

**2007
Fiscal Year**

National Ombudsman Report to Congress

Preserving Transparency and Fairness for America's Small Businesses



Helping Small Business Start, Grow and Succeed

National Ombudsman's 2007 Report to Congress

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The ONO Mission

The National Ombudsman's primary mission is to assist small businesses when they experience excessive or unfair Federal regulatory enforcement actions.

The Office of the National Ombudsman (ONO), an office within the U.S. Small Business Administration (SBA), was created by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The law's provisions pertain to all small businesses that receive or are subject to any enforcement-related communication or contact by the Federal government, including audits, on-site inspections, and agency compliance assistance.

SBREFA fosters a small business-friendly enforcement environment by authorizing the National Ombudsman and the Regional Regulatory Enforcement Fairness (RegFair) Boards to:

- Conduct hearings in each of SBA's 10 regions to provide small businesses with public forums where they can voice their complaints about Federal regulatory and compliance enforcement actions without fear of retaliation.
- Work with Federal agencies that have regulatory authority over small businesses, encouraging regulators to pay attention to entrepreneurs' complaints about enforcement activities and address those concerns promptly.
- Establish a process for the ONO to receive comments from small businesses about unfair Federal compliance or enforcement activities. The National Ombudsman also refers these comments to the Inspector General of the affected agency in appropriate circumstances. Upon request, the ONO will maintain the anonymity of the person and/or small business filing such comments as guided by Section 7 of the Inspector General Act of 1978 (5 U.S.C. App.).
- File an annual report with Congress and affected Federal agencies in which the ONO evaluates enforcement activities based on substantiated comments received from small businesses and input from the RegFair Boards.
- Provide affected agencies with an opportunity to comment on the draft annual report to Congress.

What is an unfair enforcement action?

It can be repetitive audits or inspections, unreasonable fines or penalties, or threats by a Federal agency, and/or acts of retaliation by a Federal agency.

ONO Regional RegFair Board Members, FY 2007

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) authorized the creation of the Office of the National Ombudsman (ONO) and 10 Regional Regulatory Enforcement Fairness (RegFair) Boards to assist small businesses when they experience excessive or unfair Federal regulatory enforcement or compliance actions. The ONO submits the National Ombudsman's annual report to Congress each year based on testimony gathered at RegFair Hearings, as well as comments, concerns, and complaints filed with the National Ombudsman about Federal compliance and/or regulatory activity. The ONO forums around the country encourage small business owners to voice their concerns directly to the RegFair Boards.



RegFair Board members are appointed by the SBA Administrator. All members are small business owners, officers, or operators and serve on a volunteer basis. Achieving a diverse business background is a major goal in selecting RegFair Board members so that they reflect an accurate picture of the small business communities that they represent.

There is an ONO RegFair Board in each of SBA's 10 regions:

Region I

Kathryn M. Weare, Board Chairman
The Cliff House Resort & Spa
Ogunquit, ME

Leo R. Blais
P.V. Prescription and Surgical Center, Inc.
Coventry, RI

Bernard Featherman
Biddeford-Saco Chamber of Commerce &
Industry
Kennebunkport, ME

James M. Knott, Sr.
Riverdale Mills Corporation
Northbridge, MA

Laura L. Monica
High Point Communications Group
Bow, NH

David A. Tibbetts, Esq.
Smith, Segel & Sowalsky
Boston, MA

Region II

Frank L. Misischia, Board Chairman
FLM Graphics Corporation
Fairfield, NJ

W. Timothy Howes
Howes & Howes
Raritan, NJ

Gloria Bryant
The Writing Company
Newark, NJ

Jose M. Garcias-Ramis
Action Service Corporation
San Juan, PR

Region III

Tim R. Rupli, Board Chairman
TR Rupli & Associates, Inc.
Washington, DC

Christopher D. Lord
Chris Lord & Associates LLC
Washington, DC

Frank E. Williams, Jr.
Williams Enterprises of Georgia, Inc.
Merrifield, VA

Helen F. Corey
Altenae, LLC
Wilmington, DE

Felix J. Jackson
DataProbe Technical Service
Owings Mills, MD

Region IV

Edwin A. Rodriguez, Board Chairman
Connectiv Solutions, LLC
Tallahassee, FL

R. Bruce McCrory
Kiker Corporation
Mobile, AL

Stanley L. King
S. L. King & Associates, Inc.
Atlanta, GA

Jane R. Dennis
Specialty Contractors & Associates, Inc.
Gulfport, MS

Robert S. Latham, III
LIST Company, Inc.
Piedmont, SC

Douglas McFarland
Radio Station 98.9 – Charleston
Mt. Pleasant, SC

Region V

John J. Hiller, Board Chairman
Hiller Realty Inc.
Mequon, WI

Stephen L. Becher
Home Owner's Resource Guide, Inc.
Burnsville, MN

Khalid Karadsheh
Mediterranean Island
Grand Rapids, MI

Joseph J. Montel
Montel Law Firm, P.C.
Indianapolis, IN

Edward Aprahamian
Lezk Corporation
Shorewood, WI

Region VI

Grant C. Humphreys, Board Chairman
Humphreys Real Estate Investments
Oklahoma City, OK

James R. Graham
Hunt Realty Investments
Dallas, TX

Regina N. Hamilton
Jones, Walker, Waechter, Poitevent, Carrere &
Denegre, L.L.P.
Baton Rouge, LA

Beth Sturgeon
AusTex Development Group
Canadian, TX

Mary Ann Weems
Weems Galleries and Framing
Albuquerque, NM

Region VII

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St. Louis Brewery, Inc.
St. Louis, MO

Dr. Inez Y. Kaiser
Inez Kaiser & Associates, Inc.
Overland Park, KS

Brian E. Johnson
Capitol Consultants
Panora, IA

Joe P. Balsarotti
Software To Go
St. Peters, MO

Jeanette Prenger
ECCO Select
Kansas City, MO

Region VIII

Michael J. Stransky, Board Chairman
Gillies Stransky Brems Smith PC
Salt Lake City, UT

John H. Herd
Aesir Group International
Colorado Springs, CO

Salvador Gomez, Jr.
Source One Management, Inc.
Denver, CO

Brenda Mosher
Interim Health Care of Wyoming
Casper, WY

Region IX

Zainul Abedin, Ph.D., Board Chairman
Environmental Engineering, Inc.
Glendale, CA

Ernest J. Reyes
Network Realty
San Diego, CA

Region X

Larry J. Pettingill, Board Chairman
Mr. Mom's Fix It
Idaho Falls, ID

Daniel Piccora
Piccora's NY Pizza
Seattle, WA

Shiao-Yen Wu
WPI Real Estate Services
Seattle, WA

Sue Linford
Linford of Alaska, Inc.
Anchorage, AK

Message from the SBA Administrator

The U.S. Small Business Administration's (SBA) Office of the National Ombudsman (ONO) made significant contributions to the agency's progress in carrying out the President's Small Business Agenda in 2007, providing entrepreneurs with a more transparent compliance and regulatory environment for starting, growing, and succeeding in their businesses. With these accomplishments in mind, I am pleased to present to you the National Ombudsman's 2007 Report to Congress.

The ONO's primary responsibility is allowing small businesses a voice in our complex Federal compliance and regulatory environment and ensuring that enforcement measures are effective without being unfair or excessive.

President Bush has affirmed that "...if you own something, you have a vital stake in the future of our country. The more ownership there is in America, the more vitality there is in America, and the more people have a vital stake in the future of this country." The National Ombudsman's customer-centric approach to assisting small business owners enhances their opportunities to own and successfully run their own businesses.

Serving as an ambassador of small business to Federal agencies, the National Ombudsman works with companies, trade associations, policy makers, local governments, and communities to bring Federal compliance and regulatory enforcement concerns to light. This open communication results in better access to information, removal of unfair enforcement burdens, and ultimately, a more functional relationship between small businesses and Federal regulators that promotes understanding rather than punitive enforcement measures.

Part of SBA's mission is reaching out to the small businesses that need us most. The National Ombudsman has been a valuable partner in providing such companies with the opportunity to succeed. Small businesses have come to rely on the National Ombudsman to promote fair enforcement, whether meeting with regulators in Washington, DC, or holding regulatory fairness hearings in each of SBA's 10 regions to gather real-world stories in the communities where Federal rules take effect.



Evidence of the successful partnership that the ONO has built between small business and Federal agencies can be found on every page of this report. The ONO responded to a record number of Federal compliance and regulatory enforcement cases in 2007, a reflection of its increasingly successful outreach to small businesses that are struggling with regulatory fairness issues. The increased caseload also demonstrates, however, that there is still work to be done in promoting compliance and regulatory fairness for our nation's entrepreneurs. The National Ombudsman and I look forward to making even more progress toward this important goal in 2008.

A handwritten signature in blue ink, appearing to read 'S. Preston', with a long horizontal flourish extending to the right.

Steven C. Preston
Administrator

Introduction by the National Ombudsman

In 2007, the Office of the National Ombudsman (ONO) made a concerted effort to reach out to communities throughout the United States in order to listen, to learn, and to better understand the compliance and regulatory challenges faced by our nation's small businesses. Now, more than ever, I am convinced that our mission at the ONO—seeking a fair, effective Federal regulatory enforcement environment for these hard-working entrepreneurs—produces invaluable benefits for our government, our economy, and the American people.

We worked more diligently and creatively than ever in 2007 to convey the message that Federal regulations are most effective when an agency communicates clearly to a small business what its obligations are under the law, then provides that company with compliance assistance. The agency accomplishes its mission without resorting to costly enforcement actions, and the company has a chance to thrive in a fair and effective compliance and regulatory environment. As National Ombudsman, I have had the privilege to observe time and again that compliance education outweighs excessive enforcement.

The ONO has brought exciting innovations in 2007 to our Regulatory Fairness Program. These efforts, bolstered by our Regional Regulatory Enforcement Fairness (RegFair) Boards, are already producing positive results:

- The ONO increased its caseload by 150, handling 500+ cases from small businesses in FY 2007.
- Under the Small Business Regulatory Enforcement Act of 1996 (SBREFA), Federal agencies must respond to these compliance and regulatory enforcement cases, and the ONO is authorized to rate each agency on its responsiveness and the nature of its enforcement actions. The 2007 ratings that appear in this report reflect that the Federal government is doing a better job than ever with fairness toward small businesses.
- There is still more work to be done, however, to ensure fair enforcement. Our success on behalf of small business is solely dependent upon the Federal government's commitment to working with us to adequately respond to each case. Although agencies are obligated to provide responses under SBREFA, it is my belief that the quality of our work grows when it is met with positive



reinforcement instead of an authoritative hand. To that end, the ONO rolled out the first “National Ombudsman’s Special Recognition for Regulatory Enforcement and Compliance Assistance” to acknowledge agencies that have gone above and beyond their duty in responding to the needs of the ONO and the small businesses that we serve. A feature describing our awardees and the programs that won them special notice appear in Chapter III of this report.

Our National Ombudsman’s 2007 Report to Congress presents more details on how we and our partners are harnessing creative ideas and innovations to ensure that our small business constituents continue to help our nation thrive in a climate of effective, not excessive regulation.



Nicholas N. Owens
National Ombudsman and
Assistant Administrator for Regulatory Enforcement Fairness



ONO Staff - (left to right) Elahe Zahirieh, Regulatory Review Specialist; Christina Marinos, Special Assistant; Martin Gold, Deputy National Ombudsman; Nicholas Owens, National Ombudsman; Cynthia Pope, Staff Assistant; Jose Mendez, Program Analyst; Anne Eaddy, Administrative Specialist

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FY 2007 Highlights

The U.S. economy depends on the drive of successful small businesses in order to flourish (see sidebar). When a Federal agency enforces rules through excessive or unfair actions, a small company's resources can be drained to the point of threatening its survival. Recognizing that a small business's resources are better spent competing in the marketplace, not struggling against burdensome rules, Congress passed the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

SBREFA created the Office of the National Ombudsman (ONO) so that small business owners would have a place to turn when they feel overwhelmed by Federal compliance and regulatory enforcement problems. The ONO provides a variety of channels through which companies can file comments describing their enforcement dilemmas. The ONO then delivers these comments to the appropriate Federal agencies, which are requested to respond. The ONO serves as the ambassador of small business to the U.S. government by encouraging parties to reach a mutual understanding and a fair resolution.

SBREFA requires the ONO to file an annual report with Congress in which the ONO rates how well each Federal agency is addressing small business enforcement concerns. This National Ombudsman's 2007 Report to Congress chronicles a year of innovation and milestones in the ONO's outreach efforts to both small entities and Federal agencies. The ONO's commitment has produced the kind of results envisioned by the legislators who enacted SBREFA: significant progress toward a fair and effective compliance and regulatory environment in which small businesses have a chance to thrive.

