

20 Years of Speaking Out for Small Business: The SBA's Office of Advocacy Celebrates an Anniversary

Once upon a time—some 20 years ago—there was no Office of Advocacy in the U.S. Small Business Administration. There were almost no small business advocates anywhere, in fact, and little or no consideration of small business in the legislative or regulatory process, few small business statistics or small business columnists, and no *Inc.* magazine. Almost no one talked very much about small business, in spite of the fact that some 14 million small business tax returns were filed annually.

Twenty years later, there are reporters and columnists who specialize in small business issues, small business training and assistance programs at all levels of government, a whole body of research and much talk on the airwaves about the contributions and concerns of small business, hundreds of books and how-to guides and even whole magazines devoted to small business and entrepreneurship. More than 22 million business tax returns are filed annually, and new legislation and regulations are often judged for their effects on small firms. Small business people have voiced their concerns to Congress and the Administration at three White House Conferences on Small Business. Everyone from the President of the United States to the 7-year-old lemonade stand entrepreneur down the street takes it as an article of faith that when the small business community sneezes, the economy catches a cold.

And, coincidentally, the SBA's Office of Advocacy is celebrating its 20th official birthday. What follows in this special section of *The*



September 19, 1980: President Jimmy Carter signs the Regulatory Flexibility Act (P.L. 96-354), which gave the Office of Advocacy vastly expanded powers to act on behalf of small business before federal regulatory agencies.

Small Business Advocate is a narrative of the history of the Office of Advocacy and a look at some of the changes that have come about in the small business world since 1976.

Inside this special supplement to *The Small Business Advocate*:

The Past: A Look at the Office of Advocacy's History

The Present: How the Office of Advocacy Works Today

The Future: Advancing Small Business in the 21st Century

A Message from the Chief Counsel for Advocacy

Dear Friends of Small Business,

As I look back on the history of the Office of Advocacy over the past 20 years, I'm tempted to paraphrase Winston Churchill: seldom has so much been hoped for by so many from so few.

As technology changes, as the economy grows, the nation's problems change—and so do the needs of small business. The political dynamics also change, and there is an ongoing need to remind public policymakers that the "multitude of small undertakings"—small businesses—continue to be the source of America's unique vitality, as de Tocqueville observed 150 years ago. They need to be nurtured—not guaranteed success, but rather guaranteed the right to succeed or fail depending on their own decisions.

Small businesses create most of the new jobs, are more innovative per employee, train most of the new workers, empower minorities and women, and make important contributions to community life. Perhaps most important, they are flexible enough to create whole new industries built on real markets—not markets engineered or subsidized by governments, but markets for innovative products and services generated by the ingenuity of people. They are key in creating the high standard of living that we enjoy.

And our society has rightly instituted laws and regulations to strengthen that high standard—to ensure that we have safe homes and workplaces, clean air, fair employment standards, and so on. The problems occur when the laws and regulations become too cumbersome or outdated.

So I think we will continue to see a need for an Office of Advocacy to act as a kind of watchdog—okay, a junkyard dog—for small business within the government—to make sure that small businesses remain free to be America's economic powerhouses.



Jere W. Glover
Chief Counsel for Advocacy
U.S. Small Business Administration

The Small Business Advocate

Editor: Carl Henrich

Assistant Editor: Kathryn Tobias

Managing Editor: John Ward

Production: Elizabeth Smith

Visual Design: Kelly McHugh

Director, Office of Information

Small Business

The Small Business Advocate is published monthly by the

U.S. Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

Small Business Administration, Office of Information

The Past: The History of the Office of Advocacy

A Bit of Prehistory: In the 1960s and 1970s, the Advocacy Idea Is Born

The Office of Advocacy did not spring full-blown from the head of Zeus or materialize Topsy-like one fine day in 1976.

A dozen years before its creation, in 1964, *The Businessman's Guide to Washington* had this to say about the role of small businessmen (most business owners were men back then) in the legislative process:

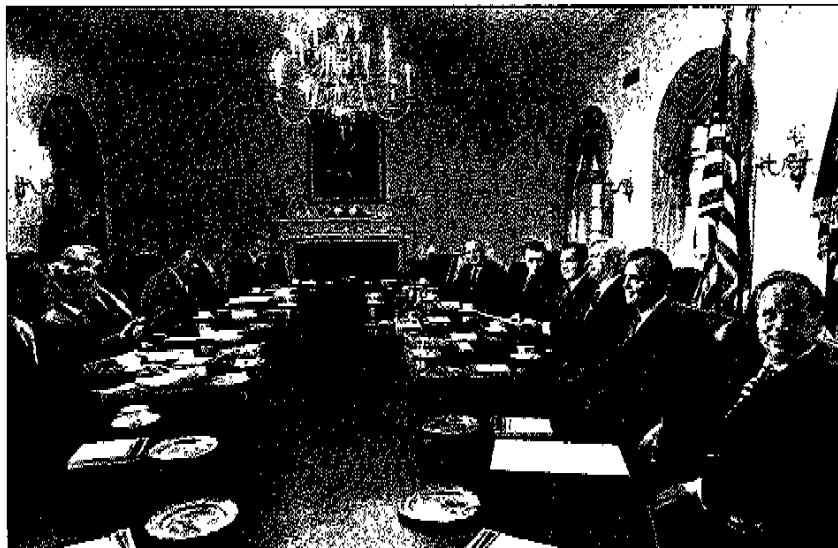
Often, businessmen come down to Washington when they are almost purple with apoplexy. A particular picce of legislation or an administrative ruling has been either passed or under consideration for weeks, months or perhaps a year. When it is about to be finalized—or even after it has been passed—the businessman shows up in Washington for a “last-ditch effort.”

The only advice the 250-page guide had for the businessman in that situation was to make himself known to people in the government in advance of trouble. The practicality—or impracticality—of every business owner getting to know every agency of the government was scarcely acknowledged. The guide did caution that, while “great powers are wielded” by some parts of the government, “there will be few occasions for the businessman to deal with them.”

The underlying problem was this: small business' vital interests were being profoundly affected by—but almost never represented in—the legislative, regulatory and administrative processes of government. The extent of the problem became more widely recognized in the ensuing years, as new laws and regulations governed more and more aspects of American life.

