

In This Issue

2003 RFA Report Delivered to Congress1

Message from the Chief Counsel

March Conference To Chart Future Small Business Directions3

Tax News

IRS Creates Self-Help Tools for Retirement Plans4

New IRS Program Encourages E-Filing4

News Update

President Bush Listens to Women Small Business Owners5

Computer Reservation System Deregulated5

Regional Roundup

Kentucky Makes Small Business a Priority in 20046

Regulatory Flexibility Measures Considered in Five States6

Economic News

Prize for Best Small Business Paper Awarded7

Report Shows Large Firms Rely on Small Firms' Inventions ...7

Advocacy Efforts for Small Business Save More than \$6 Billion in New Regulatory Costs

The Office of Advocacy's FY 2003 efforts to oversee agency compliance with the Regulatory Flexibility Act (RFA) produced more than \$6 billion in cost savings by encouraging federal agencies to follow the law and consider the impact of their regulations on small businesses. "The benefits of making regulations better are real and small businesses have told Advocacy how it affects them directly," said Chief Counsel for Advocacy Thomas M. Sullivan. These cost savings and other key findings are presented in Advocacy's annual report on implementation of the RFA, titled *Report on the Regulatory Flexibility Act, FY 2003*.

Sullivan presented the report to Sen. Olympia J. Snowe, chairman of the Committee on Small Business and Entrepreneurship, on Jan. 22. Senator Snowe stated, "Compliance with the RFA is doubly beneficial. The process established by Congress not only safeguards small business from unnecessary regulations—it also helps establish viable regulatory alternatives that help protect the public interest while minimizing the compliance burden on small firms."

The RFA requires federal agencies to review their proposed and final regulations to see whether they will have a significant economic impact on a substantial number of small entities. If an agency can

Continued on page 2



On Jan. 22, Chief Counsel Thomas M. Sullivan presented Sen. Olympia J. Snowe, chairman of the Committee on Small Business and Entrepreneurship, with the *Report on the Regulatory Flexibility Act, FY 2003*

RFA Report, from page 1

substantiate that the rule will not have such an impact, it can “certify” to that effect. If not, the agency must publish an initial regulatory flexibility analysis (IRFA) or final regulatory flexibility analysis (FRFA) showing how the rule will affect small entities and consider less burdensome alternatives. On Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) rules, a formal process for soliciting small entity input is required before the proposal is published.

In identifying which of thousands of rules are most in need of attention, Advocacy responds to the most pressing concerns of small businesses. In FY 2003, detailed comments went to many agencies, including the EPA, the Federal Communications Commission, and the Departments of the Interior, Transportation, Labor, Treasury, Homeland Security, and Health and Human Services.

The report details a number of successes and innovative approaches. For example, in FY 2003, based largely on Advocacy’s efforts, an air quality rule issued by the EPA for the lime manufacturing industry

included a provision that enables plants that can demonstrate that their emissions pose no health risk to avoid having to install costly and unnecessary new control equipment. This risk-based exemption is expected to save tens of millions of dollars without compromising environmental protection. Advocacy is working with the EPA to include a similar risk-based exemption in other pending air quality rules.

A number of small business owners, as well as regulators, have commented on the benefits of the RFA. Concerning the process that allows small business owners to participate in panels reviewing new EPA regulations, Eric Males of the National Lime Association noted, “The panel process, and the enhanced communications it fostered, assisted EPA in making changes to its pre-panel draft of the rule that significantly reduced the cost of compliance for industry, while maintaining regulatory effectiveness. The changes also reduced the likelihood that compliance costs would force small lime companies to cease operations.”

This past year, in compliance with President Bush’s Executive Order 13272, the Office of Advocacy began training federal regulatory agencies in how to comply with the RFA. To identify areas most in need of attention, this year’s RFA report summarizes the compliance deficiencies most commonly described in Advocacy’s FY 2003 regulatory reviews:

- Inadequate analysis of small entity impacts (32 percent of problem areas cited);
- Significant alternatives not considered (29 percent);
- Inadequate or missing IRFA (16 percent);
- Small entity outreach needed (12 percent); and
- Improper certification (12 percent).

The Small Business Advocate

Editor Rebecca Krafft

Managing Editor Rob Kleinsteuber

Contributing Editors Ying Lowrey, John McDowell, Chad Moutray, Norm Proctor, Kathryn J. Tobias, Jaime Willis

Production Assistant Darlene Moyer-Mahmoud

The Small Business Advocate (ISSN 1045-7658) is published monthly by the U.S. Small Business Administration’s Office of Advocacy and is distributed to Small Business Administration field staff and members of the U.S. Congress. *The Small Business Advocate* is available without charge from the Office of Advocacy, U.S. Small Business Administration, Mail Code 3114, Washington, DC 20416.