II. Making the Grade: Agency Ratings Measure Enforcement Fairness

The ONO's annual rating of Federal agencies is an important measure of their progress toward compliance and regulatory fairness. **Chapter II** explains how the ONO arrives at an overall rating for each agency based on how effectively it has responded to the enforcement concerns of small businesses. The ONO rates agencies' performance in each of six categories:

Small Businesses Drive Our Economy

Small businesses—those that are independently owned and operated with fewer than 500 employees—are vital to the health of the U.S. economy. The 26.8 million small businesses operating in the United States represent more than 50 percent of our non-farm gross domestic product. They also:

- ✦ *Represent more than 99.7 percent of all employer firms.*
- ✦ *Have generated 60–80 percent of the net new jobs over the past decade.*
- ✦ *Employ about half of all private sector employees.*
- ✦ *Pay more than 45 percent of total U.S. private payroll.*
- ✦ *Hire 40 percent of high tech workers and produce 13 times more patents per employee than large patenting firms.*
- ✦ *Make up 97 percent of all identified exporters, producing 28.6 percent of the known export value in FY 2004.*

Source: SBA Office of Advocacy "Small Business Frequently Asked Questions."

1. Timeliness.
2. Quality of response.
3. Agency non-retaliation policy.
4. Regulatory compliance assistance.
5. Notification to businesses of enforcement actions and right to comment.
6. Participation in Regional Regulatory Enforcement Fairness (RegFair) Board Hearings.

PROGRESS in 2007

Two developments in FY 2007 enhanced the National Ombudsman's ability to foster fair enforcement:

- Congress amended SBREFA in May 2007, strengthening the requirements that agencies must follow to educate and assist small businesses in complying with regulations (see Figure II-4). The amendment states that when a new Federal rule requires a SBREFA regulatory flexibility analysis, the agency must also supply easily accessible plain language compliance guides as close to the rule's effective date as possible. Agencies must report to Congress annually on how they are meeting the new SBREFA requirements.
- The ONO recognized six Federal agencies for outstanding service to small businesses that are facing compliance and regulatory enforcement issues (see Feature II-1): Centers for Medicare & Medicaid Services (CMS), Department of Commerce (DOC), U.S. Customs and Border Protection (CBP), Environmental Protection

Agency (EPA), Occupational Safety and Health Administration (OSHA), and Department of Transportation (DOT). These agencies were presented special recognition for their regulatory compliance assistance and willingness to work with the ONO on enforcement fairness. Examples of the RegFair Programs that earned the ONO's recognition include:

- The **CMS** website (www.cms.hhs.gov), which operates as a comprehensive set of interlinked compliance guides so that providers—who are primarily small businesses—can find information on any compliance and regulatory requirement in several versions that vary in their depth and detail. One example is CMS Online Manual Instructions that guide providers in setting up day-to-day operating procedures that comply with relevant laws and regulations.
- **EPA's** 15 sector-based Compliance Assistance Centers, which provide comprehensive, easily accessible Federal and state compliance and pollution prevention information presented in the language of the particular business sector. Centers focus on sectors that are heavily populated by small businesses. EPA sponsors the Centers in partnership with academic institutions, environmental groups, industry, states, and other Federal agencies.

- **DOT’s Federal Motor Carrier Safety Administration** (FMCSA), which has conducted more than 19,000 Compliance Reviews over the last two years, with less than half resulting in an enforcement case. Investigators supply companies with a list of violations and allow businesses to take corrective action before FMCSA initiates action. Small business carriers can also submit financial information during an action to reduce the penalty, or request a payment schedule rather than pay the penalty in one lump sum.



Business.gov—“the official business link to the U.S. government”—is managed by SBA and links visitors to the names, phone numbers, and email addresses for all Federal agencies’ SBREFA contacts, as well as the National Ombudsman (see Figure II-3). The website continued its evolution into the 21st century by offering:

- More intuitive navigation, cleaner content presentation, and a modern, professional graphical layout.
- **Permit Me**, which provides information on compliance and regulatory requirements for the most commonly searched types of businesses.
- **Feature Topics**, which focuses on common business concerns as they relate to regulatory compliance.
- **Content Partners Program**, a

group of government and association stakeholders formed to develop compliance assistance resources.



In FY 2007, the ONO noted an overall improvement in Federal agency ratings, as well as continued progress in specific areas:

- Most agencies continued to improve their average response times to small business comments to an average of 27.5 days* (see Figure II-1).
- An ever-greater number of Federal agencies embraced the ONO’s message that educating businesses to understand why and how to comply with rules is less costly and more effective than punitive enforcement. Agencies responded by instituting the following effective compliance assistance measures:

- The **Department of Energy** (DOE) has created the Small Business Council, comprised of representatives from trade associations, small and minority business chambers, and women’s and veterans’ groups. The Council’s mission is to ensure

*This number does not reflect the response times of the U.S. Department of Housing and Urban Development (HUD) and the Internal Revenue Service (IRS). If included, the average response time for all Federal agencies is 50.7 days, which does not present a fair representation of the overall timeliness of the Federal government to small business concerns. The average response time of the IRS reflects the complexity of cases referred by the ONO and the additional time necessary to adequately investigate and respond to the concerns of those small businesses.

that entrepreneurs receive sufficient compliance information and feedback.

- When the **U.S. Coast Guard** (USCG) approves more than 2,700 marine events each year—many proposed by small entities—the agency provides one-on-one compliance counseling. USCG also offers free dockside examinations of commercial fishing vessels, then draws up “work lists” to correct compliance violations rather than issuing citations.
- The audit compliance staff of the Department of Interior’s (DOI) **Office of Surface Mining** (OSM) contacts new coal mining companies and offers operators information on how to comply with agency recordkeeping and reporting requirements. If the agency cites a small company for non-compliance, OSM offers the operator information on how to avoid similar problems in the future.

III. Small Business Speaks: Success Stories from Main Street

Chapter III presents stories of real-life compliance and regulatory challenges that small businesses faced in 2007, often in company owners’ own words taken from the comments that they submitted to the ONO and their testimony at RegFair Hearings. The ONO fulfills its mission by extending a compliance and regulatory lifeline to small business owners struggling with

Federal enforcement actions.

When an entrepreneur files a comment with the ONO describing unfair practices, the ONO begins the process of seeking a resolution that leads to effective, not excessive regulation. The National Ombudsman, along with a dedicated RegFair Board, listens carefully to small business concerns, conveys the issues to the appropriate regulatory agency, and requests a response.

Compliance and regulatory complications often arise because the same rules and enforcement actions that are applied to large companies can quickly drain small entities of their modest resources. Federal rules are meant to protect the public good, but government agencies are often unaware that rules’ cumulative effect can suffocate a small business.

The ONO has recognized the following perceptions and common themes that run through the comments filed by small entities and are at the heart of most compliance and regulatory dilemmas:

Confusing/Changing Regulations

– Small businesses often struggle to interpret compliance and regulatory complexities and keep up with new requirements.

Crossed Signals/Lack of

Communication – Busy entrepreneurs and Federal regulators inhabit separate worlds, and some miscommunication might be expected. The trouble arises

when misperceptions or misplaced messages impact the vitality of small companies.

Costly Agency Errors – Even minor mistakes in the compliance and regulatory enforcement process can produce a heavy financial or logistical burden for small businesses.

Costly Compliance – A rule that appears reasonable to regulators can result in costly and frustrating hurdles for businesses with small staffs and limited financial resources.

Compliance and Regulatory Overkill – Fines and inspections meant to foster good business behavior and protect the public can result in serious financial setbacks to small businesses.



The ONO increased its caseload by 150 in FY 2007, handling 500+ cases from small businesses. The following examples are success stories from the ONO's files:

Comment: Regulatory compliance can be doubly confusing when rules vary from agency to agency. A small drug company that dispenses and compounds radioactive medications found itself labeled non-compliant when the Nuclear Regulatory Commission (NRC) failed to keep up with an SBA rule change. In 2003, SBA raised the revenue threshold for qualifying as a small business from \$5 million to \$6 million. The

NRC neglected to make a similar adjustment to its own definition of a small business, which is based on SBA size standards. The drug company had qualified for the past 15 years as a small business eligible for an NRC licensing fee reduction. When NRC failed to update its revenue threshold, the company lost its small business status and saw a 600 percent jump in its annual licensing fee.

► **Outcome:** When the ONO presented the NRC with the entrepreneur's comment, the agency responded that it is "currently proposing changes to its annual fee schedules and will be conducting a parallel rulemaking proceeding to make adjustments to its size standards to reflect the SBA's actions."

Comment: A contract award issue was raised by a commenter who had held a four-year contract to provide services to the DOI's GovWorks. DOI issued a Request for Proposals that covered these same services, with the Technical Proposal and price being the main evaluation factors. The DOI contracting officer told the commenter that his company lost the award based on price. The small business owner pointed out that the contracting officer used to work for the winning company and had not properly evaluated the commenter's superior Technical Proposal.

► **Outcome:** When informed of the issue by the ONO, DOI responded that "the GovWorks Federal Acquisition Center...has reversed

the decision that was the subject of the commenter's complaint and has reinstated the contract with the company."

The ONO's leadership in the compliance and regulatory arena sometimes goes beyond helping a single entrepreneur to changing the compliance and regulatory culture of enforcement:

► **Comment:** One such example is the case of an importer who became entangled in two agencies' regulations due to cargo labeling problems. CBP inspected two shipments and referred them to the EPA. The labeling problems led EPA to judge the products as uncertified, assess a \$10,700 penalty, and order the destruction or export of the shipments. While working with EPA to bring the shipments into compliance, the importer requested permission from CBP to move the products from shipping containers to the company's bonded warehouse to avoid excessive storage charges. CBP refused, and the importer incurred more than \$10,000 in storage fees.

► **Outcome:** EPA explained that the Federal government "does not have the resources to establish and manage areas within ports for importers' use to correct their violations" and that such activity is forbidden in many areas due to homeland security concerns. It also noted that providing space for cargo remediation "is both extraordinary and not typically available." CBP requested an EPA decision as soon as possible on

whether the importer would be allowed to re-label the shipments. When EPA permits such a remediation, as it did in this and in similar instances, CBP has "built into our process a review to determine whether the importer will be allowed to move the cargo to its designated premises" and "potentially eliminate storage costs."



The National Ombudsman hosted a first-ever Timber Industry Roundtable in Washington, DC, in July 2007 to encourage representatives from Federal agencies, Congress, companies, and trade associations to discuss the economic challenges currently facing small businesses (see Feature III-1). At a typical roundtable, agencies explain their regulatory responsibilities and compliance assistance programs, and business organizations present their enforcement concerns.

SBA's role in the timber industry made July's roundtable unique. The agency is responsible for collaborating with the Departments of Agriculture, Interior, and Defense to oversee the Small Business Timber Sale Set-Aside Program. Through memorandums of understanding, SBA's Office of Natural Resources works with these departments to ensure that companies with 500 or fewer employees have the opportunity to purchase a fair share of timber harvested from Federal land. Small business representatives took

advantage of the roundtable to voice their most pressing concerns:

- Avoiding timber sale set-asides that require helicopter logging, significant road building, and other activities that might preclude a small business from bidding.
- Maintaining the small business size standard for lumber manufacturing at 500 employees.
- Preventing large businesses from bidding up timber prices on open sales so that the appraisals for set-asides are higher than the actual value of the timber.
- Accurately tracking volume from set-aside sales to ensure proper crediting of timber volume to small and large businesses.

IV. RegFair Boards and Beyond: Innovation Boosts Outreach

The stronger the ONO's connection to the business communities served, the more successful the ONO's mission will be. Innovations instituted by the National Ombudsman in 2007 have strengthened traditional ties to America's entrepreneurs by providing even more effective outreach. **Chapter IV** describes the ONO's efforts to get the word out that small business owners have an ally to turn to when overwhelmed by excessive or unfair regulation.

The 10 RegFair Boards extend the reach of the National Ombudsman to small business communities across the

nation. RegFair Board members are appointed by the SBA administrator—all are volunteers and all are small business owners, officers, or operators. As part of their duties, RegFair Boards and the National Ombudsman host two types of forums:

Hearings that are town hall-type forums focused on collecting comments and hearing testimony from individual entrepreneurs. Federal agency representatives are invited to attend hearings to keep abreast of small business regulatory issues.

Roundtables that bring together the small business community and business and trade associations for an information exchange. At roundtables, agency staff explain rules and compliance assistance programs, and business representatives discuss enforcement concerns.

RegFair Boards also:

- Report to the National Ombudsman on Federal agency enforcement issues in their region.
- Attract media attention both before and after hearings and roundtables to publicize the ONO's mission and programs.
- Attract public officials at all levels of government to collaborate on solving compliance and regulatory problems.
- Network with their extensive business contacts to spread the word about the services offered by the National Ombudsman.

In March 2007, the ONO hosted the first-ever National Regulatory Enforcement Fairness Hearing in Washington, DC (see Feature IV-1). Representatives of manufacturing and service industries that have a substantial small business membership spotlighted their compliance and regulatory challenges and offered solutions.