Business Organizations Take Up the Advocacy Banner

By the late 1960s, a number of business organizations and trade associ-



September 10, 1970: President Richard Nixon meets with small business representatives in the Cabinet Room of the White House. Six months earlier, Nixon had issued Executive Order 11518, which directed federal agencies to cooperate with the SBA in its advocacy efforts on behalf of small businesses. (Photo courtesy of the National Archives.)

ations had begun paying attention to the problems small businesses faced with government, especially in comparison with their larger counterparts who could afford to keep representatives in Washington. And the growing concern for small business caught the attention of President Richard Nixon.

In March 1970, President Nixon issued Executive Order 11518, “providing for the increased representation of the interests of small business concerns before departments and agencies of the United States Government.” The executive order described the U.S. Small Business Administration as having “an established program of advocacy in matters relating to small business.” And it called on the SBA, “as the spokesman for and advocate of the small business community, [to] advise and counsel

small business concerns in their dealings with the departments and agencies of the United States Government to the end that the views of small business concerns will be fully heard, their rights fully protected, and their valid interests fully advanced.”

The executive order further authorized the SBA to become an activist on behalf of small business in “investigations, hearings or other procedures pending anywhere in the government” and it directed agencies, without waiting for SBA’s initiative, to consult with the SBA on a wide range of “matters which reasonably can be construed as materially affecting” small business.

In September 1970, recalls Lew Shattuck, then of the Smaller Business Association of New England

Continued on page A-4

A Garbage Strike and An Ugly Red Sofa: Ah, the Good Old Days!

by David Vaughn

My first encounter with the concept of an Office of Advocacy occurred more than 20 years ago when the legislation was first before Congress. At the time I was the chief Senate-side lobbyist for the National Federation of Independent Business (NFIB). Since this was one of our priorities, I worked closely with the Senate Small Business Committee—then chaired by Sen. Grayford Nelson (D-Wise)—and staff, notably Allen Neece and Tom Cator.

An event that is much more strongly embossed in my memory occurred about two years later when President Carter submitted the name of one Milton D. Stewart to be the first nominee as chief counsel for advocacy confirmed by the U.S. Senate. (There had been previous chief counsels, but Mill was the first to go before the Senate.) Since NFIB remained strongly in support of the office, I got involved in the confirmation process. I spent many nights working overtime with the Senate Small Business Committee staff in a building that no longer exists on a site across from the Hart Senate Office Building, which did not exist at the time.

It is not surprising that I, like so many others, fell under the spell of Mill's driving energy, commitment to small business, and general charisma. It was surprising, however, that he apparently thought that I might not be such a bad sort and asked me to join the staff of the new Office of Advocacy. Initially, I was his executive assistant and toward the end of his tenure became deputy chief counsel for advocacy.

Our first tasks were to simply staff up and organize the office. There was a rudimentary structure in place from the time the law was signed under President Ford through the time the new Carter Administration made this particu-

lar appointment. I do remember that one of the particularly difficult tasks was finding a way to get rid of an exceptionally ugly red velvet sofa that the previous acting chief counsel for advocacy had chosen as part of the official furniture.

Finding issues to work on was never a problem with Mill around. I can remember the occasion that he came into the office with a small two-inch newspaper story about a garbage strike in Los Angeles. He gathered his staff around him and said, "There is an important issue here for small business. I just don't know what it is yet. For two days you could see his mind working away and when he gathered us again he stated what the issue was—and as usual he was right.

The problem, however, was that every day every newspaper had countless numbers of two-inch stories that were important for small business. My job seemed increasingly to be that of a juggler who had to keep dozens of apples, oranges, knives, and flaming torches in the air at the same time—and whenever I saw Mill reading a newspaper, I just knew that he was going to throw an apple into the mix.

An alternative view of my job was that of the man who came along at the end of the parade with a broom and a dustpan to pick up the pieces of the grand and glorious show that went on ahead. In either case it was the greatest show on earth. The Office of Advocacy at that time did not find itself dragged down with a lot of precedent or bureaucratic hurdles. We had the sense of being on the cutting edge of a new and exciting opportunity for small business.

David Vaughn is director of the U.S. Chamber of Commerce's Small Business Center.

Prehistory, from page A-3

(SBANE), President Nixon invited representatives of five business groups—SBANE, the National Federation of Independent Business (NFIB), the National Small Business Association (NSBA), the National Association of Small Business Investment Companies (NASBIC), and the National Business League (NBL) to the White House. He told the business leaders that if he wanted to know what was going on in the automotive industry, he had only to call one or two of the big automotive companies, but he had trouble finding the pulse of small business. The President asked the business leaders to be his eyes and ears on the small business community and then he asked them what they would like to do. "We said we'd like to meet with the Cabinet," Shattuck recalls, and so they found themselves for the first time meeting with the people with "real clout."

Three years later, in 1973, several business organizations including SBANE began to recommend in their Washington presentations that the SBA's advocacy role be strengthened and assigned to a particular office. It was Rep. Margaret Heckler (R-Mass.) who, with the endorsement of former Congressman and then-SBA Administrator Thomas S. Kleppe, drew up the first piece of legislation mentioning an Office of Advocacy. The support of Administrator Kleppe, who was a friend of Rep. Heckler from their Capitol Hill days together, was crucial in the passage of the initial law, Rep. Heckler recalls.

On August 23, 1974, among his first presidential acts, President Gerald Ford signed Public Law 93-386, amending the Small Business Act to further spell out an advocacy role within the SBA. But aside from an advocate and a few staff members, little provision was made for staffing the advocacy office. By 1976, it was clear that the role of the "chief counsel for advocacy" needed to be clearly laid out and strengthened.



**In 1973,
Rep. Margaret Heckler
(left), along with
former Congressman
(and then-SBA
Administrator)
Thomas S. Kleppe,
drew up the first piece
of legislation mentioning
an Office of Advocacy.**

Building a Solid Foundation

It was then that the Senate Select Committee on Small Business, chaired by Sen. Gaylord Nelson (D-Wisc.), took the rudimentary advocacy office and built on it a solid foundation for the present-day Office of Advocacy. At the committee's hearings on March 29, 1976, small business owners like Herman Williams, president of Williams Steel and Supply Company in Milwaukee, Wisconsin, spoke with passion about the need for a strong voice for small business within the government.