Send address changes to: *The Small Business Advocate*, Mail Code 3114, U.S. Small Business Administration, Washington, DC 20416. Include your current address label.

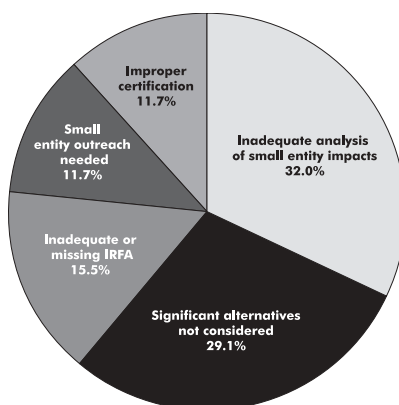
The Small Business Advocate online: www.sba.gov/advo/news/

Electronic delivery of *The Small Business Advocate* is available by visiting www.sba.gov/advo/news/. Subscriber information will be kept confidential and not used for any purpose except for newsletter delivery. To discontinue print delivery of *The Small Business Advocate*, send an email with your current mailing information to advocacy@sba.gov or call (202) 205-6533.



Federal Recycling Program
Printed on recycled paper.

Advocacy Comments, by Key RFA Compliance Issue, FY2003



Source: *Report on the Regulatory Flexibility Act, FY 2003*

On the whole, FY 2003 was a year in which, through a new Regulatory Alerts webpage (www.sba.gov/advo/laws/law_regalerts.html) and formal training sessions, Advocacy helped agencies become more informed than ever on the importance of—and possibilities for—including small entities in the rulemaking process.

Message from the Chief Counsel

March Conference Directs Intellectual Energy To Future of Small Business

by Thomas M. Sullivan, Chief Counsel for Advocacy

One of the reasons Congress created the Office of Advocacy was to provide research to show the impact of public policy on small business. Developing cogent research takes years, and today's concerns may be of little relevance in 2010 or 2020. The challenge for Advocacy is to take the farsighted view.

Over the years, Advocacy has held intensive sessions to bring together researchers and policy-makers to take on this challenge. To this end, in March, Advocacy and the Kauffman Foundation are sponsoring a day-long conference, "Entrepreneurship in the 21st Century," to crystallize current thinking on the issues most likely to affect small business in the next decade.

Advocacy has looked into its "crystal ball" before. In 1990, Advocacy released its predictions in a report titled *Small Business in the Year 2000*. More recently, Advocacy published *The Third Millennium: Small Business and Entrepreneurship in the 21st Century* just before the 1995 "White House Conference on Small Business." This second study used expert focus groups to forecast long-term trends for small firms (many of which characterize today's economic landscape):

- Small businesses will continue to significantly affect gross domestic product, job creation, and innovation in the United States.

- Organizational change, globalization, and technology will continue to affect small firms and the way they conduct business. They will also provide new entrepreneurship opportunities.

- Women and minority business owners will continue to grow in number and importance, and the

overall workforce will become more diverse.

- Certain barriers—such as regulation, financing, and human resources—will continue to stymie new business formation and growth.

Today's concerns may be of little relevance in 2010 or 2020. The challenge for Advocacy is to take the farsighted view.

These observations, published 10 years ago, ring true today. At the same time, much has changed since *The Third Millennium* was first released in 1994. Global competition has altered the industrial landscape, and global concerns over terrorism have changed our priorities. Meanwhile, the phenomenal workforce productivity gains made possible by new technologies have hampered new job growth in certain industries. At the same time, innovation in such high tech fields as biotechnology, information technology, and medicine have spawned a new generation of startup companies and high-quality job opportunities. Advocacy research, in fact, shows that university research and development leads to new firm formation in the immediate geographic region. This trend is being played out around the country as local economic development agencies partner with universities to promote new clusters of growth.

Small firms have and will continue to struggle with attracting and maintaining their workforce, especially in the high tech and medical fields. The workforce of the future will need to be highly trained, and

entrepreneurs with more education tend to be more successful in their ventures and expect to hire more employees. As such, higher learning institutions will need to play an integral role in assuring that all firms have the essential human resources required to operate.

New and existing firms need the freedom to operate without having excessive burdens placed on them, and small businesses find such impediments in many directions. There is almost universal agreement that regulation, taxes, and insurance premium costs are major concerns for entrepreneurs. Access to financial and procurement markets will continue to be of paramount importance for small firms, especially among women, minorities, and veterans' communities. Such challenges will shape public policy decisions over the coming years.

