

Advocacy Supports USPTO Efforts to Identify Proper Size Standard for RFA Analysis

On August 3, 2006, the U.S. Small Business Administration's (SBA) Office of Advocacy (Advocacy) submitted comments to the U.S. Patent and Trademark Office (USPTO) on its proposed *Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations*. The proposal would take the existing SBA size standard currently used for paying reduced patent fees and broaden its application for use in all of the agency's Regulatory Flexibility Act (RFA) analyses.

A complete copy of Advocacy's letter to the U.S. Patent and Trademark Office may be accessed at: www.sba.gov/advo/laws/comments/.

- Advocacy supports and commends the USPTO for its efforts to identify an appropriate size standard to ensure agency compliance with the RFA.
- The existing size standard was developed for use in determining whether an entity was a small business concern for purposes of paying reduced patent fees.
- Advocacy and small entities are concerned that the standard would exclude a significant number of small entities and that it would not provide an accurate estimate of the number of small entities affected by the USPTO's regulations.
- Since the proposed size standard only tabulates the number of patent applicants claiming small entity status, and not actual small entities, Advocacy does not believe that it is the appropriate size standard for RFA purposes.
- Advocacy suggests that the agency continue to work with small entities and Advocacy staff to identify a more appropriate standard after reviewing public comments on the proposal.

For more information about the rule, visit Advocacy's website at www.sba.gov/advo or contact Assistant Chief Counsel Carrol Barnes at (202)205-6533.