There are laws on ecology, laws to preserve nature, birds, natural lands, landmarks, scenic views; but where are the laws to preserve the human resources created by the small businessman? Small business needs a constant representative on the President's cabinet and before Congress at all times. There should be a Small Business Advocate on every federal commission, agency, department, panel, advisory committee and task force. . . . The Advocate should also be responsible for gathering in one place the necessary statistics and data relating to . . . small business.

But why should the small business advocate be a public servant? John Lewis, executive vice president of the National Small Business Association, addressed the question:

The question will occur, why do not

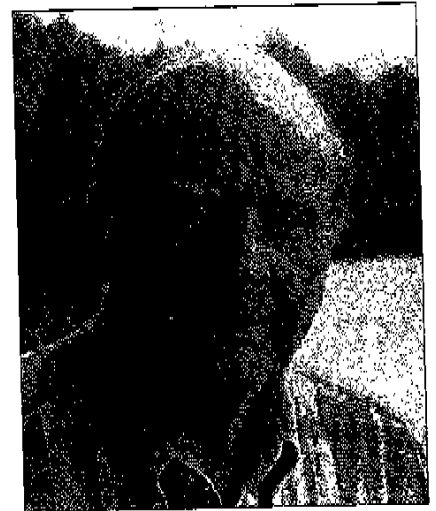
the National Small Business Association or other small business associations do the job [of small business advocacy]? Why look for a Government agency? The National Small Business Association does effectively represent the interests of small business, but neither it nor any other small business organization can get behind the closed doors of Government before decisions are made. . . . Even if the small business organizations of the country were organized into one cohesive and powerful force, advocacy within Government and by Government would still be essential to do the infighting for the small business.

Herb Liebenson of the National Small Business Association spoke

**In 1976,
Sen. Gaylord Nelson
(right) held hearings on
legislation that created
the present-day Office
of Advocacy.**

about the effects that paperwork burdens, mushrooming product liability claims and laws like the Occupational Safety and Health Act were having on small firms. He noted that Senator Nelson had introduced a bill to ensure fair and equitable representation for smaller and medium-sized businesses on federal advisory committees. Liebenson pushed for a strong advocacy office in the SBA. "Advocacy begins within government," he said.

On June 4, 1976, President Gerald Ford signed Public Law 94-305, establishing "within the Small Business Administration an Office of Advocacy. The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate."



An Advocacy Chronology

Some milestones in the history of the Office of Advocacy

1953 - The Small Business Act established the Small Business Administration

1970 - President Nixon issues Executive Order 11319

1974 - Congress passes P.L. 93-388, finally granting out an advocacy role in the SBA. Anthony Glavin becomes SBA's Small Business Advocate

1976 - President Ford signs P.L. 94-305 establishing the Office of Advocacy

1978 - Milton Stewart becomes the first chief counsel for advocacy

1979 - Advocacy holds its first national legislative conference to encourage small business initiatives at the state and local levels of government

1980 - The Office of Advocacy spearheads efforts for the first White House Conference on Small Business

1981 - Frank Swain is confirmed by the Senate as the second chief counsel for advocacy

1986 - Advocacy covers the issues for the second National White House Conference on Small Business

1992 - Thomas F. Kerester becomes Advocacy's third chief counsel

1994 - Jack W. Glover is confirmed as fourth chief counsel for advocacy

1995 - The third White House Conference on Small Business convenes in Washington, D.C.

1996 - The Office of Advocacy celebrates its 20th birthday

Advocacy Speaks Out for Small Business: A Thumbnail History

In July 1978, Milton D. Stewart was the first to be confirmed by the U.S. Senate as chief counsel for advocacy in the U.S. Small Business Administration. His visibility as an appointee of President Jimmy Carter, combined with his forthright personal style, gave Stewart a high profile as SBA's new small business advocate.

Shortly after assuming his new role, the chief counsel began testifying before various congressional committees—the Joint Economic Committee, the House and Senate Small Business Committees, and many others—on issues ranging from the nation's energy crisis and its effects on small firms to economic concerns and the overall climate for small business. In 1979, Stewart instituted the first national conference for state and local officials concerned about the future of small business.

Milt Stewart and the Office of Advocacy had a strong hand in the 1980 White House Conference on Small Business, the first in recent history. Attended by 1,682 small business delegates and 3,600 other participants, the national conference convened Jan. 13, 1980. The final report of the conference quoted the 19th-century French philosopher Alexis de Tocqueville, who ascribed the unique vitality of American life to its "multitude of small undertakings." The report continued:

... small companies are aggrieved by a policy of neglect that has inadvertently imposed obstacles and inequities that seem to thwart efficient business operations at every turn. The single most important message of the Conference is that government must eliminate those obstacles and inequities. . . .

Several key small-business-friendly laws were enacted as a direct result of the conference recommendations, including the Regulatory Flexibility Act of 1980, the Equal Access to Justice Act of

1980, the Prompt Payment Act of 1982 and the Small Business Innovation Development Act of 1982 (SBIDA). The Small Business Innovation Research program, created by SBIDA, continues today as a highly successful program, producing many useful small business innovations.

With the 1980 election of President Ronald Reagan, Frank S. Swain, a former general counsel to the National Federation of Independent Business, took over the reins of the Office of Advocacy. Whereas Stewart had approached small business problems in a head-on, take-the-bull-by-the-horns manner, Swain's style was to negotiate forcefully, but quietly, often behind the scenes, obtaining important concessions for small business. His style translated effectively to Advocacy staff members and from them to their counterparts in other branches of government, who were able to make changes on behalf of small business.