With these issues in mind, Advocacy and the Kauffman Foundation want to direct attention to the future of small business. The March 26 conference will feature five forward-looking panel discussions on the topics of

- business dynamics,
- demographic trends,
- technology and innovation,
- small business finance, and
- small business policymaking.

The keynote address will be given by U.S. Secretary of the Treasury, John Snow.

This conference should be informative for all, and will once again highlight the vital role that entrepreneurs play in our dynamic global economy.

Tax News

IRS Webpage Helps Small Businesses Keep Retirement Plans in Step with Rules

The Internal Revenue Service's retirement plans webpage, www.irs.gov/ep, is designed to help small businesses and plan administrators understand how to keep employee retirement plans eligible for tax-favored status. The materials provide information on retirement plans operated mainly by small businesses.

These materials are aimed at helping sponsors of three IRA-based retirement plans: simple IRAs; SEP IRAs; and SARSEPs. The IRS created the pages in response to small business owners' requests for information on how to keep their plans compliant with the tax laws. Small business owners indicated that a shortage of easy-to-follow guidance was causing problems for them. The "Plan Information Packets" are an attempt to make up for this.

The highlight of each information packet is a one-page checklist. Each checklist asks employers questions on areas where IRS examiners and compliance specialists have commonly found problems. Each question gives a brief explanation of why the question is asked along with a link to further information about the question and potential issues.

"For many business owners, a retirement plan is a big incentive in attracting and keeping employees," explained Mark O'Donnell, Director of Employee Plans Outreach at the IRS.

In addition to the checklists, visitors to the site will find:

- Information covering the life cycles of simple IRAs, SEP IRAs and SARSEPs;
- A link to Publication 4224, "Retirement Plan Correction Programs," which describes correction programs for retirement plans



Small business retirement plans can help to retain long-term workers.

and tells how to learn more about those programs;

- A link to provide feedback or ask questions about the information packets; and
- A brochure dedicated to SARSEPs entitled "SARSEP: Common Problems and Solutions."

The retirement plans webpage, www.irs.gov/ep, contains a wealth of employer-friendly retirement plan information. In addition to the plan information packets, visitors can also find information on the latest retirement plan guidance, forms and publications, FAQs and more.

IRS Launches New Electronic Payment Program for Business Taxpayers

The Internal Revenue Service has launched a new program for new business taxpayers designed to boost electronic payment of taxes. This development makes it easier to begin using the IRS's electronic tax filing system, known as EFTPS (for the Electronic Federal Tax Payment System). The new program, EFTPS Express Enrollment for New Businesses, will affect all businesses receiving a new Employer Identification Number (EIN). Business taxpayers with a federal tax obligation will be automatically pre-enrolled in EFTPS to make all their federal tax deposits.

In addition to receiving their EIN, taxpayers will also receive a separate mailing containing an EFTPS personal identification number (PIN) and instructions for activating their enrollment. New business taxpayers will activate their enrollment by calling an 800-number, entering their banking information and completing an authorization for EFTPS to transfer funds from their account to Treasury's account for tax payments per their instructions.

EFTPS Express Enrollment makes it easier for new business taxpayers to make their business payments electronically. Payments made electronically are 19 times more accurate than traditional filings, which has one very important ramification—fewer penalties for the taxpayer.

News Update

Transportation Department to Deregulate CRS by July 31

After an extensive review of regulations, the U.S. Department of Transportation (DOT) announced that it would deregulate Computer Reservations Systems (CRS) by July 31, 2004. In the first phase, DOT will discontinue most of its rules governing CRSs on Jan. 31, 2004. A second set of rules—those prohibiting display bias and those prohibiting systems from imposing certain types of contract clauses on participating airlines—will sunset on July 31, 2004.

CRSs allow travel agents to book seats and issue tickets directly. DOT's proposal examined whether existing CRS regulations were necessary and how they may be modified to promote airline competition and lower travel costs. Advocacy submitted public comments stating

that changing the CRS regulations may alter the way small businesses in the travel industry operate; that small travel agencies need flexibility in their contracts in order to be competitive; and that travel agencies rely on bonuses and other incentives that airlines provide as a means of compensation.

The final rule will allow travel agencies to negotiate their own contracts and receive bonuses and other incentives from CRSs. The travel agent industry is pleased with the outcome of the rule. According to the American Society of Travel Agents (ASTA), the part of the rule that allows travel agents to obtain bonuses and other incentives will prevent travel agents from losing \$438 million per year in revenue.

