Nondiscrimination on the Basis of Disability in State and Local Government Services; Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities (69 Fed. Reg. 58,768, September 30, 2004).**

Dear Mr. Acosta:

We are writing to comment on the U.S. Department of Justice's (DOJ) advance notice of proposed rulemaking (ANPRM), *Nondiscrimination on the Basis of Disability in State and Local Government Services; Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*.<sup>1</sup> The ANPRM informs the public of the intent of DOJ to adopt new standards for barrier removal in public accommodations and commercial facilities in light of the recent rulemaking completed by another Federal agency. The Office of Advocacy (Advocacy)<sup>2</sup> appreciates the extended opportunity that DOJ has given small businesses to provide comment on the potential impacts of any changes to the Americans with Disabilities Act (ADA) rules.

Advocacy believes the ADA revisions are likely to involve significant economic impacts on a substantial number of small businesses, and recommends the completion of an initial

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<sup>1</sup> DOJ, *Advance Notice of Proposed Rulemaking; Nondiscrimination on the Basis of Disability in State and Local Government Services; Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*, 69 Fed. Reg. 58,768 (2004) (ANPRM).

<sup>2</sup> Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small business before Federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA), so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. Section 612 of the Regulatory Flexibility Act also requires Advocacy to monitor agency compliance with the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act. Pub. L. No. 96-354, 94 Stat. 1164 (1981) (codified at 5 U.S.C. §§ 601-612) amended by Subtitle II of the Contract with America Advancement Act, Pub. L. No. 104-121, 110 Stat.857 (1996). 5 U.S.C. §612(a).

regulatory flexibility analysis for the proposed rule, pursuant to the Regulatory Flexibility Act.<sup>3</sup> Advocacy applauds DOJ's stated intention of considering regulatory alternatives in its proposed rule that may reduce small businesses' regulatory burdens, and Advocacy believes that DOJ has appropriately framed three general regulatory alternatives with the potential to reduce or eliminate the rule's economic impact. Advocacy looks forward to assisting DOJ in identifying specific accessibility guideline provisions and any additional alternatives which may affect small businesses.

Advocacy will supplement these comments prior to May 31, 2005, with specific information on the ADA revisions' potential economic impacts to small business, as well as recommendations Advocacy receives from small businesses on specific regulatory alternatives. Thank you for your consideration and please do not hesitate to contact Michael See with any further questions at (202) 619-0312 or [Michael.See@sba.gov](mailto:Michael.See@sba.gov).

Sincerely,

/s

Thomas M. Sullivan  
Chief Counsel for Advocacy

/s

Michael R. See  
Assistant Chief Counsel

Cc: The Honorable John D. Graham, Administrator, Office of Information and Regulatory Affairs

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<sup>3</sup> 5 U.S.C. § 603.