Frank Swain's eight-year tenure (1981-1989) was the longest of any chief counsel before or since. Chas Cadwell, Swain's deputy, recently recalled some of the Office of Advocacy's key achievements during this period, including accomplishments of individual staff members:

- Patricia Powers launching research and a conference . . . [that opened] doors into the health policy debate for all small business;
- Kevin Bromberg singlehandedly convincing EPA to alter proposed rules for air and water effluents, saving small firms literally billions of dollars in regulatory costs;
- Barry Pineles taking on the government-protected California citrus cartel on behalf of small independent growers and processors;
- Daryl Jackson using the Advocacy tax model to convince Treasury to maintain graduated corporate rates in the 1986 tax reform;
- Frank Swain successfully

going nose-to-nose at a Cabinet Council meeting with the Department of Justice on proposed changes in antitrust laws. . . .

In 1986, the second White House Conference on Small Business was held in the midst of a storm of controversy over a proposal to abolish the Small Business Administration. Despite some diversion over that issue, the conference focused energy on moving the small business agenda ahead and making improvements to many of the initiatives already taken following the 1980 conference. At the top of the list of 1986 recommendations was a recommendation to reform the liability insurance system. Other high-priority recommendations included eliminating government-mandated employee benefits, prohibiting unfair nonprofit and government competition with for-profit firms, balancing the federal budget, and creating a Cabinet-level department of trade.

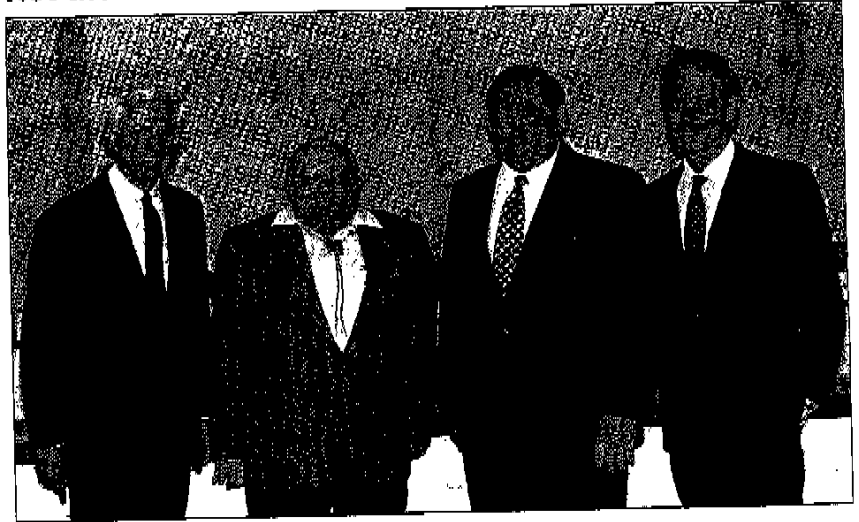
The results of the 1986 White House Conference were widely regarded by the small business community as less earth-shaking than those of the 1980 conference. Perhaps it was because small business had already come a long way since 1980, or perhaps the delegates had grown more sophisticated—and the issues more complicated.

With the arrival of the Bush administration in 1989, a succession of four acting chief counselors led the Office of Advocacy. The vision of Advocacy's mission—and the office's effectiveness—clearly waned, at least in the eyes of the small business community, during this three-year period.

On May 11, 1992, the Senate confirmed Thomas P. Kerester, a tax attorney, former small business person and former publisher of *Coopers and Lybrand's Emerging Business*, as chief counsel for advocacy. Kerester expressed his vision with respect to his new mission in an interview for *The Small Business Advocate*:

The White House was not looking for a "yes person." Where appropriate I will go to the president to de-

Not the Three Tenors . . .



In December 1994, past and present chief counselors for advocacy met in Washington. From left to right: Thomas Kerester, Milton Stewart, Jere Glover, and Frank Swain.

fend small business, to the administrator to seek help and support for them, and to Congress to be a vocal, up-front, and strong voice in their behalf.

Kerester had scant opportunity to carry out his vision; he was in of-

fice only eight months. But in that period he talked with many small business owners about their concerns, and spoke out about issues ranging from product liability to the new Americans with Disabilities Act.

20 Years Ago: The More Things Change . . .

Editorial: Twenty years ago, in the March 1974 issue of The Small Business Advocate, the following list of 10 items was published.

1. Most instances of the major unfair government actions, such as new product trade-in rules, the profitability of survival of every small business, and the price of this country are . . .
2. The small business's right to sue in federal court . . .
3. Non-union contracts . . .
4. Small business's right to sue and capital formation . . .
5. Minimum wage controls . . .
6. The employment discrimination act, which is compensation for . . .
7. Federal and state government of their own . . .
8. Federal regulation, particularly . . .
9. Reform of development, safety, and . . .
10. Product liability . . .
11. Health insurance . . .
12. Consumer Product Safety Commission . . .
13. The removal of government of . . .
14. The removal of government of . . .
15. The removal of government of . . .
16. The removal of government of . . .
17. The removal of government of . . .
18. The removal of government of . . .
19. The removal of government of . . .
20. The removal of government of . . .

The Present: The Office of Advocacy Today

Meeting the Challenges: Regulatory Reform, Legislative Initiatives, and a White House Conference

A new administration arrived in Washington on Jan. 20, 1993, and a White House Conference on Small Business Commission would soon be appointed by the administration of Bill Clinton. Doris Freedman, an experienced and dedicated Advocacy staffer, was named SBA's acting chief counsel for advocacy while the SBA awaited appointment and confirmation of a permanent chief counsel.

SBA's new administrator, Erskine B. Bowles, also took an active interest in small business advocacy, raising the visibility of the role by appearing before the media with the president and vice president and discussing "the concerns and ideas of small business." Small business jargon had even entered the administration's lexicon: government was going to be more "entrepreneurial" by cutting red tape, putting customers first, empowering employees to get results, and producing better government for less.

On May 5, 1994—appropriately, during National Small Business Week—Jere W. Glover was sworn in as the Office of Advocacy's fourth presidentially appointed chief counsel. Glover had served under Milt Stewart, the first chief counsel for advocacy, and he was ready to hit the ground running. As he testified in his confirmation hearings, he was keenly aware of Advocacy's mission:

It is important to remember why the Office of Advocacy was originally created in 1976. The Congress felt that small business views were not adequately represented before the agencies and Congress. Furthermore, Congress and the agencies did not have adequate information to make proper decisions about small business . . .