Advocacy worked with the travel industry throughout the rulemaking process. Barbara O'Hara, vice-president for government affairs of the ASTA, praised the rulemaking and Advocacy's assistance in the rulemaking process. O'Hara said, "The Office of Advocacy stood by us every step of the way—in writing letters, in official testimony. If there are any other small business industries out there that aren't taking advantage of the services of this office, they are missing out on the miracle worker of this Administration."

President Speaks with Women Small Business Owners on the Economy

On Jan. 9, President George W. Bush addressed hundreds of women small business owners. Chief Counsel for Advocacy Thomas M. Sullivan and Advocacy Senior Economist Ying Lowrey attended the event, which was held at the U.S. Department of Commerce in Washington, D.C.

Five women business owners discussed the startup and growth of their companies with the president. The event showcased the close connection between small businesses and job creation. Participants recounted how the recent increases in the small business expensing limit and bonus depreciation have freed up company funds for new investment and hiring. Countering this positive trend are health care premium increases, which ranged from 17 to 40 percent annually since 2001 for one participant.



On Jan. 9, President Bush spoke with women small business owners. Participating were (from left) Lurita Doan, president of New Technology Management, Reston, Va.; Maria Coakley David, CFO of CJ Coakley, Inc., Falls Church, Va.; Sharon Evans, head of CFJ Manufacturing, Fort Worth, Texas; Nancy Connolly, president of Lasertone Corporation, Littleton, Mass.; and Catherine Giordano, president of Knowledge Information Solutions, Virginia Beach, Va.

Regional Roundup

Kentucky Makes Small Business a Legislative Priority for 2004

On Dec. 16, 2003, twenty-five small business groups met with Gov. Ernie Fletcher and legislative leaders, including Senate Majority Leader Dan Kelly, Senate Minority Floor Leader Ed Worley, Speaker of the House Jody Richards and House Minority Floor Leader Jeff Hoover.

After Gov. Fletcher's welcoming remarks, participants began formulating the small business legislative agenda for 2004 in breakout sessions on subjects including regulations, taxation, and health care. Pat Gartland, the Office of Advocacy's Region 4 Advocate was on also on



hand to provide information on Advocacy's model legislation initiative, which aims to reduce undue regulatory burdens on small businesses.

"Politicians now are beginning to recognize and understand that small business drives Kentucky's economy," said Tom Underwood, state director for the National Federation of Independent Business (NFIB). "We believe this renewed awareness provides an opportunity for small businesses to foster significant positive changes to the commonwealth's business climate."

Regulatory Flexibility Measures Considered in Five States

Wisconsin Considers Small Business Law. Small businesses may soon benefit from greater regulatory flexibility in Wisconsin. Senate Bill 100, a small business regulatory fairness bill introduced by Sen. Robert Welch, passed the Senate 22-11 and is currently pending in the Assembly.

Gov. James Doyle worked with Sen. Welch, Rep. Terri McCormick, and other small business interests to revise the bill and ensure its passage. NFIB state director Bill Smith congratulated these efforts, stating, "We commend the governor for his commitment to the most significant and comprehensive regulatory reform legislation since the Small Business Regulatory Flexibility Act was signed into law 20 years ago by Gov. Anthony Earl." Smith concluded, "Wisconsin's small business owners can look forward to a less costly, less confusing and less complex regulatory climate."

The bill is expected to pass the Assembly in early 2004.

Washington Law Would Add Judicial Review. The Office of Advocacy in Region 10 applauds

the support of the Association of Washington Business, Independent Business Association, Chambers of Commerce, NFIB, and other small business trade associations for a regulatory flexibility act to ease the regulatory burden on small businesses in Washington State. While Washington State has most of the element of regulatory flexibility in place, it lacks the one key element of "judicial review" to provide the clout to ease the regulatory burden on small business. A small business judicial review bill was introduced to lawmakers for consideration the week of January 12.

New Jersey Reintroduces Bill. New Jersey Assemblymen Guy Gregg and Joseph Roberts have reintroduced a bill expanding the scope of the New Jersey Regulatory Flexibility Act. Assembly Bill 255 is identical to Assembly Bill 3626, which did not make it through the legislature during last year's legislative session.

Pennsylvania Proposal. The Pennsylvania House reconvenes on Jan. 26, 2004, for its 2004 legislative session. Rep. Tina Pickett has

proposed the introduction of a small business regulatory flexibility bill for Pennsylvania small businesses. NFIB council member Jan Herschkowitz stated in a January press release, "Improving the regulatory process through meaningful small-business input and agency accountability will go a long way to protect Pennsylvania's number one job creator."

