

## ***Advocacy Recommends That DHS Adopt Small-Business Friendly Approach to “No-Match” Rule***

On April 25, 2008, the U.S. Small Business Administration’s Office of Advocacy (Advocacy) submitted comments to the Department of Homeland Security (DHS) on DHS' supplemental proposed rule on *Safe-Harbor Procedures for Employers Who Receive a No-Match Letter* (“No-Match” rule). Advocacy wrote to Secretary Chertoff last year to ask that DHS better consider the rule’s impact on small business. DHS issued its supplemental proposal in response to Advocacy’s request and to address several legal issues upon which the Federal District Court for the Northern District of California enjoined the prior, final “No-Match” rule (which was published on August 15, 2007). In addition, DHS has prepared and published an Initial Regulatory Flexibility Analysis that assesses the impact of the rule on small business. Advocacy’s letter recommends that DHS consider alternatives that will reduce the costs and impacts of the rule on small entities.

A complete copy of Advocacy’s letter to DHS is available at: [www.sba.gov/advo/laws/comments/](http://www.sba.gov/advo/laws/comments/).

- Because DHS attributes most of the costs of the rule to the underlying Immigration and Nationality Act rather than the rule, the rule appears far less costly than it otherwise would. Advocacy recommends that DHS attribute additional costs to the rule.
- Advocacy recommends that DHS consider alternatives that would be broader, more flexible, and would reduce the impact on small entities. Accordingly, DHS was asked to consider:
  - exempting small entities or phasing in the rule over a period of years;
  - providing additional time for small entities to correct discrepancies;
  - providing a simpler, more straightforward safe harbor;
  - providing special provisions for employers with short-term, seasonal, or intermittent employees;
  - independently investigating unresolved “no-matches”; and,
  - creating an ombudsman at DHS to assist employees in resolving “no-matches.”
- In today’s letter, Advocacy also offers to assist DHS in their preparation of a Final Regulatory Flexibility Analysis and Small Entity Compliance Guides that are required as part of the final rule.

For more information about DHS’ proposed “No-Match” rule, please visit Advocacy’s Web page at [www.sba.gov/advo](http://www.sba.gov/advo) or contact Bruce Lundegren, Assistant Chief Counsel, at (202) 205-6144 or [bruce.lundegren@sba.gov](mailto:bruce.lundegren@sba.gov).