Federal Partners

The ONO's Federal agency partners continued in 2007 to work toward enforcement fairness for the ONO's common constituents:

- SBA District and Regional Field Offices supported RegFair Board members in publicizing hearings and serving as liaisons to small business owners.
- SBA Office of Advocacy served as the ONO's counterpart during the creation of Federal rules. While the ONO is responsible for enforcement fairness issues after a regulation is final, Advocacy presents the small business viewpoint while legislation and regulations are being developed. Advocacy also develops programs such as the State Regulatory Flexibility Initiative, a piece of model legislation similar to SBREFA to which state lawmakers can refer when writing their own laws. To date, 22 states have adopted enforcement fairness laws.
- Small Business Development

Centers and SCORE served as rich resources when small companies made requests for start-up advice that was not within the ONO's jurisdiction.

Trade Group Alliances

When the ONO and RegFair Board members team with business and trade associations, the ONO's credibility is strengthened and the ONO's message is broadened within the small business community. These groups continued to support ONO's mission in 2007 by:

- Speaking on behalf of their members, providing feedback on compliance and regulatory enforcement issues, and making it possible for the ONO to assist more small businesses.
- Regularly posting hearing notices and including RegFair features on websites and in organization publications.
- Promoting RegFair hearings and roundtables (see Table IV-2).

Agency Outreach

The ONO's ultimate partners in compliance and regulatory fairness are those Federal agencies that rely on education as well as enforcement to protect the public good. Their efforts promote an effective, not excessive compliance and regulatory environment:

- The **IRS** has begun offering Small Business Phone Forums as a way to customize compliance education on key topics with a personal touch

that avoids requiring busy, resource-strapped entrepreneurs to travel. Phone forums are free of charge and can be held at the local or national level. Entrepreneurs can find information about the forums and other IRS Small Business/Self Employed outreach events on the IRS website, www.irs.gov.

■ The **Department of Justice's (DOJ)** Community-Oriented Policing and Problem Solving Program trains all enforcement agents and officers in community policing philosophies and problem-oriented policing strategies. A select group of enforcement officers lead proactive compliance efforts in each region that include workshops, town hall meetings, and temporary helplines.

■ **The DOJ's Drug Enforcement Administration (DEA)** hosts and attends compliance sessions at conferences and meetings throughout the United States. DEA also sends its Diversion Headquarters personnel to give presentations to healthcare students at colleges and universities and even to individual businesses upon request.

V. Looking Ahead: Innovating To Serve Small Business

Fresh approaches to promoting fair and effective Federal regulation made 2007 a year of innovation for the ONO:



- The ONO opened new lines of communication (see Figures V-1 and V-2).
- The ONO assisted a record number of small entities struggling with excessive Federal enforcement.
- The ONO doubled the number of business and trade association members with access to the ONO's message that the National Ombudsman stands ready to help when companies are overwhelmed by unfair fines and penalties.

Chapter V unveils the ONO's top priorities for the future in building on the innovations described in this report and seeking out more opportunities to assist small businesses in coping with enforcement difficulties:

- ❖ The ONO intends to make the National RegFair Hearing a permanent event. The success of the first National Hearing demonstrated that the ONO, its small business constituents, and regulators have much to gain from understanding nationwide trends in Federal enforcement issues.
- ❖ Recognizing that the strength of the ONO's outreach lies in its regional hearings and roundtables, the ONO plans to continue working in each region to make all small business owners aware of their right to meet with the National Ombudsman to discuss enforcement issues.

❖ The ONO looks forward to more online chats featuring the National Ombudsman. The ONO has discovered that the chat format is an effective way to reach out directly to small company owners who have questions about building their businesses and proactively handling potential compliance and regulatory challenges.

❖ The ONO is developing a tutorial called “Small Business Ombudsman Model for State and Local Governments.” When complete, this tutorial will assist officials by explaining how they can establish and provide an Ombudsman service for small businesses in their own state and local governments.

II

Making the Grade: Agency Ratings Measure Enforcement Fairness

The mission at the Office of the National Ombudsman (ONO) is to foster a more business-friendly compliance and regulatory enforcement environment. The ONO's annual rating of Federal agencies is one important way to measure progress toward this goal. The ratings are intended to encourage agencies to proactively institute policies that take small business enforcement fairness into consideration throughout the compliance and regulatory process.

Chapter II explains how the ONO arrives at a rating for each agency based on how effectively it has responded to the enforcement cases and concerns of small businesses (see details about the comment process in Chapter III). The ONO also measures each agency's outreach efforts to provide small businesses with compliance and regulatory assistance and avoid enforcement problems before they become serious (see Chapter IV).

Two new developments in 2007 enhanced the National Ombudsman's ability to foster fair enforcement:

- Congress amended the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) in May 2007, strengthening the law's requirements for agency compliance

assistance (see Figure II-4).

- The ONO recognized six Federal agencies for outstanding service to small businesses that are facing compliance and regulatory enforcement issues. The agencies received special recognition for their regulatory compliance assistance and willingness to work with the ONO on enforcement fairness (see Feature II-1).

The Agency Questionnaire

The rating process begins with a questionnaire sent to Federal agencies inquiring about their small business policies and interactions with their small business constituents. The ONO gives agencies letter ratings based on their answers to the following questions:

- Do you have a written non-retaliation policy available to all employees?
 - How is it disseminated throughout your agency?
- Do you have an online and/or published non-retaliation policy available for viewing by small businesses?
 - Please provide the specific web address or a copy of the published policy.

■ Does your agency have a compliance assistance website and/or any published guidance or information available for small businesses?

- Please provide hard copy samples and/or pertinent website addresses.

■ Do you publish small entity compliance guides in conjunction with the publication of a final rule that will impact small businesses per Section 212 of SBREFA as amended in 2007?

- Please explain how your agency implements this section.

■ Do you inform small business owners about their rights under SBREFA and the availability of the National Ombudsman to receive their comments?

- How will small business owners come by the information?

■ Does your agency provide written notice to small businesses at the specific time or instance that a citation, notice of compliance and regulatory violation, charge of violation, or any equivalent or like notification is issued?

- Please include samples of the form, document, charging instrument, or similar communication mechanisms that you issue to inform small businesses about SBREFA rights.

■ List the ONO hearings at which you had an agency representative in attendance.

- Please note if the participation was in person or by conference call.

Federal Agency Rating Criteria for 2007

Once Federal agencies have returned their questionnaires, the ONO conducts the next step in the process—rating agencies’ responses to small business with a rating of A through F. In FY 2007, the ONO graded agencies based on each of six rating criteria, plus an overall grade for the year (see Table II-1).

Timeliness of Response— Criterion 1

30 days or less	= A
31-60 days	= B
61-90 days	= C
91-120 days	= D
Over 120 days	= F

The ONO calculates response time from the day it forwards a small business comment to an agency until the day that an agency’s response is received. For rating purposes, “days” are defined as business days. Figure II-2 depicts the average number of days that agencies took to respond to small business comments. In certain instances, the ONO may accept an agency’s request for additional response time or for permission to provide an interim response. The National Ombudsman will take these unusual circumstances into consideration when calculating timeliness.

The ONO performs a balancing act when rating an agency’s timeliness in responding to small business

enforcement fairness concerns. The agency needs adequate time to thoroughly evaluate relevant aspects of an enforcement action in a way that meets legal requirements. The small business, meanwhile, may be on the verge of closing down as a result of proceedings that strain its limited resources. A prompt resolution of the enforcement issue may make the difference in the continuance of the business.

Technology has made it easier for agencies to accelerate enforcement procedures while also making them more efficient. The **Internal Revenue Service (IRS)**, for example, is speeding up its responses to stakeholder concerns—including those of small businesses—with the Issue Management Resolution System. This web-based database helps the IRS to capture, track, and resolve issues, as well as follow local and national trends. Additionally, the agency publishes a monthly overview of issues and responses on its website, www.irs.gov. Small businesses can rate the IRS on its responsiveness to their needs at www.irs.gov/smallbiz.

The U.S. Department of Agriculture’s (USDA) **Grain Inspection, Packers, and Stockyards Administration (GIPSA)** has a policy of responding within seven days to comments received through its telephone hotline, including those from small businesses. GIPSA originally set up the hotline for reporting abuses and violations in the grain, livestock, meat,

and poultry industries. It also links small businesses with compliance and regulatory resources. The agency responds within 24 hours to most informal comments received verbally or via email. Some of these initial responses include an estimate of when a more complete answer will follow.

Agencies’ efforts have paid off, as shown by the consistent drop in the average number of days taken by enforcement entities to respond to small business comments (see Figure II-1).

Quality of Response—Criterion 2

When the ONO receives a comment from a small business concerning a regulatory enforcement or compliance issue, it forwards that comment along with its substantiating documentation to the Federal agency(ies) involved. At the same time, the ONO may include correspondence with questions such as “Why and how did you take the enforcement action?” and “Did your agency consider alternatives, such as waiving penalties or reducing fines?” The answers assist the ONO in assessing the agency’s responsiveness, how thoroughly it considered the effects of its actions, and whether any follow-up occurred.

To expedite a response, the ONO usually addresses this correspondence

Figure II-1. Response Timeliness

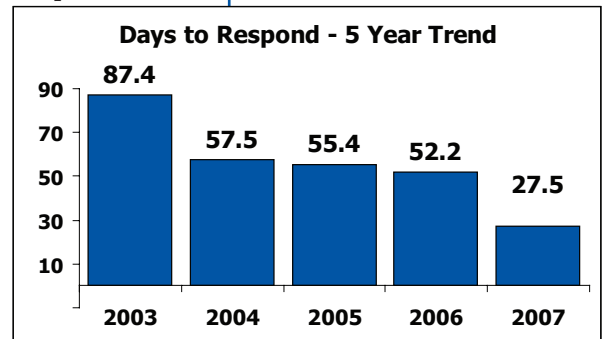
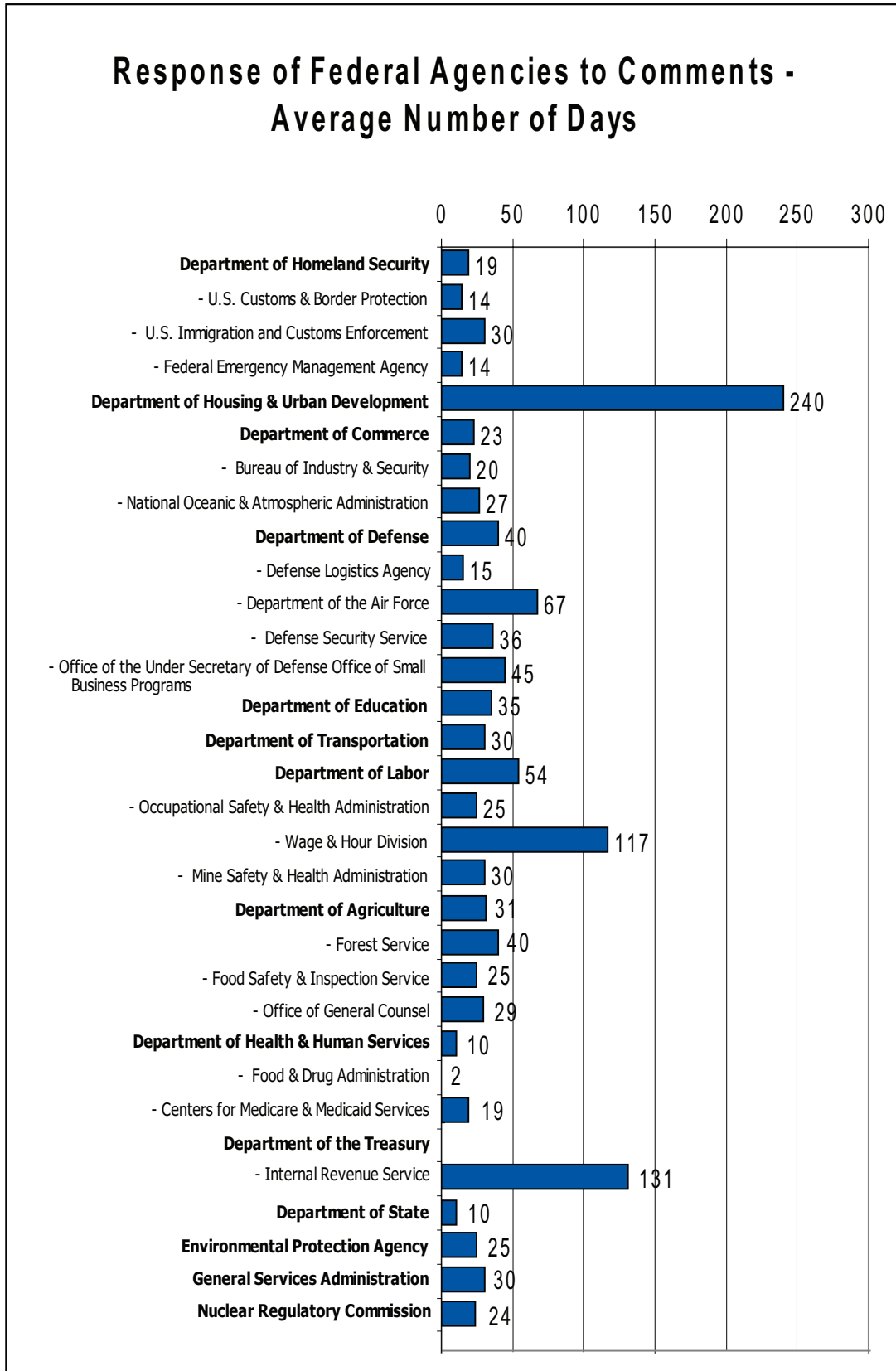


Figure II-2. Response of Federal Agencies



to a high-level official within an agency. The ONO refers any comments that allege unprofessional behavior to the agency's Inspector General. The ONO considers the level of specificity and detail provided in each agency's response and determines ratings according to the following criteria:

- The agency addressed all applicable questions posed in the ONO's correspondence and responded to the specific comment made by the small entity.
- The agency provided detailed information showing that it looked into the facts of the specific case and the actions of the agency personnel involved in the enforcement activity.