Missouri Initiative. Missouri Sens. Anita Yeckel and Gary Nodler teamed up with Reps. Neal St. Onge, Brian Baker and Richard Byrd and small business groups including the Missouri Chamber of Commerce, NFIB, and Associated Industries of Missouri to reintroduce small business regulatory fairness legislation in Missouri. Last year's bill, Senate Bill 69, passed both House and Senate, but was vetoed by Gov. Holden.

New Report Shows Small Firms' Diverse Roles in Innovation

A new report published by the Office of Advocacy in January shows that small firms are integral to the innovation process even when they are not responsible for the final or breakthrough technology. The report, *Small Firms and Technology: Acquisitions, Inventor Movement, and Technology Transfer*, by CHI, Inc., shows that small firms may play a role in large firms' technical breakthroughs in several ways. Large firm innovators may acquire small firms (and their patents), hire small firm inventors, or build on prior small firm patents.

Small firms are a vital element of new technology in many industries, but their importance is not immediately apparent when all industries are considered, because small firms tend to be excluded from such key capital intensive industries as automotive, aerospace, and oil research. In newer high technology industries, such as biotechnology, medical electronics, medical equipment, and telecommunications, large firms frequently rely on small firms' discoveries and inventions.

Highlights

- Between 2000 and 2002, there was an increase in the number of actively innovating firms (those with more than 15 patents in the previous five years). The researchers updated an existing database of innovative firms and found that 104 companies were dropped from the database, while 318 were added.

- The influence of small firms in technology is increasing. Small firms represented 40 percent of the highly innovative firms in 2002, as opposed to 33 percent in the 2000.

- In their patents, large firms in the biotechnology, medical electronics, semiconductor, and

telecommunications industries have a higher-than-expected number of citations of small firm patents.

When all industries are considered, reliance on small firm inventions is less obvious. This is the result of the virtual absence of small firms in certain key industries, among them aerospace, oil and gas mining, and motor vehicles and parts.

- Small firms have a greater technological impact in industries that tend to consist of many young, small innovative firms. Industries that fit these characteristics include biotechnology, computers and peripherals, medical electronics, medical equipment, semiconductors and electronics, and telecommunications industries.

For More Information

The full text of this report and summaries of other studies performed under contract to the U.S. Small Business Administration's Office of Advocacy are available on the Internet at www.sba.gov/advo/research. Printed copies are available for purchase from the National Technical Information Service, (800) 553-6847, (703) 487-4639 (TDD), or www.ntis.gov. Reference order number: PB2004-102461.

Advocacy Recognizes Best Student Paper

Advocacy presented the award for Best Student Paper on Small Business to doctoral candidate James R. Dewald of the University of Calgary on Jan. 16. The paper, *Why Do Small Firms Choose Quasi-Integration? The Case of the Homebuilding Industry*, focuses on the competitive strategies that small firms choose, specifically the trend in the homebuilding industry to form temporary alliances with other firms for marketing or other purposes.

The award was presented by Dr. Chad Moutray, Advocacy's chief economist, at the annual meeting of the U.S. Association for Small Business and Entrepreneurship (USASBE) in Dallas. The paper, co-authored by Jeremy Hall from the University of Calgary and James Chrisman of Mississippi State University, won out over strong international competition from other doctoral candidates.

Quasi-integration is a term used to describe auto manufacturers'

uncanny control over their suppliers, which gives car makers a fair degree of power and protection from risk. Dewald examined the relationship between land developers and home builders and asked why the vulnerable party, the builder, would prefer quasi-integration. He found that the arrangement gives builders access to specific locations and community amenities and that, after 20 years of operating under this system, builders trust the "institution" of quasi-integration more than they trust the developers themselves. In fact, builders did tend to gain relative bargaining power within the quasi-integration system.

The paper is available as part of Advocacy's working papers website at www.sba.gov/advo/stats/wkpaper.html.

Small Business: Your issues are our issues at the SBA Office of Advocacy.

Access Advocacy Listservs for the latest regulatory alerts and small business statistics. Email notices will provide a hotlink to the new material, so your in-box won't fill up with large documents. At <http://web.sba.gov/list>, check:

- Advocacy Communications
- Advocacy Newsletter
- Advocacy Press
- Advocacy Research



A Voice for Small Business

U.S. Small Business Administration
Office of Advocacy
Mail Code 3114
409 Third Street, S.W.
Washington, DC 20416

Official Use
Penalty for Private Use, \$300

Return Service Requested

FIRST CLASS
POSTAGE AND FEES PAID
U.S. Small Business Administration
Permit No.G-82