

THE SMALL BUSINESS ADVOCATE

In This Issue

Pension Agency Heeds Advocacy Recommendation To Ease Small Employers' Burden1

Serving the Needs of Rural Small Business2

Message from the Chief Counsel

Finished and Unfinished Business3

Regulatory News

RFA Compliance Saves Small Businesses \$20 Billion in Regulatory Costs4

Economic News

Advocacy Supports Wide Range Of Data Development and Analysis5

Landmark Research Issued or Funded by Advocacy's Office of Economic Research6

Ongoing Advocacy-Sponsored Research Probes Small Business Burdens, Contributions6

Technology Talk

SBIR Program Re-authorized Through 20087

Pension Agency Heeds Advocacy Recommendation To Ease Small Employers' Burden

Small employers will not have to adopt expensive new notice and appeals procedures for their pension plans, the Department of Labor (DOL) has decided after hearing from the Office of Advocacy and pension plan advisors.

"We commend the Department for taking a fresh look at the heavy burden its proposed rule would have imposed on small employers and for modifying the final rule to target it more effectively," said Chief Counsel for Advocacy Jere W. Glover.

The decision appears as part of a final rule published in the *Federal Register* on Nov. 21, 2000 by DOL's Pension and Welfare Benefits Administration (PWBA). The final

rule marks a significant reversal from the approach in the agency's proposed rule, published in September 1998. The proposed rule would have required employers to set up appeals processes for very rapid review of whether beneficiaries of health, disability, and pension plans were properly denied coverage.

Advocacy participated with several employer organizations and pension consultants in meetings with regulators and senior officials at PWBA to explain why pension plans should be treated differently than health plans—that they did not require the urgent review procedures necessary for some types of

Continued on page 8

Annual Report on the Regulatory Flexibility Act Commemorates 20th Anniversary



Chief Counsel for Advocacy Jere W. Glover shares the findings of the recently released 20th anniversary RFA report with Sen. John F. Kerry, D-Mass., the ranking member of the Senate Small Business Committee. See story on page 4.

Serving the Needs of Rural Small Business

by Shawn Vogt-Sween

One-quarter of all Americans live in rural areas. Local firms serving rural communities often have more difficulty accessing needed technology, transportation, and services, creating higher fixed costs than urban firms encounter. This makes it more difficult for these firms to compete with urban small and large businesses. The Office of Advocacy is working to address this problem.

Advocacy's mission, simply stated, is to encourage policies that support the development and growth of American small business in all areas of the country. Advocacy works to ensure that there is a level playing field for small firms; that is, that federal policies do not increase barriers to entry for new small firms or impose undue burdens on existing small firms. Since most regulations and paperwork requirements have a high component of fixed costs, they have a higher cost per unit of output for small firms relative to large firms.

Given these challenges, Advocacy has taken a leadership position in recognizing rural small businesses' unique needs. Through regular review of federal agencies' compliance with the Regulatory Flexibility Act (RFA), publication of economic studies, and collaboration with rural organizations, Advocacy has outlined a commitment to supporting rural small businesses.

Regulatory review. In reviewing agency regulations for compliance with the RFA, Advocacy has commented on many regulatory proposals that have an impact on rural small businesses.

Economic research. Advocacy publishes research and statistics that are useful to rural small businesses. Information is available on small business lending and small farm lending by state and by bank holding companies.

State and local collaboration.

Regional advocates have collaborated with state and local organizations to work on behalf of small businesses. Regional advocates have found that by collaborating with state rural development agencies, Advocacy is better able to help rural small businesses.

As Advocacy plots its course for the future, the needs of rural small businesses rank among those that still need additional attention. Advocacy's banking studies have fueled an interest in further research on rural small businesses. "One-size-fits-all" regulations could better reflect the cost differences in running a business in a rural versus an urban area. Advocacy can also continue to foster relationships with organizations such as the National Rural Development Partnership to make optimum use of limited resources.

Certainly there are many opportunities to make a more level playing field for rural small businesses. The Office of Advocacy has emerged as a leader in advocating for their needs.

Shawn Vogt-Sween is a Truman Fellow with the National Rural Development Partnership.

