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Executive Order 13272 Marks Year One

On Aug. 13, 2002, President Bush signed Executive Order (EO) 13272, "Proper Consideration of Small Entities in Agency Rulemaking." With the executive order, the President made good on a major component of his Small Business Agenda. Over the past year, the executive order has energized the Office of Advocacy and federal agencies. Here are some of the key milestones thus far.

- **Agency Plans.** On Nov. 13, 2002, agencies gave Advocacy their draft plans on how they would measure small business impact in their rulemaking. These plans were to have been made public by Feb. 13, 2003.

- **Compliance Guide.** On Nov. 13, 2002, Advocacy issued a draft compliance guide to federal agencies. After a comment period, Advo-

cacy issued the final version. The 142-page guide is posted on our website at www.sba.gov/advo/laws/rfaguide.pdf. Print copies are available as well.

- **Notification Address.** The EO requires agencies to notify the Office of Advocacy of draft proposed rules that may significantly affect small businesses. To simplify this process, Advocacy has established a dedicated email address for notification purposes, notify.advocacy@sba.gov.

- **Meeting with General Counsels.** On June 25, 2003, Chief Counsel Thomas M. Sullivan met with the general counsels of 12 federal agencies to brief them on activities related to EO 13272, to

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During his remarks to New Jersey small business owners on June 16, 2003, President Bush reiterated the importance of Executive Order 13272, which requires all federal regulatory agencies to consider the impact of regulation on small businesses. The president signed EO 13272 in August 2002.

Economic News

Three New Reports Released in June and July

Small Business Economic Indicators, 2002. The economic conditions of 2002 have left small businesses poised for growth, according to the latest edition of *Small Business Economic Indicators*. By fourth quarter 2002, economic output had increased for five consecutive quarters and inflation remained at historic lows. Small businesses are well placed to take advantage of an economic upturn. Business bankruptcies continued their downward trend, nonfarm proprietors' income increased by 4.9 percent, and corporate profits increased by over 7 percent, giving owners the financial ability to expand their firms.

"Small businesses are ready to lead America's economic recovery," said Chief Counsel Thomas M. Sullivan. "Small businesses have traditionally led the country out of recessionary times through job creation, and I expect that will be the case now. I'm confident of this since President Bush signed his jobs and growth plan, which is focused on small business," he said.

Sullivan issued the report during the 48th World Conference of the International Council for Small Business, held in Belfast, Northern Ireland. Over 1,000 delegates from 76 countries attended the globally recognized conference. Attendees included policymakers, educators, researchers, practitioners, and entrepreneurs.

Impact of Tight Money and/or Recessions on Small Business.

When small banks face adverse conditions, smaller businesses suffer more unfavorable effects than their larger counterparts, according to this Advocacy-funded study. *Impact of Tight Money and/or Recessions on Small Business*, by James Wilcox, Diana Hancock, and Joe Peek of PM KeyPoint LLC, also confirms the conventional wisdom that higher interest rates depress lending in general, which leads to lower growth, employment, and payrolls in firms of all sizes.

The study found that increases in SBA-guaranteed loans tended to increase output, employment, and payrolls. Moreover, SBA programs

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In June, Chief Counsel Thomas M. Sullivan spoke on a panel on Global Support for Entrepreneurs and SMEs at the International Council for Small Business conference in Belfast, Northern Ireland. Pictured from left are: Nigel Griffiths, parliamentary under secretary of state for small business; Sarah Anderson, chief executive of the Mayday Group; Thomas M. Sullivan; Paul D. Reynolds, professor of entrepreneurship at Babson College and London Business School; and Arun Agrawal, secretary general of the World Association of SMEs.

acted as an economic stabilizer. The study also found that small bank capital had the largest effect on employment. The effect was about three times that of large banks. The result is that small bank capital is "high-powered" in terms of stimulating employment.