The Department of Transportation's (DOT) **Federal Motor Carrier Safety Administration** (FMCSA) aims to improve both the speed and quality of its response to small business through its Analysis and Information (A&I) Online service (<http://ai.fmcsa.dot.gov>). This analytical tool provides access to national, state, and local safety data, as well as safety information about individual commercial truck and bus companies that have registered with DOT. FMCSA solicits on-line feedback and regularly implements suggestions for system improvements. A&I has had 2 million visits over the last two years.

The **Department of Justice** (DOJ) focuses on its responsiveness to both small businesses and the disabled

population by using a voluntary alternative dispute resolution approach to cases involving the Americans with Disabilities Act (ADA). DOJ's ADA Mediation Program is a partnership between the Federal government and the private sector that makes 400 professional mediators available nationwide to help resolve ADA cases. In 2007, the program successfully settled 84 percent of the cases in which parties completed mediation.

DOJ also operates an ADA Information Line staffed during business hours with employees who consult with department architects, attorneys, or other specialists to determine ADA compliance requirements for specific circumstances. Some 47,500 callers received direct help from ADA Information Specialists via the Information Line. On a broader scale, the ADA website had 3.6 million visitors in 2007, and its pages and graphics were viewed 56.9 million times.

Agency Non-Retaliation Policy— Criterion 3

The ONO defines "non-retaliation" policies as those designed to prevent acts that punish a small entity for complaining or commenting about an agency action. An agency will receive a letter rating of A if it demonstrates that all of the following elements exist:

- The agency has adopted a formal, written non-retaliation policy.
- The non-retaliation policy is

available to all agency employees.

- The agency ensures that small entities have access to the non-retaliation policy through the agency's website and/or other readily available public places.

- The agency provides a copy of its policy and the publicly available web address where the policy appears.

Well enforced non-retaliation policies are critical if small businesses are to feel free to critique or question burdensome government rules. Small business owners should be able to tell the Federal government the good and the bad. The ONO encourages agencies to establish non-retaliation policies that specifically reference small businesses rather than rely on generalized ethics codes or standardized anti-discrimination rules.

Many agencies routinely distribute copies of non-retaliation policies during enforcement actions and outreach events to advise both government employees and small businesses that entrepreneurs should not be punished for raising objections to perceived unfair treatment.

The **Department of Interior** (DOI) instituted a department-wide non-retaliation policy in March 2007, added a link to the new policy on the DOI website, and directed all of its bureaus to publicize non-retaliation in their programs.

USDA's **Food Safety and Inspection Service** (FSIS) has gone a step further

than simply informing employees of its non-retaliation policy and has incorporated it into the performance standards of field regulatory personnel. FSIS renews non-retaliation performance goals every year.

The **IRS** has adopted a zero tolerance policy on retaliation (www.irs.gov/businesses/small/topic/index.html) and requires all workers to take annual on-line Mandatory Employee Briefings by September 30 of each year. Managers follow up briefings with a formal discussion during which they distribute a hard copy of the agency's All Employee Guide. Workers face mandatory termination for certain kinds of retaliatory misconduct.

Agency Regulatory Enforcement Compliance Assistance— Criterion 4

Congress amended SBREFA in 2007 by adding stronger, more specific requirements for agency compliance assistance to small businesses (see Figure II-4). An agency must demonstrate that all of the following elements exist to receive a letter grade of A. The ONO will reduce ratings accordingly for missing and/or non-existent elements:

- The agency provides compliance guides and assistance as described in the amended SBREFA.
- The agency provides small entities with a compliance assistance telephone number.
- The agency provides a compliance assistance website.

- The agency makes a compliance assistance contact available to small entities.

- The agency facilitates compliance assistance education.

With the National Ombudsman's encouragement (see Feature II-1), agencies are finding that prevention is the best prescription for heading off small business enforcement problems. When entrepreneurs understand compliance expectations, the public is better protected and business thrives.

To that end, the **Department of Energy** (DOE) has created a Small Business Council comprised of representatives from trade associations, small and minority business chambers, and women's and veteran's groups. The Council's mission is to ensure that entrepreneurs receive sufficient compliance information and feedback.

U.S. Coast Guard (USCG) field offices, which are part of the Department of Homeland Security (DHS), approve more than 2,700 marine events each year proposed mostly by small entities. Every applicant receives one-on-one compliance counseling from Coast Guard staff. The agency also offers free dockside examinations to assess commercial fishing vessels' compliance with USCG requirements. Rather than issue citations, officials prepare "work lists" to correct any discrepancies.

Small entities that violate regulations may be unaware of an existing rule, then find that they are unable to pay penalties and still keep their businesses afloat. The **Pension Benefit Guaranty Corporation** (PBGC) is one of many agencies that takes these circumstances into account when levying sanctions.

PBGC instituted a premium penalty policy in 2007 that considers a business's size when determining whether to waive or reduce the penalty for failing to pay a premium in full and/or on time. A small entity might argue, for example, that it has reasonable cause for delaying a premium payment due to computer failure, loss of permanent records, or an employee's inability to carry out assigned duties. PBGC may agree to a penalty reduction or waiver for the small business even though the agency would expect a larger organization to have comprehensive backup procedures in place to prevent such emergencies.

The audit compliance staff of DOI's **Office of Surface Mining** (OSM) works to boost small business compliance both before and after an entrepreneur receives a regulatory action. OSM auditors contact all new coal mining companies and offer operators information on how to comply with recordkeeping and reporting requirements. If the agency must cite a small company for non-compliance, OSM offers the operator information on how to avoid similar problems in the future.

Business.gov: Compliance Guidance Is a Click Away

Business.gov—“the official business link to the U.S. government”—continued its evolution into the 21st century by offering richer and more easily navigable features to guide small entities through Federal regulatory compliance requirements.

The website, which is managed by SBA, displays a “Key Contacts” box in the upper right hand corner that links visitors to the names, phone numbers, and email addresses of all Federal agencies’ SBREFA contacts, as well as the National Ombudsman.

In March 2007, SBA refreshed the features on Business.gov with more intuitive navigation, cleaner content presentation, and a modern, professional graphical layout.

Further innovations in July 2007 included:

- ◆ *Permit Me*, which provides a list of licenses, permits, and registration requirements for the most commonly searched types of businesses, along with links explaining how to obtain applications at Federal and state levels.
- ◆ *Feature Topics*, which will be continually updated and focused on common business concerns. SBA designed *Feature Topics* to provide context to the site’s compliance information and help business owners understand regulatory requirements by expressing them in plain language. *Feature Topics* include:

- *Buy Government Surplus Property for Your Business*
- *Get Info for Restaurants and Food Businesses*
- *Start a Home-Based Business*
- *Comply with Employment and Labor Laws*
- *Ten Steps to Hiring Your First Employee*

◆ **Content Partners Program**, a group of government and association stakeholders formed to develop compliance assistance tools and resources for small and medium-sized businesses.

The screenshot displays the Business.gov website interface. At the top, the logo reads "Business.GOV THE OFFICIAL BUSINESS LINK TO THE U.S. GOVERNMENT". Navigation links include "About Us", "Press", "Content Partnership", and "Site Map". A search bar is present on the right. Below the logo is a horizontal menu with "HOME" highlighted, followed by "SMALL BUSINESS GUIDES", "STATE & LOCAL INFO", "GOVERNMENT FORMS", "FREQUENT QUESTIONS", and "CONTACTS & HELP".

The main content area is divided into several sections:

- Small Business Guides:** A vertical sidebar menu listing categories such as "Business Topics", "Start and Manage a Business", "Advertising and Marketing", "Business Law", "Data and Statistics", "E-Commerce", "Emergency and Disaster Planning", "Employment and HR", "Environmental Compliance", "Finance", "Franchises and Opportunities", "Government Contracting", "Import/Export", "Licenses and Permits", "Occupational Safety and Health", "Privacy and Security", and "Taxes". Below this is a "Resources For ..." section with options like "Home-Based Businesses", "Specific Industries", "Minority-Owned Businesses", "Non-Profits", and "Self-Employed".
- How Do I ...?:** A section with tabs for "What's New", "Events", and "Deadlines". It features "Info on Popular Business Topics" with a list of links: "Find Small Business Grants and Loans", "Register a Business Name (DBA/Fictitious Name)", "Start a Home-Based Business", "Get Started in Government Contracting", "Learn Ten Steps to Hiring Your First Employee", and "Report Unfair or Excessive Regulatory Actions".
- PERMIT ME:** A section titled "Search for Permits, Licenses & Registrations". It includes input fields for "Enter: City & State or Zip Code" and "Choose: Business Type", with an "AND" connector and a "Search" button.
- 2008 Tax Center:** A section with a "Small Business Taxes" link and a "Small Business Tax Deductions" link. It also includes "Filing & Paying Your Taxes" and "State Tax Forms and Requirements".
- Featured City: Danbury, CT:** A section featuring a photo of Danbury, CT, and a text box stating: "Just one hour from New York City find out what it takes to start and run a small business in Danbury, Connecticut."
- Small Business Guide to Energy Efficiency:** A section with a lightbulb icon and text: "From changing a light bulb to installing energy-saving heating systems, any small business can easily make improvements that reduce energy costs while improving energy efficiency." It includes a link to "Small Business Guide to Energy Efficiency" which "helps you to become energy efficient, save money, and locate assistance."

Figure II-3. Business.gov Website

SBREFA Notice—Criterion 5

The ONO issues a rating based on whether an agency has established a policy to inform small entities of their SBREFA rights at the same time that the agency issues a citation or notice of compliance and regulatory violation:

- The agency must provide written notification of SBREFA rights to small businesses.
- The agency must inform small business owners about their right to comment on the enforcement/compliance process to the ONO.
- The agency must provide small entities with the National Ombudsman’s web address (www.sba.gov/ombudsman), and telephone and fax numbers, and deliver the information in writing and/or on appropriate website locations.

A = A general public statement, usually on the agency website, and a specific written notice of SBREFA rights to small businesses at the same time that the agency issues a citation or compliance and regulatory violation notice.

C = General information about small businesses’ right to comment about the agency’s enforcement/compliance process to the National Ombudsman’s office but no specific notification of SBREFA rights during a citation or compliance and regulatory violation notice.

F = No mention of SBREFA or the National Ombudsman, either generally

or during a specific action.

Despite the ONO’s expanding creative outreach efforts (see Chapter IV), too many small business owners remain unaware that the ONO exists to offer assistance when overwhelming regulatory compliance issues loom. This underscores the importance of Federal agencies providing small entities with both written and verbal notice of their SBREFA rights at the same time a citation or notice of compliance and regulatory violation is issued.

USDA’s **Forest Service** (FS) is developing specific SBREFA compliance guidelines in FY 2008 for a manual on agency laws, regulations, and orders. The agency is also publishing a Forest Service Handbook with a standard compliance guide that will accompany the release of any final rule that may impact small businesses.

Strengthened SBREFA rules (see Figure II-4) have not applied to any **National Credit Union Administration** (NCUA) regulations so far, but the agency is already working to assist small entities. In FY 2007, NCUA issued 15 official communications called “letters to credit unions” aimed at helping small unions comply with new or complex regulations. Small credit unions have a dedicated office within NCUA where they can seek one-on-one help or find training conferences targeted to their needs.

DOJ's Drug Enforcement

Administration (DEA) reports that it has had an institutionalized policy of graduated enforcement actions in place for 30 years. This policy takes into consideration the severity of violations, along with company size and history. If circumstances permit, small businesses have the opportunity to correct violations. DEA officials

may meet with company management, hold an informal hearing at which a company owner can present his or her viewpoint and compliance proposals, or issue a formal Letter of Admonition to which the company can respond. DEA may decide to suspend all or part of a civil penalty provided that the company does not violate laws or regulations in the following year.