The Small Business Advocate

Editor John B. Johnson IV

Managing Editor Rob Kleinsteuber

Contributing Editors Kathryn Tobias, Kenneth Simonson, Phaedra Brotherton, Rebecca Krafft

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. Back issues are available on microfiche from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

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/



Federal Recycling Program
Printed on recycled paper.

For More Information

To learn more about Advocacy's role in rural America, please visit www.sba.gov/advo. Rural publications include:

- *Small Business Lending in Rural America*
- *Small Farm Lending in the United States*
- *Small Farm Lending by Bank Holding Companies*
- *Small Business Lending in the United States*
- *Rural and Urban Areas by Firm Size, 1990-1995*

Advocacy's comments on proposed regulations in accordance with the RFA are located at www.sba.gov/advo/laws.

For information on the work of Advocacy's Regional Advocates, visit www.sba.gov/advo/region.html.

Questions, comments, or ideas about Advocacy's work pertaining to rural small businesses should be directed to Shawn Vogt-Sween, tel. (202) 205-6537, e-mail shawn.vogt-sween@sba.gov.

Message from the Chief Counsel

Finished and Unfinished Business

by Jere W. Glover

At the start of a new session of Congress and a new administration, we take a look in this issue of *The Small Business Advocate* at just a few of the major events that have occurred this past year. An entrepreneurial approach is important in government as well as in the private sector, where new small businesses continue to create most of the new jobs, improve the competitive climate, and bring a large share of innovative ideas to the marketplace. Successful new businesses have created the economic miracle that occurred in the United States this past decade.

While fresh ideas bring vitality to both the government and the marketplace, it's also useful to take stock of the tested initiatives already in place that are bringing significant returns to small businesses and the economy—as well as the areas still in need of improvement.

In the first week of January 2001, Advocacy delivered its report to Congress and the President on agency compliance with the Regulatory Flexibility Act (RFA). This year's report marks the 20th anniversary of the law's enactment. We were pleased to be able to report that there is concrete evidence of improved compliance with the law as the result of Advocacy's intervention on behalf of and in close association with small business. This improvement resulted in a \$3.6 billion reduction in compliance costs in fiscal year 2000 alone.

On Jan. 3, 2001, the 107th Congress was sworn in. Thus began a new legislative session that may be called upon to address several small business issues. In the past year, several tax changes long sought by small business and supported by Advocacy were adopted.

This improvement resulted in a \$3.6 billion reduction in compliance costs compared to the original proposals.

Most notable was the change enacted by the 106th Congress that will again allow small business owners selling their business assets under an installment sale agreement to treat as income only the amount received as an installment each year rather than having to treat the proceeds of the entire sale as income in the year of the sale. In addition, other IRS reforms went into effect, with the establishment of a Small Business/Self-Employed Division and the appointment of a small business representative to its Advisory Councils and Oversight Boards. The IRS is making strides to change the agency's culture and has been very receptive to issues raised by small business people.

One issue that continues to require attention is procurement. All the data generated by Advocacy show that small business's share of federal procurement is on the decline, in part because of the bundling of what had been several small contracts into one large contract on which small business cannot bid. The thrust to achieve operating efficiencies in government procurement offices is overpowering any arguments Advocacy has raised that this is bad public policy. Work has to continue on this knotty issue to ensure small businesses ready access to federal procurement. Eliminating small business from competition will result eventually in higher prices and less choice.

During my seven-year tenure as chief counsel for advocacy, this

office has tried to be a reasoned voice seeking equitable treatment for small business in legislation, in regulation, and in policy. We have had several successes and they are outlined in a new report, *Background Paper on the Office of Advocacy, 1994-2000*. The report is on our website at www.sba.gov/advo/advo_backgr00.html. It summarizes the kinds of research we have done, our approach to ensuring less burdensome regulations for small entities (including small organizations and governmental units), and the important stakeholder interest small business has in public policy. We do not claim to have done everything right. We hope, however, that what we have done forms a baseline for the future on which the Office of Advocacy can build toward even greater success.