The wisdom of Congress in creating the Office of Advocacy 18 years ago is more obvious than ever. The need

for the office is more urgent than ever.

In broad strokes, Glover outlined his new mission: to reduce the regulatory burden on small business; serve, with the administrator, as the president's eyes and ears on the small business community; help eliminate the credit crunch for small business; strengthen the Small Business Innovation Development Act and help new innovative companies grow; work to restore a sound antitrust policy with respect to small business; and work with federal agencies to develop

significant opportunities for small business.

But the first order of business was to prepare final issue information in time for the first state White House Conference on Small Business in Wilmington, Delaware, the month after Glover's confirmation. The next year's activity, in fact, centered around the state, regional, and national White House Conferences, as the Office of Advocacy provided a steady stream of background research on new issues and on the small business community in each state.

That Was Then . . . This Is Now

The small business sector as reflected in the statistics of 20 years ago and today

	20 Years Ago	Today
■ Business tax returns	14.6 million	22.1 million
■ Incorporations	975,766	741,657
■ Bankruptcies	34,529	52,256
■ Small firm share of net new jobs	65%	virtually all
■ Small firm employment share	51%	63%
■ Small firm sales share	39%	47%
■ Federal prime contracts for mental illness	\$14.8 billion	\$36.2 billion
■ Federal subcontracts from small firms	\$13.9 billion	\$20.8 billion

Note: Figures for 20 years ago based on 1976 or 1977 data, as available, except for procurement figures, which are by fiscal year (FY) figures for each year, reflecting the latest data available.

At the same time, the new chief counsel, supported by SBA's new administrator, Phil Lader, began reaching out to small business organizations, testifying before Congress on small business issues, and looking for new and effective ways to carry out the Office of Advocacy's mission. By the end of Glover's first year, the Office of Advocacy had also, among other things:

- Organized and prepared a report for the White House Conference on a series of focus groups on the future of small business.
- Prepared a nationwide review of banks' "friendliness" to small business.
- Reviewed several thousand proposed regulations, commenting on and helping to change several of those most likely to disproportionately affect small firms (see, for example, the box on page A-11).
- Testified on significant new legislation, including bills affecting procurement and judicial review of regulatory flexibility actions.
- Reached out to the small business community through roundtables and working groups on concerns such as procurement, the environment, and small business innovation.
- Prepared data on small business for the president's annual report on *The State of Small Business* and for profiles of each of the states.
- Organized the SBA's annual observance of small business contributions during Small Business Week.

Despite its contributions, the Office of Advocacy has never been able to rest on its laurels. In July 1995, the office came under fire in the House of Representatives during the debate on appropriations (see box at right).

A proposal that "zeroed out" the Office of Advocacy from the SBA appropriations bill reached the House floor for a vote. Rep. Jan Meyers (R-Kans.), chair of the House Small Business Committee, and Rep. John LaFalce (D-N.Y.), ranking minority member, led a fight to restore funding.

The Office of Advocacy in 1995: "Going Toe to Toe with All Other Agencies"

From Howie Small Business Magazine, Charleston, W.V.
Ken Miller, 1995 recipient of SBA's Small Business Advocate of the Year award, talks about the Office of Advocacy.

When I first became chairman, a number of the small business owners told me the two most important things on the SBA's agenda were the economy and the Office of Advocacy.

This was said on behalf of NABU, the U.S. Chamber of Commerce, National Small Business Council, National Association of State Employment and Small Business Councils, American Small Business, and the Small Business Administration. They all strongly support the Office of Advocacy and the important job it does in the regulatory advocacy program.

Some Member firms, none in particular, do complain with what the Office of Advocacy does, but it is the advocacy among other agencies, not the government itself, that is the problem. It has performed its mandate well. It's independent views, supported by the President, confirmed by the Senate, and shared by the courts, is

not to toe with all other agencies. It has been before Congress more than 200 times and about 75 percent of that time it was either in opposition to administration policy or in the absence of administration policy on a particular issue.

It is also the line that is a lot of the central position of enforcing the Regulatory Flexibility Act. It is an act which is just recognized as a Contract with America.

I would state strongly that the only way for the SBA to lead the small business groups supported by the Members voted for the Regulatory Flexibility Act in the Contract with America is to do the counter-argument. Members do not support the Office of Advocacy.

In a testimony to the Office of Advocacy's contributions—and the continuing belief in the need for such a small business voice within government—all the major national business organizations and the delegates to the 1995 White House Conference on Small Business took a strong stand in support of the office. On July 26, 1995, the full House of Representatives voted 368-57 to restore the Office of Advocacy's funding.

After the National White House Conference on Small Business in June 1995, the Office of Advocacy refocused its efforts toward implementing the conference recommendations, while continuing to carry out its other mandates. The office organized the 13th National

Legislative Conference on Small Business Issues—a decade and a half after the first such conference in 1979.

Advocacy has recently celebrated a number of successes, including passage of the Small Business Regulatory Enforcement Fairness Act, which strengthens enforcement of the Regulatory Flexibility Act and was signed by President Clinton on March 29, 1996 (see box on page A-13). By June 1996, on its 20th official birthday, the Office of Advocacy is well poised to speak out for small business for another score of years—and more.

sues. The report, *The Third Millennium: Small Business and Entrepreneurship in the 21st Century*, is available from both the Superintendent of Documents and the National Technical Information Service.

Taking the Pulse: Advocacy's Regional Advocates

The Office of Advocacy's 11 regional advocates enhance communication between the small business community and the chief counsel for advocacy.

Covering the 10 federal regions (with a special regional advocate for rural development located in Region VI), these advocates are the chief counsel's direct link to local business owners, state and local government agencies, state legislatures, and small business organizations. They help identify emerging issues and problems of small business by monitoring the effects of federal and state regulations and policies on the local business communities within their respective regions.

Turn to page A-16 to find a chart that lists the names, addresses, and telephone numbers of these regional advocates.