Figure II-4. Amending SBREFA

Congress Strengthens SBREFA Compliance

The Senate Committee on Small Business and Entrepreneurship championed legislation in 2007 that strengthens compliance assistance requirements under Section 212 of SBREFA. As of May 2007, each Federal agency must meet the following criteria:



- ◆ *When a rule requires a SBREFA regulatory flexibility analysis, an agency must also publish “small entity compliance guides” explaining how to abide by that rule.*
- ◆ *An agency must post compliance guides in an easily identified website location.*
- ◆ *The agency must distribute guides to “known industry contacts” that are affected by the rule, such as associations, industry leaders, and small entities themselves.*
- ◆ *An agency must publish guides simultaneously with a final rule or as close to the same date as possible. Guides must be available no later than a rule’s effective date.*
- ◆ *Agencies must write guides in plain language that will be understood by those affected. Federal offices may prepare separate guides covering various classes of small entities.*
- ◆ *Agency heads must report to Congress annually describing how their offices have complied with the new SBREFA criteria.*

Agency Participation in RegFair Hearings—Criterion 6

The ONO rates agencies on their participation in RegFair Hearings when testimony includes issues that are related to the agency's mission. The ONO attempts to notify an agency contact directly or through the ONO calendar of events website at least 48 hours prior to such a hearing. An agency representative may appear in person or through the ONO's ReadyTalk conference call system. The ONO rates agencies according to the following considerations:

- A = The agency does not miss any pertinent hearings.
- B, C, D = Calculated based on the percentage of pertinent hearings attended by the agency.
- F = Misses all pertinent hearings.
- The ONO will post a rating of N/A when no agency issues are presented at any hearings or if the prior notification period is too short to allow an agency's participation.

Agencies tell the ONO that its RegFair Hearings serve two important purposes. One is to allow Federal regulators to listen in person to small business complaints about perceived unfair enforcement burdens and suggestions for better approaches. The IRS—an agency that often raises major concerns among small businesses—had this to say about RegFair gatherings:

“The IRS participated in the Regulatory Enforcement Fairness Hearings, and not just when issues related to our mission were presented in testimony. These hearings provide an opportunity to market and promote Small Business/Self Employed products and services and educate small businesses on their rights to fair compliance and regulatory treatment.”

—Internal Revenue Service

The IRS, EPA, FDA, and DOL have attended all RegFair Hearings that covered comments pertinent to their enforcement programs.

Another important role of RegFair Hearings is to provide a forum where small businesses can learn about compliance assistance before they violate agency rules. The following agencies viewed 2007 RegFair Hearings as useful outreach opportunities and attended meetings in person or through ReadyTalk conference calling even when the subject matter was not relevant to the agencies' missions: the Department of Commerce (DOC), Equal Employment Opportunity Commission (EEOC), FSIS, and Federal Deposit Insurance Corporation (FDIC). EPA coordinated with the local SBA contact for several RegFair Hearings to identify the environmental compliance issues faced by small businesses in the area. The agency then supplied SBA with relevant compliance assistance materials to distribute at the hearing.

Table II-1. Rating of Agencies According to FY 2007 Criteria

Cabinet Level Agency (# of comments)	Timeliness	Quality	Non-Retaliation Policy	Compliance Assistance	Informs about SBREFA	Hearing	Overall	Additional Complaints/Comments Referred
AGRICULTURE (5)	B	A	A	B	B	N/A	B	(2)
Forest Service (1)	C	A	A	C	C	N/A	B	
Food Safety & Inspection Service (3)	A	A	A	A	A	N/A	A	
Office of General Counsel (1)	A	A	A	A	A	N/A	A	
COMMERCE (3)	A	A	A	A	A	N/A	A	(6)
Bureau of Industry & Security (2)	A	A	A	A	A	N/A	A	
National Oceanic & Atmospheric Administration (1)	A	A	A	A	A	N/A	A	
DEFENSE (4)	B	A		(See note in box below)				(23)
EDUCATION (1)	B	A	A	N/A	A	N/A	A	(2)
ENERGY	N/A	N/A	A	A	C	N/A	B	(2)
HEALTH & HUMAN SERVICES (29)	A	A	A	A	B	A	A	(57)
Food & Drug Administration (24)	A	A	A	A	A	A	A	(1)
Centers for Medicare & Medicaid Services (5)	A	A	A	A	C	A	A	(56)
HOMELAND SECURITY (15)	A	A	B	B	B	B	B	(13)
Coast Guard	N/A	N/A	A	A	A	N/A	A	
Federal Emergency Management Agency (1)	A	A	N/A	N/A	N/A	N/A	A	
Citizenship & Immigration Services (5)	A	A	A	N/A	C	N/A	A	
Immigration & Customs Enforcement (1)	A	A	F	F	F	N/A	C	
Customs & Border Protection (8)	A	A	A	A	A	A	A	
HOUSING & URBAN DEVELOPMENT (2)	F	A	A	A	A	N/A	B	(3)
INTERIOR	N/A	N/A	A	A	C	N/A	B	(2)
JUSTICE	N/A	N/A	A	A	C	A	A	(10)
LABOR (14)	B	A	A	A	A	A	A	(7)
Occupational Safety & Health Administration (6)	A	A	A	A	A	A	A	
Wage & Hour Division (1)	D	A	A	A	A	A	B	
Mine Safety & Health Administration (5)	A	A	A	A	A	N/A	A	
STATE (1)	A	A	A	A	A	N/A	A	(2)
TRANSPORTATION (28)	A	A	A	A	A	A	A	(3)
TREASURY								(11)
Internal Revenue Service (4)	F	A	A	A	A	A	B	(8)
VETERANS AFFAIRS (2)	A	A		(See note in box below)				(2)

Non-Cabinet Level Agency (# of comments)	Timeliness	Quality	Non-Retaliation Policy	Compliance Assistance	Informs about SBREFA	Hearing	Overall	Additional Complaints/Comments Referred
COMMODITY FUTURES TRADING COMMISSION	N/A	N/A	A	A	C	N/A	B	
CONSUMER PRODUCT SAFETY COMMISSION	A	A	A	A	C	N/A	A	(1)
ENVIRONMENTAL PROTECTION AGENCY (9)	A	A	A	A	A	A	A	(8)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (1)	A	A	A	A	A	A	A	(1)
FEDERAL COMMUNICATIONS COMMISSION	A	A	A	A	C	N/A	A	(1)
FEDERAL DEPOSIT INSURANCE CORPORATION (1)	A	A	A	A	*C	N/A	A	(2)
FEDERAL ENERGY REGULATORY COMMISSION (1)	A	A	A	A	A	N/A	A	(4)
FEDERAL RESERVE BOARD (3)	A	A	A	A	*C	N/A	A	
FEDERAL TRADE COMMISSION	A	A	A	A	A	N/A	A	(9)
GENERAL SERVICES ADMINISTRATION (2)	A	A		(See note in box below)				(1)
NATIONAL CREDIT UNION ADMINISTRATION	N/A	N/A	A	A	*C	N/A	B	
NATIONAL LABOR RELATIONS BOARD	N/A	N/A	A	A	N/A	N/A	A	
NUCLEAR REGULATORY COMMISSION (1)	A	A	F	F	F	N/A	C	
PENSION BENEFIT GUARANTY CORPORATION	N/A	N/A	A	A	A	N/A	A	
SMALL BUSINESS ADMINISTRATION	B	A	A	A	A	A	A	(86)
SECURITIES & EXCHANGE COMMISSION	A	A	A	A	A	N/A	A	(1)
U.S. POSTAL SERVICE (3)	A	A	N/A	N/A	N/A	N/A	A	

* These three agencies are Federal financial institution regulators. The agencies have established Ombudsman functions pursuant to the Riegle Community Development and Regulatory Improvement Act. To receive an 'A' rating in this category from the National Ombudsman, an agency must directly make reference to the National Ombudsman at the Small Business Administration on both its public website and at the time a citation or notice of regulatory violation occurs.

PLEASE NOTE: As originally stated in the National Ombudsman's 1999 Report to Congress, Section 222 of SBREFA is part of "Subtitle B—Regulatory Enforcement Reforms." Section 221 contains the "definitions" applicable to Subtitle B. Section 221 adopts the Freedom of Information Act (FOIA) definition of "agency." That definition states that agency means "each authority of the Government of the United States, whether or not it is within or subject to review by another agency..." (5 U.S.C. §551). Accordingly, the National Ombudsman, with advice from the regional RegFair Boards, has concluded that Section 222 applies whenever a Federal agency, as defined above, exercises regulatory fairness enforcement or compliance authority with respect to a small business concern (15 U.S.C. §657 (b)(2)(B)).

The Department of Defense (DOD), and the General Services Administration (GSA), despite the broad statutory definition, correspondence, discussions with the National Ombudsman, and a letter from the Subcommittee on Regulatory Reform of the House Small Business Committee, have taken the position that Section 222 of SBREFA does not apply to them (see the National Ombudsman's 1999 Report to Congress). However, in 2007 DOD was more responsive with regards to timeliness and quality of response to the ONO's small business concerns.

Table II-2. Breakdown of Agency Attendance at ONO RegFair Hearings, 2007

<p>Nashville, TN (1/17/07) U.S. Department of Agriculture Food Safety & Inspection Service U.S. Department of Labor Occupational Safety and Health Administration U.S. Wage and Hour Division U.S. Department of the Treasury Internal Revenue Service U.S. Environmental Protection Agency U.S. Equal Employment Opportunity Commission U.S. Small Business Administration</p>	<p>Oklahoma City, OK (2/23/07) U.S. Department of Agriculture Food Safety & Inspection Service U.S. Department of Labor Occupational Safety and Health Administration U.S. Wage and Hour Division U.S. Department of the Treasury Internal Revenue Service U.S. Equal Employment Opportunity Commission U.S. Small Business Administration</p>	<p>U.S. Department of Justice Bureau of Alcohol, Tobacco and Firearms Drug Enforcement Administration U.S. Department of Labor Occupational Safety and Health Administration U.S. Wage and Hour Division U.S. Department of the Treasury Internal Revenue Service U.S. Environmental Protection Agency U.S. Equal Employment Opportunity Commission U.S. Small Business Administration</p>
<p>New York, NY (1/26/07) U.S. Department of Agriculture Food Safety & Inspection Service U.S. Department of Commerce U.S. Department of Labor Occupational Safety and Health Administration U.S. Wage and Hour Division U.S. Department of the Treasury Internal Revenue Service U.S. Environmental Protection Agency U.S. Equal Employment Opportunity Commission U.S. General Services Administration U.S. Small Business Administration</p>	<p>Cary, NC (3/14/07) U.S. Department of Agriculture Food Safety & Inspection Service U.S. Department of Labor Occupational Safety and Health Administration U.S. Wage and Hour Division U.S. Department of the Treasury Internal Revenue Service U.S. Environmental Protection Agency U.S. Small Business Administration</p>	<p>Philadelphia, PA (4/17/07) U.S. Department of Agriculture Food Safety & Inspection Service U.S. Department of Homeland Security U.S. Customs and Border Protection U.S. Department of Labor Occupational Safety and Health Administration U.S. Wage and Hour Division U.S. Department of the Treasury Internal Revenue Service U.S. Environmental Protection Agency U.S. Small Business Administration</p>
<p>Atlanta, GA (2/22/07) U.S. Department of Agriculture Food Safety & Inspection Service U.S. Department of Housing and Urban Development U.S. Department of Labor Occupational Safety and Health Administration U.S. Wage and Hour Division U.S. Department of Transportation U.S. Department of the Treasury Internal Revenue Service U.S. Environmental Protection Agency U.S. Equal Employment Opportunity Commission U.S. Small Business Administration</p>	<p>Washington, DC NATIONAL HEARING (3/16/07) Federal Communications Commission Federal Deposit Insurance Corporation Federal Trade Commission National Labor Relations Board U.S. Consumer Product Safety Commission U.S. Department of Agriculture Food Safety & Inspection Service U.S. Department of Commerce U.S. Census Bureau U.S. Department of Health and Human Services U.S. Food and Drug Administration Centers for Medicare & Medicaid Services U.S. Department of Homeland Security U.S. Coast Guard U.S. Citizenship and Immigration Services U.S. Customs and Border Protection</p>	<p>Providence, RI (5/01/07) U.S. Department of Agriculture Food Safety & Inspection Service U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services U.S. Department of Homeland Security U.S. Citizenship and Immigration Services U.S. Department of Labor Occupational Safety and Health Administration U.S. Wage and Hour Division U.S. Department of the Treasury Internal Revenue Service U.S. Environmental Protection Agency U.S. Equal Employment Opportunity Commission U.S. Small Business Administration</p>