On a personal note, I want to add that working as chief counsel for advocacy with all of you—small business owners and small business advocates in the private sector, the administration, the Congress, the media, and all levels of government—is the best job I've ever had. I value your continued support of the work of this office as it speaks out for the dynamic small business community. The Office of Advocacy joins me in wishing all our small business constituents personal and financial success and good health in the year 2001.

Do You Want Our Attention?

- Letters to the editor
- Address corrections/changes
- Subscriptions
- Press releases

E-mail the *Small Business Advocate* at advocacy@sba.gov

Regulatory News

RFA Compliance Saves Small Businesses \$20 Billion in Regulatory Costs

Agency actions taken in compliance with the Regulatory Flexibility Act (RFA) have spared small businesses at least \$20 billion in regulatory costs over the past three years, says the Office of Advocacy's latest annual report to the president and the Congress on implementation of the act. The report, *20 Years of the Regulatory Flexibility Act: Rulemaking in a Dynamic Economy*, documents savings resulting from changes in proposed regulations made by federal agencies in response to comments from small businesses and the Office of Advocacy and in compliance with the RFA.

As of Sept. 19, 2000, the RFA has served for 20 years as a curb against agencies implementing policy objectives in ways that put a disproportionate compliance burden on small businesses and other small entities. Congress's intent was that public policy not erect barriers to competition and that regulations not have unintended consequences on small businesses and the economy. Congress was of the view that this could be accomplished without compromising public policy objectives.

Has the law accomplished its objectives? Yes and no, the report finds. Much has been accomplished, but even more remains to be done.

"Although compliance with the RFA remains somewhat uneven, improved agency compliance is very clearly under way," said Chief Counsel for Advocacy Jere W. Glover. "The act has become measurably and significantly effective in achieving the law's objectives, namely, more equitable regulations. Agencies are learning to do more in-depth, high-quality regulatory impact analyses and are seeking more guidance on how to comply with the RFA."

The Small Business Regulatory



Enforcement Fairness Act (SBREFA) amendments to the RFA in 1996 strengthened the RFA's enforcement by subjecting agencies' compliance to judicial review and by reaffirming and clarifying the chief counsel for advocacy's authority to file friend-of-the-court briefs.

And, as the Office of Advocacy report notes, there has been progress.

In the report, the Office of Advocacy recognizes four Winners—agencies that have done a notable job of complying with the law in fiscal year 2000. They are the Office of Science and Technology in the Environmental Protection Agency, the Center for Food Safety and Applied Nutrition in the Department of Health and Human Services, the Treasury Department's Office of Benefits Tax Counsel, and the Securities and Exchange Commission. Also listed are two Honorable Mentions—agencies that have made progress worth noting—and four agencies in particular need of improvement.

One reason for the persistently uneven level of compliance may be turnover in policymakers, whose

replacements may not understand the important role small businesses play in the economy and why it serves national policy to design equitable regulations that do not unduly burden small business.

Among the successes of the RFA, the report points to the small business advocacy review panel process. The 1996 SBREFA amendments require the Environmental Protection Agency and the Occupational Safety and Health Administration to consult "small business advocacy review panels" on the impact of proposed regulations before publishing them for public comment. Information provided through this process, in combination with other data, has proven invaluable as a check on the real impact of proposed regulations, the report notes.

Agencies are also involving the Office of Advocacy earlier in the process of designing regulations to avoid any conflicts with the RFA.

For More Information

The report is on the Internet at www.sba.gov/advo/laws/flex/00regflx.html.

For more details, contact Deputy Chief Counsel Mary K. Ryan, Office of Advocacy, at (202) 205-6533, by e-mail at mary.ryan@sba.gov or write to the Office of Advocacy, U.S. Small Business Administration, 409 Third Street, S.W., Washington, D.C. 20416, tel. (202) 205-6530, fax (202) 205-6928. Paper and microfiche copies of all Advocacy reports are also available for purchase from the National Technical Information Service at (800) 553-6847 or through the NTIS website at www.ntis.gov.

