

Advocacy Recommends that the Department of Labor Review Small Business Impacts of the Family and Medical Leave Act

On February 8, 2007, the Office of Advocacy (Advocacy) filed a comment letter with the Department of Labor (DOL), in response to the *Request for Information on the Family and Medical Leave Act of 1993*. A complete copy of Advocacy's letter to DOL may be accessed at <http://www.sba.gov/advo/laws/comments/>.

- The Family and Medical Leave Act (FMLA) was enacted in 1993, and DOL published final regulations in 1995. Under the FMLA, eligible employees of employers with more than 50 employees may take unpaid job-protected leave for up to twelve work weeks if they need time off for the birth or adoption of a child, for a serious personal health condition, or to care for a family member with a serious condition.
- On December 1, 2006, DOL requested comments from interested parties on their compliance experience with the FMLA. In conjunction with this data collection, Advocacy believes that DOL should treat its examination as a review of small business impacts of the FMLA under Section 610 of the Regulatory Flexibility Act (RFA). Section 610 requires agencies to review all regulations which have a significant economic impact on a substantial number of small entities within 10 years of their adoption as final rules, to minimize the burden of a rule on small entities.
- Advocacy believes that the FMLA has had a significant economic impact on a substantial number of small entities, and therefore, is subject to a Section 610 review. There are over 200,000 small entities that are required to comply with the FMLA, and these entities employ 30 percent of all covered employees. Advocacy estimates that small businesses spend \$6.3 billion a year on FMLA compliance.
- Advocacy has spoken to small business representatives, who have commented that FMLA compliance has been burdensome, complex and costly for small businesses. Advocacy believes that DOL can minimize the cost of the FMLA for small entities by clarifying the complex definition of a "serious health condition" for FMLA eligibility, and reforming a provision of the FMLA that allows employees to take intermittent leave.

For more information, visit Advocacy's Web page at <http://www.sba.gov/advo>, or contact Assistant Chief Counsel Janis Reyes by email at Janis.Reyes@sba.gov or by phone at 202-619-0312.