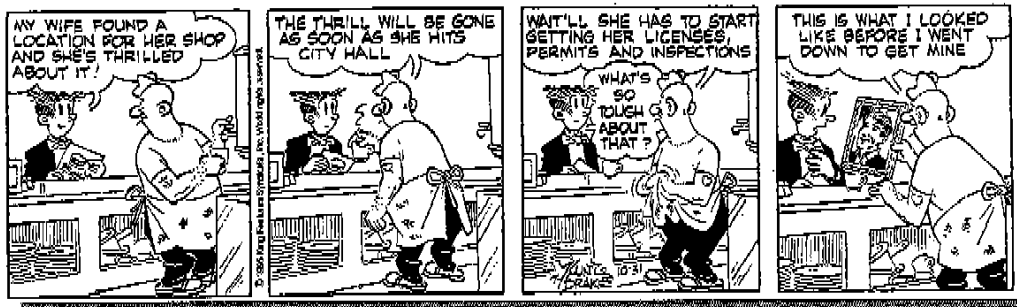
A Sampling of Regulatory Achievements

Here is a small sampling of recent Advocacy initiatives and achievements with respect to regulatory proposals.

- **Hydroelectric Fees:** The Federal Energy Regulatory Commission proposed fees for hydroelectric projects. Advocacy successfully had the agency allow liquidated damages payoffs to be saved until a developer developed about \$10 million.
- **Small Quantity Generator Hazardous Waste Tanks:** EPA proposed stringent hazardous waste tank regulations for small quantity generators of hazardous wastes for community and businesses. After Advocacy showed that the regulations were not quite as severe as feared, EPA abandoned the idea, saving small quantity generators tens of millions of dollars annually.
- **Underground Storage Tanks:** A major EPA rulemaking effort involving businesses involved a initiative that imposed requirements on over 400,000 facilities. EPA adopted Advocacy's position that less expensive tanks were acceptable to meet tank technical standards. A major leak detection scheme was also precluded, saving small businesses about \$1 billion annually.
- **Abatement Verification:** In 1995, Advocacy directly influenced OSHA's abatement verification standard requiring paperwork and other forms of material proof of workplace hazard corrections. OSHA's adoption of Advocacy's suggested changes to the proposed rule will save small businesses millions of dollars and burden hours.
- **Termination of Volume Control Regulations for Navel Oranges:** Growth in California and Arizona. Advocacy's drive to deregulate markets for navel oranges led to the termination of the navel orange program in late 1992, resulting in sales increases to small business of more than \$50 million.
- **Regulatory Fees for Cable Systems:** Advocacy's proposed change adopted by the FCC in 1994 to the method for calculating fee to be paid by cable operators will save small cable operators approximately \$3 million dollars per year.
- **Subscriber Line Charges Imposed by the FCC:** After the breakup of AT&T, subscriber line charges imposed by the FCC were originally scheduled to cost small business \$6 per line per month. They were reduced to \$2 per line per month in 1985 after intervention by the Office of Advocacy, resulting in savings of roughly \$300 million dollars per year for small business of about \$3 billion since the inception of the subscriber line charge.
- **Enhanced Poultry Inspection:** USDA withdrew this proposed rule associated with the comments filed by Advocacy in 1993. According to industry estimates, this withdrawal saved the poultry processing industry \$100 million over the lifetime of small businesses. There is \$100 million in direct cost and a total \$100 million in annual cost to the industry.
- **SEC Simplified Registration Requirements:** The Office of Advocacy has won a major battle for the SEC. The SEC has simplified the registration requirements for small companies. It is estimated that between 8,000 and 100,000 companies are eligible to register under the less costly and less burdensome SE system.

The Funny Papers

In 1995, Blondie started her own business, and ran into some problems that many small business owners can relate to.



Reprinted with special permission of King Features Syndicate.

Quotable Quotes

28 Years Ago: Did We Really Think That Way?

From *The Small Business Administration*, by Addison W. Parris, published in 1968:

Within government small business circles, there is a faint uncomfortable awareness that many small businessmen have a very strong distaste for the government and very little understanding of it. . . . One bureaucrat, shortly after joining the SBA, encountered a small businessman by chance at a social gathering. For quite a while the SBA man listened with mounting impatience to the small businessman's complaints about the great Leviathan in Washington. "The government," the small businessman snorted. "The government doesn't give a damn about me!" The SBA official blurted: "I'm the government and I care about you." A sudden horrified shock of recognition was evident on the face of the small businessman as he realized that he had met one of the "Feds" face to face.

. . . [The small businessman's] kind of general negativism toward modern society does not provide very useful guidance to those attempting to formulate programs and policies in the small business area. As a result, attempts by rank-and-file small businessmen to influence SBA are of

minimal effectiveness unless they concern a very specific problem.

26 Years Ago: A Meeting with the President

From Lew Shattuck's account in the October 1970 edition of *New England Business* of a meeting on September 10, 1970, between President Nixon and representatives of five business groups:

Mr. Nixon responded favorably in support of the advocacy role for the SBA, stating that one of the reasons past Cabinet officers had sometimes historically received public criticism was that they were not responsive to the interest groups for which they were the spokesmen. He cited examples such as in the Department of Agriculture, where the Secretary has often been a spokesman for the White House. The President stated he had made it very clear to the Secretary of Agriculture that he was to be a spokesman to the White House from the farmer, not from the White House to the farmer.

He said he had already made it clear to the Secretary of Commerce, Maurice Stans, that small business is as much a part of his job as big business.

President Nixon feels that one of the

disadvantages of small business is that it is so fragmented and heterogeneous. Whereas if he wanted to feel the pulse of the auto industry, three men could provide the input and in the airlines, five . . . small business is so diffused it is difficult to get timely information.

He asked the associations present at the meeting to take a lead in collecting data and serving as a constant lobby for small business. He re-emphasized that he wanted to hear frequently from the group present.

20 Years Ago: The Little Engine That Could

Testimony of John Lewis, Executive Vice President, National Small Business Association, from hearings before the Select Committee on Small Business, *Oversight of the Small Business Administration: The Office of the Chief Counsel for Advocacy and How it Can Be Strengthened*, March 29, 1976:

. . . We have nothing against the farmers of the United States, but there are only 2 3/4 million farms, contrasted with 10 1/2 million small business units.