Advocacy Supports Wide Range Of Data Development and Analysis

In this churning economy, it is impossible to tell what is happening without data—and not just data on large firms. Data collection and analysis is the only effective way to determine whether public policies raise barriers to entry for the new startups that are so important for our economic growth. Data on small businesses in the United States have been scarce, while data on publicly held corporations have been more plentiful because of the Securities and Exchange Commission's filing requirements. For this reason, most research has been focused on large business. Yet other research shows that the dynamism in the U.S. economy comes from small businesses that expand and create new industries, e.g., computer technologies. Understanding the dynamics of small business is essential for sound policymaking.

The Office of Advocacy has a strong record of developing data on small business and of supporting research to analyze that data. The office's largest data project is support of the Census Bureau in developing a database on every nonfarm business with employees, called the Business Information Tracking Series (BITS). BITS allows researchers to track employment and payroll at establishments (single locations) and the larger enterprises to which they belong (if any), over time. The time series will soon extend from 1989 to 1998. BITS is based on Census's Statistics of U.S. Business, or SUSB. (See box.)

Other sources fill in pieces of the picture. For 20 years, Advocacy has contracted with the Internal Revenue Service's Statistics of Income Division to produce tables on the number of female- and male-operated nonfarm sole proprietorships.

“Without good analysis, we will achieve the right level of [regulation] only by dumb luck.”

This year, the Census Bureau is expected to release 1997 data about businesses without employees and about women- and minority-owned businesses. Advocacy will provide tables, analysis, and links to the data on the office's website, www.sba.gov/advo.

Another important data supplier is the Federal Reserve Board. The Fed is currently completing work on the National Survey of Small Business Finances, which will provide valuable information on how small firms get credit. The data should complement the Fed's Survey of Consumer Finance, which George Haynes is analyzing for Advocacy to learn more about the assets held by small business owners.

Joel Popkin and Company is estimating the small business share of economic growth and the generation of wealth by small business. The firm is using the Bureau of Economic Analysis's tables that show the components of gross domestic product.

George Kolari and Advocacy's own economists are working on the latest edition of Advocacy's studies of bank lending to small business. These reports, due out in the next few months, are based on bank regulators' compilations of banks' "call reports" and reports required by the Community Reinvestment Act.

Advocacy is continuing to cosponsor the development of an important new data set on the characteristics of new businesses and their founders through the Entrepreneurial Research Consortium, which is

coordinated by Babson College. Staff and outside economists are analyzing these data.

In addition, the office awards both competitive and sole-source contracts to researchers who develop or analyze special-purpose data sources and surveys. To propose a research project or learn more about how to use these or other data sources, contact Senior Economic Advisor Ken Simonson at kenneth.simonson@sba.gov, tel. (202) 205-6973, fax (202) 205-6928.

SUSB Database Accessible on Advocacy Website

One essential small business research tool is the Census Bureau's Statistics of U.S. Businesses (SUSB), a firm-size static database. SUSB currently contains data from 1988 to 1997 and can be used to generate information on the number of small firms by state, county, and industry. It has been used to measure the number of small firms affected by proposed changes in regulations, such as the ergonomics regulations recently proposed by the Occupational Safety and Health Administration. It has also been used to determine how changes in the minimum wage would affect small firms.

The SUSB database is available on the Advocacy website at www.sba.gov/advo/stats/#firms. Its public availability gives trade associations, researchers, and the public free access to a wealth of information about small business.

Landmark Research Issued or Funded by Advocacy's Office of Economic Research

Quality research done in-house by the Office of Advocacy's Office of Economic Research (OER) or contracted from outside consultants is critical in identifying small businesses' contributions and the impacts regulations have on them. Hundreds of research projects have been conducted by or for the office over the past seven and a half years. Here are some of the most significant ones.

- *The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business: A Report to Congress* (1995). This OER report was based on two studies prepared for Advocacy by Thomas Hopkins and associates, *A Survey of Regulatory Burdens* (1995) and *Profiles of Regulatory Costs* (1995). OER's report provided valuable analysis to Congress as it crafted and eventually passed the

Small Business Regulatory Enforcement Fairness Act.

- *Small Business Lending in the United States*. Since 1994 these studies have measured the lending behavior of commercial banks to small business (and more recently to small farms) using the "call" and Community Reinvestment Act reports. These studies identify lenders that are "small business friendly," and they have helped generate competition among banks for small business customers.