Small Business During the Business Cycle. Small businesses really are different from their larger counterparts and they react differently to economic conditions. This is one finding of *Small Business During the Business Cycle*, which investigates how small businesses have fared during the ups and downs of the business cycle over

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Message from the Chief Counsel

Aiming for High Marks from All Federal Agencies

by Thomas M. Sullivan, Chief Counsel for Advocacy

What's at or near the top of nearly every small business owner's list of things the government should change? Okay, *after* taxes, it's regulations and paperwork.

And for good reason. A landmark study supported by the Office of Advocacy in 2001 found that regulations cost small businesses much more than large ones—businesses with fewer than 20 employees spend twice as much per employee on regulatory compliance as do large firms with more than 500 employees.

Small businesses and the Office of Advocacy have been hammering at this problem for quite a while. Congress heard small business's cry for help, and it passed the Regulatory Flexibility Act (RFA) in 1980, requiring federal regulators to consider small business impact while drafting regulations. A few years of experience with the RFA made it clear that something with more teeth was needed. In 1996, Congress passed the Small Business Regulatory Enforcement Fairness Act (SBREFA), which amended the RFA and gave small businesses the right to sue federal agencies that failed to take them into consideration.

Even with the RFA and SBREFA on the books, Advocacy struggled to get agencies to account properly for the impact of their regulations on small businesses. So when President Bush announced his Small Business Agenda in March 2002, we stood up and cheered. The Small Business Agenda promised to tear down regulatory barriers to job creation, strengthen the Office of Advocacy, and strengthen enforcement of the Regulatory Flexibility Act. The President followed that

welcome first step with Executive Order 13272, signed on Aug. 13, 2002. Finally, we had the tools and incentives to get the job done!

“We’re asking regulators to put themselves in the shoes of a business owner for whom new restrictions will raise costs just enough to make the business unprofitable.”

EO 13272 requires agencies to place more emphasis on considering small business impact through three provisions. Agencies are required to do the following:

- Establish policies on how to measure their impact on small business. These plans have been reviewed by the Office of Advocacy;
- Submit proposed rules with a significant economic impact on a substantial number of small entities to Advocacy prior to publication;
- Consider Advocacy's comments in the final rule and respond in writing in the *Federal Register*.

For Advocacy's part, we have two new roles to play: training agencies in proper RFA compliance and reporting to the White House's Office of Management and Budget (OMB) on agency progress. A new guide for federal agency compliance, posted on our website, is the basis for our training, which was kicked off with three pilot training sessions in July and August.

In mid-August, Advocacy makes its first report to OMB on federal agency compliance with the EO.

(Advocacy currently reports annually to Congress on RFA compliance.) This new report is an added incentive for federal agencies to pursue topnotch RFA compliance. OMB's Office of Information and Regulatory Affairs (OIRA) is responsible for reviewing agency regulations and can stop a rule from moving forward. Now that the White House has taken a renewed interest in the RFA and small business in EO 13272, Advocacy will be providing OIRA with a list of good and bad actors under the RFA and the executive order.

These new tools and incentives provide a framework for agencies to implement small business consideration properly in their rule-making. We're asking regulators to put themselves in the shoes of a sole proprietor who will have to comply with the regulation they're drafting; or in the shoes of a home-based business owner for whom new restrictions will raise costs just enough to make the business unprofitable. Small businesses confront dilemmas like this daily.

EO 13272 provides the helping hands—the plans, training, reporting requirements, and powerful incentives—that will allow federal agencies to give small businesses the consideration and respect they deserve in the rulemaking process. The Office of Advocacy is committed to working with federal agencies and fulfilling all the requirements of EO 13272 in order to lighten the small business regulatory load. We hope these incentives will inspire agencies to aim for high marks in RFA compliance.

Regulatory News

What's RFA Training All About?

Advocacy's new RFA training program is focused on three important analyses. Regulators must know when and how to:

- Certify no significant economic impact on a substantial number of small entities,
- Perform an initial regulatory flexibility analysis (IRFA), and
- Perform a final regulatory flexibility analysis (FRFA).