The farmers have 3,900,000 workers, where there are 50 million employees of small business firms in

the United States.

Despite the overwhelming bulk of numbers on the small business side, the Department of Agriculture has a budget of \$2.9 billion, with 80,000 employees, and the congressional appropriation for them amounts to \$1,000 for every farm in the country.

Contrast that with the SBA. SBA only has \$110 million for administration, only 4,200 employees, and this is calculated out to be \$12 for each unit.

Compared with the resources that Mr. Stasio has had as Chief Counsel for Advocacy, he has done one heck of a job.

20 Years Ago: "Zip to Let it Rip"

From the testimony of James D. "Mike" McKeivitt, Washington Counsel, National Federation of Independent Business, at the March 29, 1976, hearing:

On the regulations, I cannot say enough how SBA has to grow up and has to get some guts and strength and somebody has to give us some zip to let it really rip.

Some Recent Legislative Successes

The Office of Advocacy has also been available to help in shaping more small-business-friendly legislation. Here are some examples:

- **The Small Business Regulatory Enforcement Fairness Act (SBREFA)**—The Office of Advocacy has long supported better vehicle for improvement of the Regulatory Flexibility Act of 1980 (RFA). The SBREFA signed into law March 29, 1996, allows for judicial review of agency decisions under the RFA and subjects additional regulations to RFA review.
- **The 1990 Clean Air Act Amendments**—In 1987, the Office of Advocacy objected to requiring more than one half million farmers to test for hazardous pesticides for ammonia fertilizers. The 1990 Clean Air Act Amendments exempted farmers from this provision to save a waste in excess of \$1 billion.
- **Americans with Disabilities Act**—In 1988 and 1989, Advocacy provided data on the number of businesses affected by employment provisions of the American with Disabilities Act at various threshold levels. This data and suggested changes resulted in small firms being exempted from certain requirements and in the inclusion of limits on employer obligations based in part on the size of the business.
- **Fair Labor Standards Act**—In 1988, Advocacy provided data on the number of small businesses affected by increases in the minimum wage to various wage levels, and the number of businesses affected by increasing the dollar volume of merchandise coverage. Requiring changes created significant savings for covered small businesses.
- **Paperwork Reduction Act**—Advocacy took positions on the need to strengthen the Paperwork Reduction Act's provisions for small businesses.
- **Subchapter S for Small Business Reorganization**—The Office of Advocacy championed the creation of a special class of S corporations with high ceilings for small business reorganizations. Advocacy's efforts and help led to passage of the Tax Reform Act of 1986, which established a subchapter S for the reorganization of small businesses with less than \$2 million in debt.
- **Small Business Lending Data from Call Reports**—The Office of Advocacy played a significant role in the inclusion of a requirement that banks report small business lending data as part of the Federal Reserve's annual corporation improvement Act of 1991.
- **Secondary Market for Small Business Loans**—The Office of Advocacy played a pivotal role in the establishment of a secondary market to revitalize small business. Advocacy recommended to the administration the addition of the secondary market bill that Congress passed in 1991.
- **Procurement Reform**—As part of the reauthorization of advocacy by Advocacy, including procurement goals for women, the preservation of subcontracting plans for government contracts and the passage of the 1996 minority and small development Act. 1997 program. We have also participated in the Small Business Administration Act of 1994.

Walking a Fine Line: The Independence of the Office of Advocacy

At various times in the Office of Advocacy's history, the chief counsel for advocacy has had to walk a fine line to fairly represent the views of small business without treading on the toes of the administration. Over the years, there has been considerable discussion about just how much "independence" was called for by the framers of Advocacy's role.

Twenty years ago, Senator Thomas J. McIntyre (D-N.H.) and John Lewis, Executive Vice President, National Small Business Association (NSBA), discussed the need for an "independent" small business advocate within the government in the hearings before the Select Committee on Small Business on March 29, 1976:

Senator McIntyre: . . . Does [the Commerce Department] have any dampening effect on how the SBA Administrator speaks out? If he gets too strong, talks too big, does that not get him into difficulty with Commerce?

Mr. Lewis: No, not with Commerce, but with the White House. Inherently, he must be a team player. His agency is not independent, does not have the independence of a Federal Reserve Board that can tell the Administration to go fly a kite.

Herb Liebenson of NSBA testified at the same hearing:

Because of OMB, SBA can not take stands on all issues. But at the least it can warn Congress persuasively of the impact on small business, even if it is necessary to file a disclaimer that the SBA's views do not necessarily reflect the views of the Administration.

While the word "independent" appears nowhere in Advocacy's 1976 authorizing legislation (Public Law 94-305), there is an implied independence in Section 206:

The Chief Counsel may from time to time prepare and publish such reports as he deems appropriate. . . . The reports shall not be submitted to the Office of Management and Budget or to any other Federal agency or

**Ombudsman,
cheerleader,
or thorn in
the side:
the idea of
"independence"
for the
Office of Advocacy
has often proven
problematical.**

executive department for any purpose prior to transmittal to the Congress and the President.

This provision caught the attention of President Ford, who was not entirely pleased with it, as he noted in his signing ceremony: "I question the provision of S. 2498 which requires Presidential appointment with Senate confirmation of the Chief Counsel for Advocacy . . . and requires the Counsel to transmit reports to the President and Congress without prior review by any other Federal agencies." But he signed the bill anyway.

In 1978, Milt Stewart began testing the waters as Advocacy's first confirmed chief counsel. Asked at a 1995 focus group of former SBA administrators and chief counsels about his ability to speak independently on behalf of small business, he recalled:

I had no problems, really, because I was fortunate to have been [the SBA administrator's] candidate for the post. . . . I do think it helps if the administrator and the chief counsel are known to the President as a team. If the chief counsel is pushed on an issue where he has to depart from the administration in his own right, obviously, he's got to let [the administrator] know and let him know why. . . . The once or twice that I

went off the reservation, I think, aside from a couple of catcalls and raised eyebrows, nobody made any trouble for us.