- *Creating New Capital Markets for Emerging Ventures* (1996). This important research by William Wetzel and his colleagues documented the shortfall in early-stage equity capital for small business. Along with a number of internal reports, including *The Process and Analysis Behind ACE-Net* (1996),

this research led to the creation, with Advocacy's guidance, of ACE-Net, the Access to Capital Network. ACE-Net matches entrepreneurs and early-stage "angel" capital investors across the United States via the Internet. ACE-Net is in the process of being privatized.

- *New Data for Dynamic Analysis: The Business Information Tracking Series (BITS)* (2000). BITS is a unique new tool for business research developed by OER and the Census Bureau. This report describes the BITS database and some of its uses. Another OER staff paper, *Mergers and Acquisitions in the United States, 1990-1994* (1998), was the first major report based on BITS.

- *Women in Business* (1998) and its companion, *Minorities in Business* (1999), document the

Continued on page 8

Ongoing Advocacy-Sponsored Research Probes Small Business Burdens, Contributions

The Office of Advocacy sponsors a wealth of cutting edge research into the most pressing issues facing small business today.

Two projects are examining the impact of federal and state regulation on small business. Mark Crain of George Mason University and Thomas Hopkins of Rochester Institute of Technology are updating Hopkins's landmark 1995 analysis of the cost of federal regulation on small firms. Management Research and Planning Corporation is reviewing the cost of state regulation along with state efforts to identify and mitigate those costs.

Two projects are examining government assistance directed to small business. Clifford Waldman is evaluating federal efforts to assist firms owned by veterans and disabled veterans. Carolyn Loeff and Associates is surveying state agencies involved in worker training and small businesses that have recently hired

workers to learn the effectiveness of state-supported training programs.

Three contracts focus on electronic commerce and small business. Jack Faucett Associates is investigating the impact of e-commerce on small new-car dealers. Heartland Information Research is doing a similar study on small travel agents, while Joanne Pratt is teaming with a small business group to survey their members' current e-commerce usage and plans.

Two projects relate to capital availability for entrepreneurs. A team led by Candace Brush of Boston University is investigating the availability of venture capital to women- and minority-owned firms for Advocacy and the National Women's Business Council. Advocacy is providing a final year of support to ACE-Net, the Access to Capital Electronic Network, before it becomes a fully private organization. Launched with

Advocacy's help four years ago, ACE-Net provides an electronic "meeting place" for entrepreneurs and venture capitalists with reduced regulatory oversight by federal and state securities regulators.

Advocacy continues to sponsor research on the contributions of small high-technology firms to job creation and economic growth. Currently, Bruce Kirchhoff of New Jersey Institute of Technology and Catherine Armington are using the Advocacy-funded Business Information Tracking Series at the Census Bureau to measure the growth contributions of new technology firms.

Once each project is completed, Advocacy staff prepares a research summary and posts it and the full report on Advocacy's website, www.sba.gov/advo. Many of the reports will also be covered in future issues of *The Small Business Advocate*.

SBIR Program Re-authorized Through 2008

by Terry Bibbens

President Clinton and Congress have re-authorized the Small Business Innovation Research (SBIR) program through Sept. 30, 2008. The program was included as part of the Consolidated Appropriations Act of 2001 (P.L. 106-554), which was signed into law on Dec. 21, 2000.

The SBIR program makes research and development (R&D) funds available to small innovative firms. The Office of Advocacy offered testimony to Congress in support of the SBIR legislation and provided information to a number of congressional committees to ensure that members understood the SBIR program's value. The SBIR program—arguably the most successful federal R&D program ever developed in terms of high quality research, efficient administration, and commercialization accomplishment—provides approximately \$1.2 billion of federal R&D funding to small businesses in support of the research agendas of the funding agencies.