Advocacy will assist agencies on how to write and provide a factual basis for an adequate certification that a rule will not have a significant economic impact on a substantial number of small entities. If an agency cannot certify that the rule will not have such an impact, it

must perform an IRFA. Advocacy's training sessions will focus on assisting agencies with data analysis and the development of regulatory alternatives that impose less burden on small businesses.

Finally, Advocacy is focusing this important training on assisting agencies with the development of their FRFA to ensure that agencies include small business comments in their analysis as well as give appropriate consideration to Advocacy's comments. The accompanying list of common pitfalls is a helpful guide for regulation writers.



Chief Counsel Tom Sullivan kicks off RFA training at the Environmental Protection Agency on July 24. Advocacy gave each participant a revised RFA compliance guide and invited their feedback on the training pilot.

The Most Common RFA Mistakes Agencies Make

Here are the 10 most common errors that Advocacy reviewers find.

1. An incorrect small business size standard is used.
2. Alternatives in the regulatory analysis are missing, incomplete, or pro forma.
3. The regulatory analysis does not include all costs to small business.
4. The certification statement does not include a factual basis explaining the agency's preliminary analysis (just a boilerplate statement).
5. The agency should not have certified the rule. (There is a clear significant impact on a substantial number of small entities.)
6. The rule is improperly published as a direct final or interim final rule, bypassing the requirements of the RFA.
7. The agency has not gathered small business input on the rule.
8. The agency certifies a rule even though data on small business is inadequate and the impact is unclear.
9. The agency bases its determination of a "substantial number" or "significant economic impact" using the number or revenues of firms that are not actually affected by the regulation.
10. The agency improperly asserts that the rule is pursuant to a congressional mandate and that it has no discretion to provide alternatives to the rule.

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answer questions, and to gather information to tailor Advocacy's training efforts to agency needs.

- **Agency Training.** Advocacy has contracted with Gillespie Associates of Rochester, N.Y., to develop the curriculum and pilots for RFA training for federal agencies. Three agencies are participating in the pilot round of training to provide us with feedback and assist in the development of the governmentwide program. The first two pilot training sessions took place in July 2003 and involved the National Oceanic and Atmospheric

Regulatory Alerts

Advocacy is constantly trying to make it easier for small businesses to participate in the regulatory process. That is why we launched the new Regulatory Alerts webpage. This page highlights notices of proposed rulemaking that may significantly affect small entities and contains links to allow users to comment directly on the pro-

Administration and the Environmental Protection Agency. Training for the Department of Transportation's Research and

posals. The page lists new regulatory proposals that may be of concern to small businesses, links to the proposed rule, and contact information for the Advocacy staff person tracking the issue. You can reach the Regulatory Alerts page from our homepage, www.sba.gov/advo or bookmark the page itself, www.sba.gov/advo/laws/law_regalerts.html.

Special Programs Administration is set for August.

Register Online for SBA's National Entrepreneurial Conference and Expo, Sept. 17-19

As part of SBA's 50th anniversary commemoration, the National Entrepreneurial Conference and Expo (NECE) takes place in Washington, D.C., Sept. 17-19, 2003. Online registration is now available by visiting www.sba.gov/50.

The three-day SBA event, to be held at the Washington Hilton and Towers hotel, features award ceremonies and presentations by notable speakers from industry and government on issues of vital interest to the small business community. Highlights of the event include

- **The Small Business Hall of Fame**, honoring the highest achievements in entrepreneurship;
- **Town Hall Meeting**, a nationally webcast discussion between small business owners and corporate CEOs led by SBA Administrator Hector R. Barreto;

- **Celebrating Women in Business**, a breakfast recognizing the contributions of women business owners, hosted by SBA Deputy Administrator Melanie R. Sabelhaus;

- **Procurement Matchmaking**, to bring prime and subcontractors together with small businesses to explore procurement opportunities one-on-one; and

- **National Entrepreneurial Expo** of more than 180 exhibitors providing information and conducting business with small businesses.

The National Small Business Person of the Year will be announced during the events, and the National Small Business Advocate Awards will be presented at a congressional luncheon.