Vernon Weaver, the SBA administrator at the time, joked:

Of course, we were in the position of not ever having had a chief counsel for advocacy when I got there, and some of the old political hands in the White House called me up and said, "Don't fill the post." But it's a human relationship—it's up to the administrator to pick somebody he can get along with and vice versa.

Gradually, in practice if not in law, the chief counsel's independence began to be clarified. The legislative history of the Small Business Economic Policy Act of 1980 (Public Law 94-305), which set the chief counsel's executive level classification, made brief reference to the chief counsel's separate role:

His mandate is to represent the views of small business. . . . the advocate may not necessarily represent the administration's position or that of SBA; however, SBA . . . [is] required to cooperate fully with him.

The small business community also weighed in on the question. Among "The 15 Top-Priority Recommendations" of the 1980 White House Conference on Small Business was priority no. 10, which received almost 600 votes:

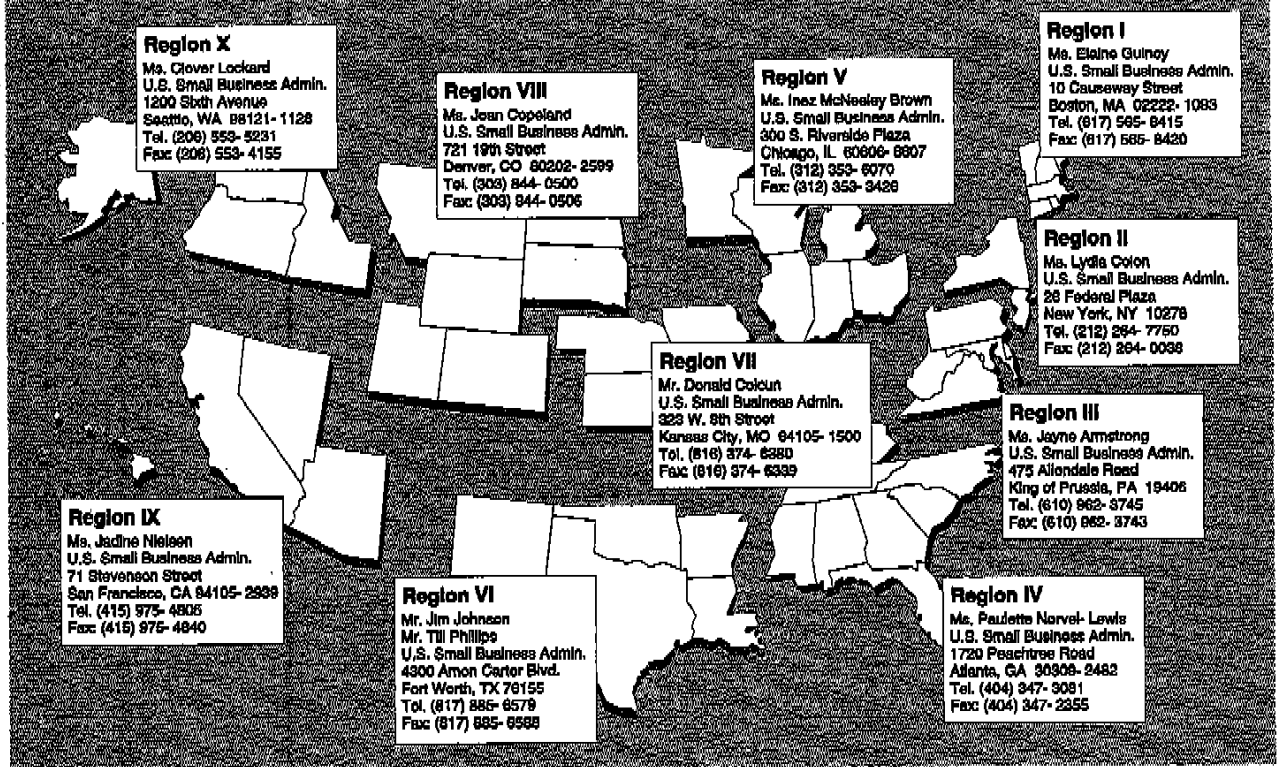
The legislative mission of Advocacy must be considered the number one priority of SBA and the Office of Advocacy. The independence of that function of the Office of Advocacy must be protected so that it may continue to have the confidence of the small business community.

At the second White House Conference in 1986, priorities 13 and 45 talked about the "independence" of both the SBA and the Office of Advocacy:

13. (1,051 votes) Resolved that the SBA should be maintained as an agency independent of any other federal department. . . .

45. (484 votes) The SBA should be

On the Front Line: Advocacy's Regional Advocates



Independence, from page A-15 before the Senate Judiciary Committee, Glover said:

As the small business community and Congress expect, and the law requires, if confirmed, I intend to be a strong independent voice for small business. Because of the President's strong commitment to small business, I believe I can be a strong and effective advocate for small business within the administration.

During Glover's tenure, the Office of Advocacy has provided an independent small business perspective in testimony before the Congress on a number of issues, including federal government procurement from small businesses, patent reform, product liability, and the health care deduction for the self-employed.

At the 1995 White House Conference on Small Business, the small business delegates again called for maintaining Advocacy's independence in priority no 19:

NCRA #286 (1,249 votes) Future of the Small Business Administration. The U.S. Small Business Administration is vital to the growth of small business in America. Efforts to make the SBA's programs more cost-effective and efficient should be continued and encouraged. The SBA's "independent" agency role as the primary supporter of small business within the federal government should be enhanced by: . . .

Permanent maintenance of the "independent role" of the SBA's Office of Advocacy.

And during the debate in the House of Representatives on the continuation of the Office of Advocacy in July 1995, Rep. Roscoe G. Bartlett (R-Md.) was among many members of Congress who testified to the importance of the Office of Advocacy's independent role:

The Chief Counsel for Advocacy plays an important role by presenting and fighting for the views of the small business community. The

Chief Counsel has a very different role from other administrators in the SBA: he is the independent voice within the agency that represents the interests of small business. The advocate may not necessarily represent the President's Administration position or that of the SBA; however, the SBA and other Federal agencies are required to fully cooperate with the Chief Counsel.

While I personally may not agree with some of the positions taken by the Chief Counsel, I believe it is important to maintain the office which is the watchdog for small businesses.