The re-authorized SBIR program contains the following improvements supported strongly by the small

The SBIR program... provides approximately \$1.2 billion of federal R&D funding to small businesses in support of the research agendas of the funding agencies.

business high-tech community:

- Improved protection of small business intellectual property or "SBIR Rights" through Phase III,
- The requirement that federal agencies report when they procure products or services developed under an SBIR program from a contractor other than the original SBIR contract,
- A searchable database of SBIR winners to assist in commercialization efforts,
- Inclusion of "knowledgeable individuals from the small business community with experience in the SBIR program" in the review panel and peer review panels of the National Research Council's report on the SBIR program,
- Improved and standardized cal-

culuation of "extra-mural" research budgets by the SBIR funding agencies to ensure full compliance with the legislated level of funding continued at 2.5 percent of the extra-mural R&D budget of the agencies,

- A Federal and State Technology Partnership (FAST) Program to provide local mentoring and support programs for companies interested in pursuing SBIR programs,
- Development of a mentoring program, with a searchable database of mentors qualified to support companies interested in pursuing SBIR programs, and
- Extension of the SBIR Rural Outreach program through Sept. 30, 2005.

DOD Fast Track, SBIR Initiative Praised by National Research Council

The National Research Council's Board on Science, Technology, and Economic Policy has released *SBIR—An Assessment of the Department of Defense Fast Track Initiative* (ISBN 0-309-06929-7). The report, released Nov. 17, 2000, is available from the National Academy Press, Washington, DC, (800) 624-6242.

According to the report, the Small Business Innovation Research program:

- Contributes to the Department of Defense's overall research and development goals,
- Provides a powerful demonstration effect for other researchers,
- Provides lasting knowledge generation, and
- Generates a positive social rate of return (84 percent for SBIR research projects versus 25 percent for non-SBIR research projects).

For More Information

The details of the legislation can be viewed on the Congressional website, <http://thomas.loc.gov>.

Click on "Public Laws by Law Number: 106th" and select P.L. 106-554 (pages H12428-32 of the Conference Report).

To view Advocacy testimony on the SBIR program visit the website, www.sba.gov/advo/laws/testimon.html#innovation.

Additional information on the SBIR program can be found at the SBA Office of Technology website, www.sba.gov/sbir/sbir.html.

QUESTIONS?



**ANSWERS:
1-800-827-5722**

The Small Business Answer Desk

Landmark, from page 6

different growth patterns of these groups, which are changing the environment for small businesses. The two reports made a significant contribution to available information in these areas.

- *The Third Millennium: Small Business and Entrepreneurship in the 21st Century* (1995 and 2000). These reports identify the challenges to small business as seen in advance of the 1995 White House Conference on Small Business and again on the eve of the new millennium.

- *Developing High-Technology Communities: San Diego* (2000). This report by Innovation Associates examines how high-technology small businesses steered the San Diego region out of the recession brought on in part by defense downsizing in the late 1980s and early 1990s, creating 46,000 new high-tech jobs in the 1990-98 period.

- *Small Business and Access to Health Insurers, Particularly*

HMOs (2000). This report by Consult, Inc., examines the cost and types of health insurance available to small firms and examines why providing health care coverage to employees of small businesses continues to be a challenge.

Pension Agency, from page 1

health claims. Unlike health plan beneficiaries who need immediate approval for medical procedures, retirees rarely have disputes concerning their entitlement to benefits. Even in the rare cases that their eligibility or level of benefits is in dispute, the possible harm does not justify the high expense that the agency's proposed notice and appeals process would entail for small employers.

While PWBA did estimate that small pension plans would bear most of the cost, "The actual cost of compliance is three to five times as great as PWBA estimates," Glover said in a letter submitted for the agency's record. The letter also

For a detailed list of Advocacy's publications since 1994 see Appendix G of the *Background Paper on the Office of Advocacy*. The report is online at www.sba.gov/advo/advo_backgr00.html

pointed out that this heavy cost would come with no demonstrated benefit and might result in termination of pension plans rather than an expansion of protections.

For More Information

The DOL's final rule on claims procedure under the Employee Retirement Income Security Act of 1974 appears in the Nov. 21, 2000, *Federal Register* (pages 70246-71). The Office of Advocacy's Jan. 26, 1999, comment letter on the proposed rule can be viewed at www.sba.gov/advo/laws/comments/pwba.html.

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**