Los Angeles, CA (6/14/07)

U.S. Department of Agriculture
Food Safety & Inspection Service
U.S. Department of Health and Human Services
Centers for Medicare and Medicaid Services
U.S. Department of Homeland Security
U.S. Customs and Border Protection
U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Wage and Hour Division
U.S. Department of the Treasury
Internal Revenue Service
U.S. Environmental Protection Agency
U.S. Equal Employment Opportunity Commission
U.S. Small Business Administration

Monmouth Junction, NJ (6/28/07)

U.S. Department of Agriculture
Food Safety & Inspection Service
U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Wage and Hour Division
U.S. Department of the Treasury
Internal Revenue Service
U.S. Environmental Protection Agency
U.S. Equal Employment Opportunity Commission
U.S. Small Business Administration

Milwaukee, WI (7/10/07)

U.S. Department of Agriculture

Food Safety & Inspection Service
U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Wage and Hour Division
U.S. Department of the Treasury
Internal Revenue Service
U.S. Environmental Protection Agency
U.S. Equal Employment Opportunity Commission
U.S. Small Business Administration

Honolulu, HI (7/19/07)

U.S. Department of Agriculture
Food Safety & Inspection Service
U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Wage and Hour Division
U.S. Department of the Treasury
Internal Revenue Service
U.S. Environmental Protection Agency
U.S. Small Business Administration

Portland, ME (8/16/07)

U.S. Department of Agriculture
Food Safety & Inspection Service
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Wage and Hour Division
U.S. Department of the Treasury
Internal Revenue Service
U.S. Environmental Protection Agency

U.S. Small Business Administration

Billings, MT (8/21/07)

U.S. Department of Health and Human Services
Centers for Medicare and Medicaid Services
U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Wage and Hour Division
U.S. Department of the Treasury
Internal Revenue Service
U.S. Environmental Protection Agency
U.S. Small Business Administration

Boise, ID (8/23/07)

U.S. Department of Agriculture
Food Safety & Inspection Service
U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Wage and Hour Division
U.S. Department of the Treasury
Internal Revenue Service
U.S. Environmental Protection Agency
U.S. Small Business Administration

Des Moines, IA (9/05/07)

U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Wage and Hour Division
U.S. Department of the Treasury
Internal Revenue Service
U.S. Small Business Administration

Agency Comments Regarding Ratings

ONO presented a draft of this report to the agencies and RegFair Board members for their comments. The IRS provided the following comment:

The National Ombudsman's 2007 Report to Congress notes that in referring small business comments to Federal agencies, the ONO expects an agency to substantively engage the small business and to take specific action to resolve a problem. The report also notes that in rating an agency's responsiveness to a small business, the first criterion considered is timeliness. The ONO expects a complete response in 30 business days or less. Because the average response time from the IRS was greater than 120 days, the IRS is graded "F" on timeliness.

It is impossible in most cases for the IRS to provide a complete response within 30 days. The majority of comments referred from the ONO to the IRS involve a small business's dispute about its tax liabilities. The ONO refers all case-specific comments to the Taxpayer Advocate Service (TAS) through Jim Leith, the Local Taxpayer Advocate for Washington, DC (DCLTA). TAS makes every effort to comply with the ONO's expectations in responding to these referrals.

The ONO's evaluation of TAS timeliness disregards the work TAS performs. The ONO focuses on the timeliness of the TAS response to the

ONO instead of the timeliness of the TAS response to the small business.

In all cases, TAS notifies the ONO within 30 days that a referral was received and assigned to a TAS office where the small business is located. Within that same timeframe, a TAS Case Advocate contacts the small business to advise that TAS is responding to the comments submitted to the ONO and that TAS will provide assistance in resolving the problem. The Case Advocate then communicates regularly with the small business until all issues are resolved.

Solving problems with the IRS is a complex and time-consuming process. Many cases require extensive documentation and formal requests for assistance from other IRS functions. TAS employees must comply with relevant sections of the Internal Revenue Code, operate within the limits of their delegated authorities, and utilize normal IRS functions and procedures.

TAS currently receives about 250,000 cases a year, and our quality standards emphasize resolving the taxpayer's case correctly, addressing all related issues so that the case is fully resolved, and taking initial and all follow-up actions in a timely manner. While the aggregate number of days it takes to resolve a case is an indicator of timeliness, reducing aggregate response time is not, per se, a TAS objective. In fact, the use of aggregate response time as a quality measure

in other IRS functions is sometimes the reason why cases end up in TAS. When response time itself is made the priority objective, an incentive arises for caseworkers to close out cases prematurely.

In 2006, TAS implemented several changes to the SBREFA program to increase the efficiency of IRS efforts. First, program responsibility was moved to the DCLTA office to give the SBREFA cases priority attention and to facilitate a degree of specialization in working the cases. Second, the process was streamlined by reducing the number of program managers reviewing cases before they are forwarded to the National Taxpayer Advocate (NTA). Third, through this

streamlined procedure, TAS is more effective and more efficient in engaging the local TAS offices, TAS Attorney-Advisors, and the TAS Offices of Case Advocacy and Systemic Advocacy to address issues raised through the SBREFA referral process.

Progress Measured Through Public Service

The ONO understands that any goal is more easily attained when expectations for achievement are made clear. The ONO's agency ratings are meant to serve this purpose, providing Federal regulators with the guidance and support they need to work toward enforcement fairness for small businesses.

“Based on the results in this report, it is evident that almost every Federal agency takes its service to the public very seriously. The number of agencies with ratings of “A” and “B” is impressive, and even more impressive is the fact that these ratings get better from year to year. This has to be a substantial validation of the ONO completing its mission of service to the taxpayers. It is a tangible testament to how well most Federal agencies serve their constituents.”

-Michael Stransky, Board Chairman, Region VIII, Salt Lake City, UT

Feature II-1. Agency Recognition

Compliance and Regulatory Fairness at Their Best

Six Federal agencies received special recognition from the National Ombudsman in 2007 for their extraordinary responsiveness and service to small businesses experiencing regulatory or compliance enforcement issues. These agencies were recognized for providing practical tools that assist entrepreneurs in complying with Federal regulations and for their cooperation with the ONO to address enforcement fairness. The agencies have shown a dedication that “truly promotes an environment in which America’s small businesses can grow and succeed,” said National Ombudsman Nicholas Owens.

“By implementing effective compliance assistance programs for small businesses, and through fostering a more small business friendly compliance and regulatory environment, Federal agencies can be more responsive to small businesses.”

National Ombudsman Nicholas Owens

The following are examples of programs that earned the agencies recognition for “a strong commitment to compliance and regulatory fairness.”

Centers for Medicare & Medicaid Services (CMS)



◆ The website (www.cms.hhs.gov) of this agency of the Department of Health and Human Services (HHS) operates as a comprehensive set of interlinked compliance guides with which providers—primarily small businesses—can find information on any compliance and regulatory requirement in several versions that vary in their depth and detail. One example is CMS Online Manual Instructions that guide providers in setting up day-to-day operating procedures that comply with relevant laws and regulations.

◆ CMS provides access to the Medicare Learning Network (MLN), which uses national education articles, brochures, fact sheets, web-based training courses, and videos that deliver to Medicare providers timely, easy-to-understand materials that explain new or revised regulations and policies.

Department of Commerce (DOC)



◆ National Oceanic and Atmospheric Administration’s (NOAA) National Marine Sanctuary “Interpretive Enforcement” Program seeks voluntary compliance with conservation regulations through educating sanctuary resource users. NOAA offers Interpretive Enforcement brochures, discussions, training programs, and telephone numbers that provide small businesses a variety of ways to access regulatory compliance guidance.

◆ Bureau of Industry Security’s (BIS) Office of Export Enforcement Outreach Program makes 1,100 annual visits to exporters, teaching them how to identify and avoid suspicious transactions and providing telephone numbers to call for help.

U.S. Customs and Border Protection (CBP)



◆ This agency of the Department of Homeland Security (DHS) emphasizes “preemptive measures that will educate small businesses on the requirements for importing and exporting.” CBP views its RegFair program as an opportunity to learn about small business concerns, and the agency incorporates RegFair Board Hearing feedback whenever possible. When fully implemented, the program will include joint seminars with SBA.

◆ CBP provides “Tips for New Importers and Exporters” to familiarize its audience—many of whom are small entities—with CBP policies before businesses begin importing and/or exporting goods.

Environmental Protection Agency (EPA)



◆ EPA operates 15 sector-based Compliance Assistance Centers (CACs) to provide comprehensive, easily accessible Federal and state compliance and pollution prevention information presented in the language of the particular business sector. Centers focus on sectors that are heavily populated by small businesses. EPA sponsors the Centers in partnership with academic institutions, environmental groups, industry, states, and other Federal agencies. An FY 2007 survey revealed that 83 percent of respondents from the regulated sectors agreed that Centers increased understanding of environmental regulations.

◆ EPA reached a record-breaking 3 million businesses in FY 2007 through direct compliance assistance or CACs.

Occupational Safety and Health Administration (OSHA)



◆ OSHA and all of the Department of Labor's enforcement agencies have contributed to the more than 25 online Employment Laws Assistance for Workers and Small Businesses, commonly referred to as "elaws Advisors." Five of these elaws Advisors were developed by OSHA. One of the most popular advisors with small businesses is the FirstStep Employment Law Advisor, which allows employers to research which major statutes apply to their businesses. In May 2008, the FirstStep Advisor was updated to include the recordkeeping, reporting, notice, and poster requirements for the major laws that DOL enforces.

◆ OSHA continues to be in the forefront in developing and making resources and tools available to help small employers provide a safe and healthful work environment. Some examples of OSHA's commitment to better serve the needs of the small business community include the Safety Pays eTool and the Spanish Language Safety Link. The Safety Pays eTool helps employers estimate the costs of occupational injuries and illnesses and the estimated impact on a company's profitability. The Spanish Language Safety Link contains useful Spanish language compliance assistance resources and tools developed by OSHA's State Consultation programs.

Department of Transportation (DOT)



◆ DOT provides hypertext links between rules and agency interpretations and is developing a list serve (<http://DocketsInfo.dot.gov>) that small businesses can join to keep updated on regulations and other issues of interest. The department is also developing a central website (<http://regs.dot.gov>) where small entities can view compliance guidance for all relevant regulations.

◆ The Federal Motor Carrier Safety Administration (FMCSA) has conducted more than 19,000 Compliance Reviews over the last two fiscal years, with less than half resulting in an enforcement case. Investigators provide a list of violations and inform companies if an enforcement action is likely. Small business carriers can take corrective measures before FMCSA initiates action, can submit financial information during an action to reduce the penalty, and can request a payment schedule rather than pay the penalty in one lump sum.

III

Small Business Speaks: Success Stories from Main Street

Figure III-1. SBA's Resource Links



The fundamental activity in fulfilling the Office of the National Ombudsman's (ONO) mission is extending a lifeline to small businesses experiencing unfair Federal compliance or regulatory enforcement actions. When an entrepreneur files a comment describing unfair practices, the ONO begins the process of seeking a resolution that leads to effective, not excessive regulation.

A regulatory body is focused on protecting consumers and the public good. It is often unaware that the cumulative effect of regulations promulgated by numerous agencies can strangle a small business. Entrepreneurs, on the other hand, focus their time and energy on growing their business, thereby growing their local economy. Limited resources are often unequal to the task of keeping up with all relevant regulations. Complying with a maze of rules can seem like an insurmountable burden that can threaten a company's economic well-being. A family physician testifying

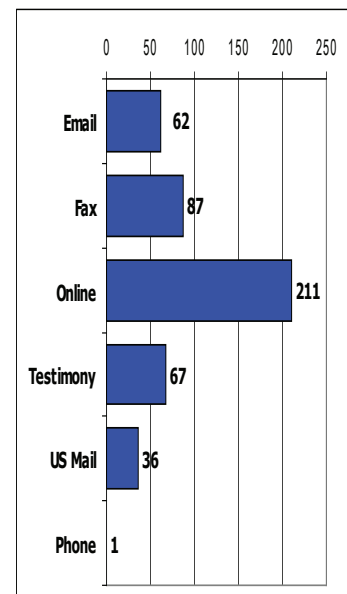
at a 2007 Regulatory Enforcement Fairness (RegFair) Hearing vividly described the small business viewpoint:

"I think that government, especially the government in Washington, has an obligation to make regulations that are compliable. There are thousands of pages of regulations that I, as a small businessman, am expected to comply with, for each and every organization of the government. There are thousands of pages of OSHA regulations. There are thousands of pages of EPA regulations. There are thousands of pages of Medicare evaluation and management regulations. I shouldn't be punished for non-compliance with the impossible, and I think every other small business feels the same way."