The Expo will offer a series of business sessions on such useful topics as

- Managing Your Business,
- Emerging Markets,
- Small Business Financing,
- eBusiness,
- International Trade,
- Tax Relief,

- Health Care,
- Veteran Business Development,
- Contingency Planning, and
- Leadership.

To Register Online

Business owners and other individuals interested in taking part in the conference and expo may register online by visiting www.sba.gov/50 and clicking on the "NECE Registration" hotlink. Or you may register directly at https://reg.eventstrategiesinc.com/cgi-bin/register_sba.pl. Complete information about NECE and the many regional events around the country marking the SBA's 50th anniversary is also available at www.sba.gov/50.

Questions? Call 1-800-U-ASK-SBA (1-800-827-5722).



International Horizons

South African Microentrepreneurs Supported by a Wealth of Community Spirit

by Kathryn J. Tobias, Office of Advocacy

What do you need to start a business? Loans? Technical assistance? Advocacy? U.S. small businesses have the potential to prosper in places where we can, for the most part, take for granted not only the basics of food, housing, electricity, running water, education, roads, transportation, and communications, but also laws that prevent abuse, business services of many kinds, financial institutions that provide capital, and even an Office of Advocacy to speak out on behalf of small businesses within the government.

But imagine starting a business in a place where there is very little problem with government regulation—because little government is yet in evidence. Imagine a place where food, shelter, water, electricity, and trash collection cannot be taken for granted, let alone health care, computers, paved roads, or private cars. Imagine starting a business in a place where there is little physical security, banks or capital, where the modest school fees are too much for most families, fewer than half of the adults can get jobs, a third are infected with a deadly disease, and the ranks of orphaned children swell day by day.

Impossible, some would say.

But some—like Grace Sicwebo, from Winterveldt, South Africa—would call even that situation a place of opportunity. Winterveldt, a former apartheid-era township, has all those characteristics unlikely to support small businesses. But in Winterveldt and across South Africa, there are also many hundreds of people with strong and developing abilities, indomitable will to move beyond the past—and a wealth of *ubuntu*. The South



Advocacy staffer Kathryn Tobias and Grace Sicwebo, representing Lerato La Bana, a microenterprise whose name means “love for the children.” Lerato markets embroidered T-shirts, vests, cushion covers, and tablecloths to tourists, visitors from nearby Pretoria, and, now, customers around the world.

African government defines *ubuntu* as “the principle of caring for each other’s well-being . . . and a spirit of mutual support.” Put another way in a Zulu maxim, “*umuntu ngumuntu ngabantu*” means “a person is a person through other persons.”

In 1994, Grace began working in Winterveldt in a nutrition program helping mothers of malnourished children build a better life by pairing them with mothers of better nourished children. The program, started by an organization called Tumelong, was a mobilization of *ubuntu* to address the malnutrition that plagues the people living in these nutrient-starved grasslands. What the nutritionists found, though, as they moved their emphasis to new areas to address new needs, was that the malnutrition problem returned to the areas they had left.

What to do with the few material resources available? Many of the mothers in the nutrition centers would sit and listen to other mothers talking about nutrition concerns—and they would embroider. So the idea for an income-generating embroidery project was born. They named it Lerato La Bana, which means “love for the children,” and they began embroidering T-shirts, vests, cushion covers, and tablecloths to sell to tourists and visitors from nearby Pretoria—and then from around the world.

I met Grace on a visit to Winterveldt in 1999 and was enticed by the idea of working with these income-generating projects—so I spent several weeks volunteering there the following year.

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Driving around the rutted dirt roads with Grace in a small *bakkie*, or pickup, I learned about a number of fledgling small businesses tucked away in corners of the sprawling township. In addition to crafts projects, there were bakeries, telephone services, brickmaking operations. A group of men from Botswana banged away together at all hours of the day and night making pots and pans and other household utensils from sheets of aluminum.

