

EXECUTIVE SUMMARY

Over the past year, the nation's economy struggled to grow out of a recessionary period. The country met the challenge. As always, small businesses continued to be instrumental in economic growth and job creation. Where highly visible corporations have faltered, efficient small businesses have succeeded in creating wealth and jobs. Our goal is to ensure that federal agency actions do not inhibit economic innovation and expansion. As President Bush stated in his Small Business Agenda, "The role of government is not to create wealth, but to create an environment where entrepreneurs can flourish."

The Regulatory Flexibility Act (RFA)¹ is an important tool in efforts to ensure that federal regulations do not disproportionately affect small entities. Congress enacted the RFA in 1980 to require federal agencies to consider both the impacts of their rules on small entities *and* regulatory alternatives to alleviate those burdens while achieving the agency's policy objectives. Under Section 612 of the RFA, Congress instructed the Chief Counsel for Advocacy to report at least annually to Congress and the President on agency efforts pursuant to the RFA.

This annual report provides Congress and the President an opportunity to review the actions of agencies with respect to small entities. The report provides the Office of Advocacy's assessment of whether federal agencies are meeting both the intent and the letter of the law. The report contains four main sections. The first is an overview of the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). It covers the history of the RFA, the analysis it requires, federal agency implementation, and the SBREFA amendments.

The second section explains the role of the Office of Advocacy and describes the Office of Advocacy's interactions with federal agencies on behalf of small entities during the rulemaking process. It also includes lists of the Office of Advocacy's FY 2002 cost savings, formal regulatory comment letters, and SBREFA panel reviews of rules at the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA). These lists provide a general overview of the Office of Advocacy's activities.²

The third section covers Advocacy's achievements on behalf of small entities to improve agency compliance with the RFA. Included are descriptions of key agency actions in which the Office of Advocacy intervened, as well as the outcomes of federal agency decisions in response to Advocacy actions. In FY 2002, Advocacy's efforts on behalf of small entities secured first-year savings of more than \$21 billion and additional recurring savings of \$10 billion annually.³

The fourth and final section describes ongoing concerns related to individual agencies' compliance with the RFA.

The report's narratives cover significant achievements or ongoing concerns; not all of Advocacy's day-to-day interactions with agencies are described. To review the complete text of all regulatory comment letters, visit Advocacy's website at <http://www.sba.gov/ADVO>.

¹ The Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (codified at 5 U.S.C. § 601 *et seq.*), became law on September 19, 1980. The full law as amended appears as Appendix A of this report

² This report does not necessarily include results achieved by the Office of Advocacy during interagency review under Executive Order 12866.

³ \$18 billion resulted from the EPA's revisions to its Cross Media Electronic Reporting and Record-Keeping Rule (CROMERRR). Although a valid cost saving, by its sheer magnitude, CROMERRR is an aberration. EPA is to be commended for acknowledging the need to revisit and substantially revise the recordkeeping in CROMERRR. Excluding CROMERRR, Advocacy's FY 2002 interventions saved more than \$3 billion in first-year costs.