—New Jersey Family Physician

Chapter III presents stories of real-life compliance and regulatory challenges, often in company owners' own words taken from the comments that they

Figure III-2. How Comments Were Received



Assisting Cases That Fall Outside SBREFA

It is the National Ombudsman's goal to ensure that small businesses, small nonprofits, associations, and small government entities receive a response to the comments that they file with the ONO on enforcement fairness—as long as the compliance and regulatory issue is within the ONO's statutory authority. When a small entity seeks help with an issue not covered by the Small Business Regulatory Enforcement Fairness Act, the ONO steers the organization toward the appropriate Federal agency. The National Ombudsman has assisted thousands of businesses with their compliance and regulatory challenges, but the ONO and RegFair Board members cannot:

- ❑ *Serve as a small entity's attorney. The ONO does not legally represent the organization filing the comment.*
- ❑ *Guarantee a positive outcome.*
- ❑ *Overrule, stop, or delay a Federal action (such as halting an IRS audit). The agency is the only one that can change a regulation.*
- ❑ *Intervene for a small entity while it is suing a Federal agency.*
- ❑ *Handle harassment claims—these are forwarded to the appropriate Federal agencies.*

submitted to the ONO and their testimony at RegFair Hearings. The National Ombudsman, along with a dedicated RegFair Board, listens carefully to small business concerns, then conveys the issues to the relevant regulatory agency. The ONO increased its caseload by 150 cases in FY 2007, handling a record-breaking 500+ cases from small businesses.

Communication Is Key

The National Ombudsman and RegFair Board members place a high priority on informing entrepreneurs that the ONO stands ready to help address enforcement fairness concerns. The ONO encourages the same diligence from Federal agencies in opening direct channels of communication with their small business constituents (see Chapter IV).

The ONO provides multiple avenues through which small entities can submit their claims of unfair compliance and regulatory burdens (see Figure III-2). Online methods generated the most comments, followed by faxes, RegFair Hearing testimony, U.S. mail, and phone calls. Most cases in 2007 came from small businesses, followed by associations, individuals (most citing SBA disaster loan problems), non-profits, and small government (see Figure III-3).

The National Ombudsman's website (www.sba.gov/ombudsman - see Figure III-1) has proved the most popular avenue for filing compliance and regulatory fairness comments by simply

clicking on "How to File a Complaint or Comment."

The National Ombudsman refers all cases to the relevant Federal agency or other governmental entity (see sidebar: "Assisting Cases that Fall Outside SBREFA").

The National Ombudsman values comments from small businesses as a way to assist Federal agencies in carrying out their compliance and regulatory missions with fairness and balance. The ONO relies on these comments to evaluate compliance and regulatory fairness (see Chapter II), measure agency responsiveness to small business, provide feedback that will help agencies to understand enforcement concerns, and keep legislators apprised of progress through the ONO's annual report to Congress.

The small business cases presented in this chapter reflect some common themes and perceptions that run through comments and are at the heart of most compliance and regulatory dilemmas:

Confusing/Changing Regulations

– Small businesses often struggle to interpret compliance and regulatory complexities and keep up with new requirements.

Crossed Signals/Lack of

Communication – Busy entrepreneurs and Federal regulators inhabit separate worlds, and some miscommunication might be expected. The trouble arises when misperceptions or misplaced

messages impact the vitality of a small company.

Costly Agency Errors – Even minor mistakes in the compliance and regulatory enforcement process can produce a heavy financial or logistical burden for a small business.

Costly Compliance Conditions

- A rule that appears reasonable to

regulators can result in costly and frustrating hurdles for businesses with small staffs and limited financial resources.

Compliance and Regulatory Overkill

– Fines and inspections meant to foster good business behavior and protect the public can result in serious financial setbacks to a small business.

Feature III-1. Timber Roundtable

The ONO Hosts Timber Industry Roundtable
Small Business Seeks Fair Share of Federal Harvest

The National Ombudsman hosted a July 2007 Timber Industry Roundtable in Washington, DC, to encourage representatives from Federal agencies, Congress, companies, and trade associations to discuss the economic challenges currently facing small businesses. At a typical roundtable, agencies explain their regulatory responsibilities and compliance assistance programs, and business organizations present their enforcement concerns.



SBA's role in the timber industry made July's roundtable unique. The agency is responsible for collaborating with the Departments of Agriculture, Interior, and Defense to oversee the Small Business Timber Sale Set-Aside Program. Through memorandums of understanding, SBA's Office of Natural Resources works with these departments to ensure that small timber businesses with 500 or fewer employees have the opportunity to purchase a fair share of timber harvested from Federal land.

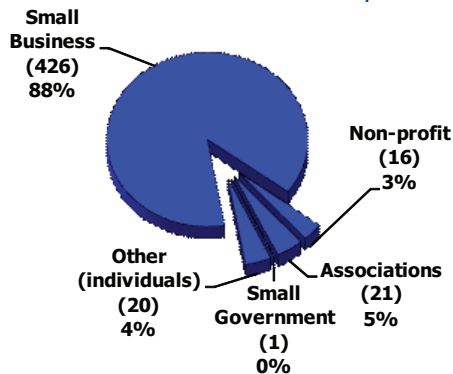
Tom Clarke, SBA's newly appointed National Timber Program Manager, presented an overview of the timber sale program followed by presentations from Federal agencies and comments from small business representatives on their most pressing concerns:

- ◆ *Avoiding timber sale set-asides that require helicopter logging, significant road building, and other activities that might preclude a small business from bidding.*
- ◆ *Maintaining the small business size standard for lumber manufacturing at 500 employees.*
- ◆ *Preventing large businesses from bidding up timber prices on open sales so that the appraisals for set-aside sales are higher than the actual value of the timber.*
- ◆ *Accurately tracking volume from set-aside sales to ensure proper crediting of timber volume to small and large businesses.*

According to industry consultant Al Kington, many small businesses have fallen on hard economic times, partly because of the lack of timber supply from Federal lands. Unlike large companies, small businesses do not have private timber lands whose harvest can smooth out production when Federal timber is not available. Kington concluded that small companies are dependent on timber from public lands and are therefore more affected by Federal timber regulations.

Confusing/Changing Regulations

Figure III-3. Breakdown of Who Filed Comments



Immigration regulation is a prime example of an area where rules confound and frustrate small businesses. Businesses maintain that they make an effort to correctly interpret requirements only to find themselves in non-compliance.

Particularly vexing has been the Department of Homeland Security's (DHS) "Safe-Harbor Procedures for Employers Who Receive a No-Match Letter" (8CFR Part 274a). The rule sets out the "safe harbor" procedures that a business must follow if it receives a "no-match" letter from the Social Security Administration (SSA). These letters alert businesses when the Social Security Number (SSN) on an employee's W-2 form does not match SSA records. If a business does not follow safe harbor procedures, DHS will presume that the company knowingly hired an undocumented alien.

Comment: DHS should focus its limited resources on "employers that have demonstrated a pattern of deliberately skirting the law," according to Craig Brightup, Vice President, Government Relations for the National Roofing Contractors Association. Speaking at the ONO's National RegFair Hearing in Washington, DC (see Chapter IV), Brightup asserted that SSA's

database is riddled with clerical errors that will generate "no-match" letters to innocent small businesses. These entrepreneurs can not afford the time required to research SSN discrepancies or the workforce disruption caused by dismissing employees based on faulty government data.

Regional RegFair Board members also focused on immigration when they gathered in Washington, DC, last September for their annual meeting. Sarah Wickham, former Regulatory and Legislative Counsel for Regional Affairs in SBA's Office of Advocacy stated that the Safe Harbor regulation "has been miscommunicated and misunderstood" and noted that a Federal district court in Northern California has blocked DHS and SSA from enforcing the rule pending resolution of legal issues. "Small business owners are trying to hire legal citizens, but they are not sure whether this attempt will insulate them from enforcement," said Wickham.

► **Outcome:** The October preliminary injunction preventing SSA from sending no-match letters was followed by a stay of the injunction in December. Although the government is appealing the ruling, DHS agreed to work on amending the Safe Harbor regulation in the meantime, including assessing its impact on small business by preparing a Regulatory Flexibility Analysis. The Office of Advocacy is working with DHS through the interagency process to assist the agency with preparing its analysis.

Comment: Regulatory compliance can be doubly confusing when rules vary from agency to agency. A small drug company that dispenses and compounds radioactive medications found itself labeled non-compliant when the Nuclear Regulatory Commission (NRC) failed to keep up with an SBA rule change. In 2003, SBA raised the revenue threshold for qualifying as a small business from \$5 million to \$6 million in order to keep up with inflation. The NRC neglected to make a similar adjustment to its own definition of a small business.

The drug company falls under NRC licensing rules because it uses radioactive substances. The company had qualified for the past 15 years as a small business eligible for an NRC licensing fee reduction. When NRC failed to update its revenue threshold, however, the company lost its small business status and saw a 600 percent jump in its annual licensing fee, from \$2,300 to more than \$11,000.

► **Outcome:** When the ONO presented the NRC with the entrepreneur’s comment, the agency responded that it “is currently proposing changes to its annual fee schedules and will be conducting a parallel rulemaking proceeding to make adjustments to its size standards to reflect the SBA’s actions. The NRC staff will coordinate this action with SBA.”

Crossed Signals/Lack of Communication

When accurate, complete information fails to flow between small companies and their regulators, serious consequences can be magnified for a business with slim profit margins and limited resources. The ONO strives to help reopen clear communication channels between agencies and their constituents.

Comment: Such was the case for a flashlight manufacturer that has been a long-term supplier to the Federal government of flashlights designed to military specifications. The company was informed by the Committee for Purchase from People Who are Blind or Severely Disabled that the military flashlights would be supplied from now on by another manufacturer.

The Committee is an independent Federal agency responsible for providing disabled Americans with job opportunities delivering products and services to the U.S. government. The Committee matches Federal agencies with nonprofit organizations that employ the disabled to fulfill government contracts. Once an item is on the Committee’s Procurement List (P/L), Federal agencies must begin to purchase that item from the organization designated by the Committee.

Before moving a product to its P/L, the Committee must first consider the impact on the current contractor.

If the economic impact is severe, the Committee may not add the product to its P/L. The Committee had determined that moving the flashlight contract from its current manufacturer would not severely impact the small business's total sales. In comments to the ONO, the company countered that it would have to close down its operation, leaving almost 100 workers without jobs in a rural community that is struggling to retain business.

► **Outcome:** After being contacted by the ONO, the Committee discovered that it had not properly evaluated one review criterion—whether the manufacturer's status as a long-term Federal supplier renders it more dependent on income from government sales. After receiving more information on this criterion, the Committee agreed with the small company that “the impact does appear likely to be severe” and that the flashlights are not candidates for addition to the P/L.

Comment: In some cases, a small business becomes frustrated with an agency's lack of response when the company is attempting to resolve an enforcement issue. One health supply company, for example, contacted the ONO after submitting eight claims to the Centers for Medicare and Medicaid Services (CMS) seeking reimbursement for several hundred thousand dollars' worth of medication for an acute hemophiliac. The company said that it could not coax a concrete answer from the CMS

contractor as to why the claims were not being paid.

► **Outcome:** The ONO intervention led to a CMS investigation and subsequent payment of the claims by the contractor.

Comment: A bank contacted the ONO when SBA terminated the institution's Preferred Lending Program (PLP) and SBA Express status even though the bank said that it was in full compliance with program requirements and SBA loan protocols.

► **Outcome:** In its letter of response to the ONO, SBA explained that its Office of Credit Risk Management received the bank's reconsideration request, which provided all the information necessary to approve the lender's PLP and SBA Express status.

Costly Agency Errors

Even with the best intentions and strongest quality control, agencies can make enforcement errors. The ONO seeks to raise regulators' awareness that a seemingly insignificant mistake such as misdelivered mail can sometimes have consequences for a small operation that are as damaging as a major contracting error.

Comment: A CMS mailing glitch jeopardized one small laboratory's viability, according to its comment filed with the ONO. CMS de-activated the company without notification, resulting in a negative cash flow. The agency provided no documents or reasons even

though laboratory staff contacted CMS personally.

► **Outcome:** CMS advised the ONO that the missed notifications were due to “address issues” because the laboratory occupied three connecting suites. CMS and the company worked together to compile all the data needed to validate the application and schedule a new site visit. CMS approved the application in September 2007.

Comment: A supplier contacted the National Ombudsman after competing for an Immigration and Customs Enforcement (ICE) Request for Proposals (RFP) for Dell computers and installation services nationwide. The RFP was a small business set-aside that required the winning supplier to already have Dell products on its General Services Administration (GSA) contract. The commenting supplier told the ONO that ICE awarded the contract to a company that does not qualify as a small business and does not have Dell products on its GSA contract.

► **Outcome:** ICE reviewed the procurement at the ONO’s urging and verified that the winner does not have Dell products on its GSA schedule. “ICE has begun steps to terminate its contract with Company X. We intend to recompute this requirement in the very near future and will ensure that the commenter is contacted and provided an opportunity to submit another offer for this equipment.”