The spirit of industry and *ubuntu* was infectious. Grace and I worked on a brochure and a website for the embroidery and crafts projects; we attended export workshops and craft fairs; and we looked for possibilities to market some of Lerato's embroidery in the United States.

Grace had learned about a catalog sponsored by an American organization called SERRV that would market their products while returning a fair share to the artisans. We began talking with them, and for the past year, Lerato's group of 45 embroiderers has been providing products to Americans through SERRV.

This year in May, Grace came to the United States on a three-week return visit. We visited SERRV headquarters in Wisconsin, as well as the Crafts Center in Washington, D.C., and a number of other organizations working with artisan groups from around the world. What did she think of her experience here? "Of course you have the resources here," she said, "But I've also noticed how Americans are always on the go and I like the way they

go about their daily business independently. I look forward to the day when more South Africans will be able to live lives that are financially independent, while preserving our strong sense of community."

What of the future in Winterveldt? There has been talk of developing a community bank, along with the infrastructure to support the nascent small businesses of Winterveldt. From embroidery and small-scale bread baking, candle making, brickmaking, and telephone services, Tumelong is moving on, with a larger-scale farm now producing high-end red and yellow peppers for local markets—and a guest house, where Grace takes on the job of proprietor upon her return to Winterveldt. If you'd like to learn more, or sample South African *ubuntu*, she'll be happy to host you there. For information email kathryn.tobias@sba.gov.

For information about the Small Business Administration's microloan program, see the sidebar on this page. For a listing and description of projects supporting microenterprises around the world, visit www.worldbank.org/poverty/voices/globcoal/grassroots/casestudies.htm

Advocacy Senior Editor Kathryn Tobias has volunteered for the last four summers in South Africa.

The SBA's Microloan Program Assists U.S. Microenterprises

The SBA has a microloan program that assists women, low-income individuals, minority entrepreneurs, and other U.S. small businesses in need of small amounts of financial assistance. Under the program, SBA makes direct and guaranteed loans to intermediaries who use the proceeds to make loans to eligible borrowers. The SBA may also make grants to intermediaries to be used for marketing, management, and technical assistance to the program's target population. Intermediaries must have made and serviced short-term fixed-rate loans of not more than \$35,000 to newly established or growing small businesses for at least one year and have at least one year of experience providing technical assistance to its borrowers. For more information, visit the SBA's website at www.sba.gov/financing/sbapartner/microloan.html

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the past five decades. Written by Joel Popkin and Company with funding from the Office of Advocacy, the study shows that size does matter in relation to economic conditions, particularly in manufacturing industries. For instance, large manufacturing businesses grow faster during expansions and may dip lower during contractions. On the other hand, small construction firms are both

more negatively affected by downturns and more positively affected

by expansions than large construction firms.

For More Information

For the complete text of all three reports, visit the Office of Advocacy website at www.sba.gov/advo. The precise addresses are as follows:

- *Small Business Economic Indicators, 2002* – www.sba.gov/advo/stats/sbei02.pdf
- *Impact of Tight Money and/or Recessions on Small Business* – www.sba.gov/advo/research/rs230tot.pdf
- *Small Business During the Business Cycle* – www.sba.gov/advo/research/rs231tot.pdf

RFQ for Small Business Research Using Large Databases

Advocacy seeks small business researchers, or researchers who want to become small businesses, to perform economic research via a request for quotation (RFQ). The proposal solicitations and synopses are listed in FedBizOpps (www.eps.gov/spg/SBA/postdate_1.html).

The following solicitation is currently open: **SBAHQ-03-Q-0026 Small Business Research Using Large Databases.**

The deadline for submitting proposals is Aug. 27, 2003. There will be a question and answer period through Aug. 20, 2003. Questions should be directed to: Billy Jenkins, SBA contracting officer, U.S. Small Business Administration, 409 3rd Street, S.W., Washington, DC 20416; or billy.jenkins@sba.gov.

Please note that regular mail to government offices in Washington, D.C. has experienced significant delays recently. Other methods

such as overnighting and certified mail have been much timelier.

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



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