Comment: Another contract award issue was raised by a commenter who had held a four-year contract to provide services to the Department of the Interior’s (DOI) GovWorks. DOI issued an RFP covering these same services, with the Technical Proposal and price being the main evaluation factors. The DOI contracting officer told the commenter that his company lost the award based on price. The small business pointed out that the contracting officer used to work for the winning company and had not properly evaluated the commenter’s superior Technical Proposal.

► **Outcome:** When informed of the issue by the ONO, DOI responded that “The GovWorks Federal Acquisition Center...has reversed the decision that was the subject of the commenter’s complaint and has reinstated the contract with the company.”

Costly Compliance

Compliance costs that large companies take in stride as the price of doing business may place a small firm in financial jeopardy. The National Ombudsman’s service in the compliance and regulatory arena sometimes extends beyond helping a single entrepreneur to changing the compliance and regulatory culture of enforcement.

Comment: One such example is the case of an importer who became entangled in two agencies’ regulations

“All too frequently, I hear from small business owners who, while already struggling under the ever-increasing burden of Federal regulations, find themselves the victim of an overly-zealous agent of the Federal government—someone who is more interested in making an example or maintaining an enforcement quota than ensuring that these small business owners understand what their obligations are under the law.

The problem, of course, is that we have created and maintained a system in which this is all too easy to do—a system in which an inspector hell-bent on finding some flaw within a business is almost always guaranteed to find that flaw.”

Andrew M. Langer, Senior Manager, Regulatory Policy, National Federation of Independent Business at March 2007 National Regulatory Fairness Hearing

due to cargo labeling problems. DHS’s Customs and Border Patrol (CBP) inspected two shipments and referred them to the Environmental Protection Agency (EPA). The labeling problems led EPA to judge the products as uncertified, assess a \$10,700 penalty, and order the destruction or export of the shipments. While working with EPA to bring the shipments into compliance, the importer requested permission from CBP to move the products from shipping containers to the company’s bonded warehouse to avoid excessive storage charges. CBP refused, and the importer incurred more than \$10,000 in storage fees.

► **Outcome:** EPA responded that it “does not have the resources to establish and manage areas within ports for importers’ use to correct their violations” and noted that such activity is forbidden in many areas due to homeland security concerns. EPA concluded that providing space for cargo remediation “is both extraordinary and not typically available.”

CBP, however, requested an EPA decision as soon as possible on whether the importer would be allowed to re-label the shipments. When EPA permits such a remediation, CBP has “built into our process a review to determine whether the importer will be allowed to move the cargo to its designated premises” and “potentially eliminate storage costs.”

CBP went beyond resolving this single case, explaining that “we are

now working with EPA to expedite procedures in the future. Once adopted, the new procedures should allow CBP to obtain a more timely EPA determination, and thus reduce the time of any cargo detention, which can accrue storage charges.”

Comment: A comment came to the ONO through the office of Sen. Trent Lott (R-MS) about a homeowner trying to work through disaster assistance problems. She received an \$85,500 SBA disaster assistance loan, then a \$30,315 Federal disaster assistance grant, which she applied against the SBA loan. As a single mother still paying on her original pre-disaster mortgage, she requested that SBA reduce her disaster loan payments, but the agency replied that it could not do so.

► **Outcome:** The ONO contacted the Birmingham Disaster Home Loan Servicing Center, which reduced the homeowner’s payments to the lowest amount allowed by law.

Compliance and Regulatory Overkill

When regulators flex their enforcement muscle, they may fail to realize that the same provisions and penalties needed to keep large companies in check can prove unnecessarily harsh for a small business.

Comment: A case in point is a small importer who contacted the ONO after CBP insisted on inspecting every one of the company’s 150 shipping

containers filled with titanium dioxide, “a non-hazardous chemical,” according to the company’s President/CEO. She noted that although CBP does not charge for inspections, the companies assisting the agency have greatly increased their fees. In the past, her company had been ordered to pay \$6,000 for a 12-container inspection, plus \$100 per container per day due to excessive inspection time delays. The entrepreneur concluded that these “overwhelming” costs cannot be recovered in sales prices.

► **Outcome:** The President/CEO wrote the National Ombudsman a letter of thanks, declaring that, “I am very pleased to advise you that last week our shipment into the port of Norfolk, VA, was released without government hold. Today we have received one container at [the Newark] port also without a request for an exam. We trust that after a thorough analysis of our situation, CBP has reached a different determination and we thank them for doing so.”

Comment: Even when business owners attempt to “do the right thing,” they can find themselves facing stiff penalties that seem out of proportion to a small company’s operations. One such entrepreneur submitted a voluntary self-disclosure letter to the Department of Commerce’s Bureau of Industry and Security (BIS), reporting that his company unintentionally made 37 unlicensed shipments of valves to its foreign distributors.

After reviewing the letter, BIS advised the company that only 13 of the 37 reported unlicensed shipments were subject to export violations. Although the dollar value of these unlicensed shipments totaled only \$9,288.95, BIS issued a monetary penalty of \$143,000. The agency agreed to suspend a portion of the fine, reducing it to \$65,000—still almost seven times the value of the shipments—and setting up a payment plan.

► **Outcome:** The small company owner contacted ONO, explaining that even the reduced penalty would cause his business to continue losing domestic and international sales opportunities, to become less competitive in the marketplace, and to cease creating permanent, full-time manufacturing jobs in the state of New Jersey. After being contacted by ONO, BIS assured the Ombudsman that the company’s counterproposal will receive appropriate consideration. Further negotiations resulted in the company signing a settlement and agreeing to pay \$55,000 in installments to BIS.

Comment: A Medicare supplier that had been enrolled in the program for more than 15 years had its Supplier Billing Number inactivated even though the small company had responded to all requests by CMS for additional information. The provider not only had to resubmit all previous data in order to be re-activated but had to respond to multiple requests for the same information. Despite the company’s prompt answers, its

application was still pending, with CMS expecting the provider to continue to see patients even though it could not bill Medicare and be paid.

► **Outcome:** After the ONO presented the small business's case,

CMS determined that the company met the requirements to be a Medicare supplier. The agency has approved the company's enrollment application and reinstated the Supplier Billing Number retroactive to when CMS de-activated it.

IV

RegFair Boards and Beyond: Innovation Boosts Outreach

The stronger the Office of the National Ombudsman's (ONO) connection to the business communities served, the more successful the ONO's mission will be. Innovations instituted by the National Ombudsman in 2007 have strengthened traditional ties to America's entrepreneurs by providing even more effective outreach. Chapter IV presents the ONO's efforts to get the word out that small business owners have an ally to turn to when overwhelmed by excessive or unfair regulation.

The 10 Regional Regulatory Enforcement Fairness (RegFair) Boards extend the reach of the National Ombudsman to small business communities across the nation. Members serve as the ONO's eyes and ears in local communities and make contact with entrepreneurs where they live and work.

The ONO's other partners in the Federal government and business community make invaluable contributions as well:

- The ONO collaborates with other SBA resource partners to enhance its mission of seeking compliance and regulatory enforcement fairness for small businesses.

- The ONO teams with national trade groups whose members have enforcement issues.

- The ONO continues to successfully encourage Federal agencies to recognize and take steps that lift the burden on small entities struggling with compliance.

Networking on Main Street

Since the RegFair Board members are business owners themselves, they empathize with their peers and encourage entrepreneurs to speak out about unfair compliance and regulatory actions without fear of retaliation. As part of their duties, the National Ombudsman and RegFair Boards host two types of forums:

Hearings are town hall-type open forums focused on collecting comments and hearing testimony from individual entrepreneurs (see Table IV-1 and Figure IV-1). Federal agency representatives are invited to attend hearings to keep abreast of small business regulatory issues.

Roundtables bring together the small business community and business and trade associations for an information exchange. Agencies explain their

Table IV-1. 2007 RegFair Hearings

2007 RegFair Hearings/ Roundtables

Nashville, TN

New York, NY

Atlanta, GA

Oklahoma City, OK

Cary, NC

Washington, DC

Philadelphia, PA

Providence, RI

Los Angeles, CA

Monmouth Junction, NJ

Milwaukee, WI

Honolulu, HI

Portland, ME

Billings, MT

Boise, ID

Des Moines, IA

“We need to go from an, ‘I got you’ mindset to a ‘help you’ mindset, and that’s what we’re trying to do with this Regulatory Fairness Board. It’s great to know that there are good people... who are fighting for small business owners and seeing what solutions we can find without retaliatory action of any kind.”

Grant Humphreys, RegFair Board Chairman Region VI, Oklahoma City, OK

“Even after a decade of existence, [the ONO] is still not readily recognized among the small business community at large and requires continued marketing and outreach efforts in order to gain visibility and remain relevant. Trade associations could anticipate this platform and be more proactive throughout the year in soliciting inquiries from their membership for the ONO on agency abuses.”

Giovanni Coratolo, Executive Director of the U.S. Chamber of Commerce Council on Small Business advocating for an annual National RegFair Hearing

regulatory and compliance assistance programs. Business representatives discuss enforcement concerns and the impact of government rules from a small company’s point of view. The National Ombudsman hosted a July 2007 Timber Industry Roundtable in Washington, DC, with a focus on regulations that assure small businesses their fair share of the timber harvest

from Federal lands (see Feature III-1).

RegFair Boards also monitor the Federal agency enforcement issues that arise in their region and use their network of business contacts and affiliations with trade associations to spread the word that entrepreneurs need not struggle alone with compliance and regulatory challenges.

Feature IV-1. RegFair Goes National



Small Business Reps Speak Out at First National RegFair Hearing

On March 16, 2007, leaders of national associations and organizations expressed the concerns of their small business membership, as the ONO hosted the first-ever

National Regulatory Enforcement Fairness (RegFair) Hearing in Washington, DC. Representatives of manufacturing and service industries that have a substantial small business membership spotlighted their compliance and regulatory challenges and offered some solutions:

Section 608 of the Clean Air Act under which the Environmental Protection Agency (EPA) regulates ozone-depleting compounds – “Either enforce Section 608 or rescind the provisions completely. The vast majority of contractors abide by the regulations despite great administrative costs. However, there are unscrupulous contractors who choose to ignore these regulations and are rarely punished.” ***Richard Dean, immediate Past Chairman, Air Conditioning Contractors of America***



Davis-Bacon Act, which requires contractors to pay the “prevailing wage rate” for each job classification – “Although this may sound simple, in reality it is quite difficult because of the government’s failure to make this information clear and readily available. Although the Department of Labor (DOL) publishes wage determinations on its website, more often than not, the determinations are out of date.” ***Angela Lee, Government Affairs Policy Manager, Associated Builders and Contractors***

Bank Secrecy Act (BSA) – *“The burdens associated with the BSA have grown significantly in recent years. This includes the new customer identification requirements under the USA Patriot Act, the increase of compliance and regulatory oversight of BSA, and the increased pressure of filing Suspicious Activity Reports for possible terrorist or money laundering activities. These regulations are having a particularly detrimental impact on small and mid-sized credit unions who cannot afford mounting compliance costs.”* **Mary Mitchell Dunn, Senior Vice President and Deputy General Counsel, Credit Union National Association**

SBA Loans – *SBA is primarily a guarantor of loans made by private and other institutions. “The length of time it takes for an approval of an SBA-backed loan has significantly increased in recent years and, when coupled with the required paperwork, has become an overly burdensome undertaking for the individual entrepreneur. The SBA should be able to speed up its loan approval process to the point where start-up business opportunities have not come and gone.”* **Robert Fukuhara, Jr., President, National Society of Accountants**

SBA Small Business Thresholds – *“For propane marketers, the threshold is \$6.5 million total receipts per year. However, fuel oil dealers with whom we compete enjoy a threshold of \$11.5 million per year. A fuel oil dealer can be 70 percent larger than a propane company and still be considered a small business. SBA should remedy this situation by increasing the propane small business threshold to \$11.5 million.”* **Phil Squair, Senior Vice President for Public and Governmental Affairs, National Propane Gas Association**

EPA Storm Water Permit Enforcement – *“[Homebuilders] have met with EPA many times and have expressed concern with inconsistent compliance and regulatory programs under which Federal, state, and local rules conflict; inconsistent enforcement with varying levels of site inspections; and one-size-fits-all rules that ignore variations in local topography and conditions.”* **National Association of Homebuilders**

Family and Medical Leave Act – *“The problem is that since leave has become a ‘right’ enforceable under Federal law, and since that leave has been made so available by loose and vague DOL interpretations, manufacturers have simply lost control of personnel scheduling.”* **National Association of Manufacturers**

Pharmaceutical Drug Marketing Act – *“Small companies are, in effect, blocked from achieving Authorized Distributor status. The result is extinction of the small distributors that are unable to acquire pharmaceuticals directly from the manufacturer.”* **Karen Moody, President, National Coalition of Pharmaceutical Distributors**

Figure IV-1. 2007 RegFair Hearing Locations

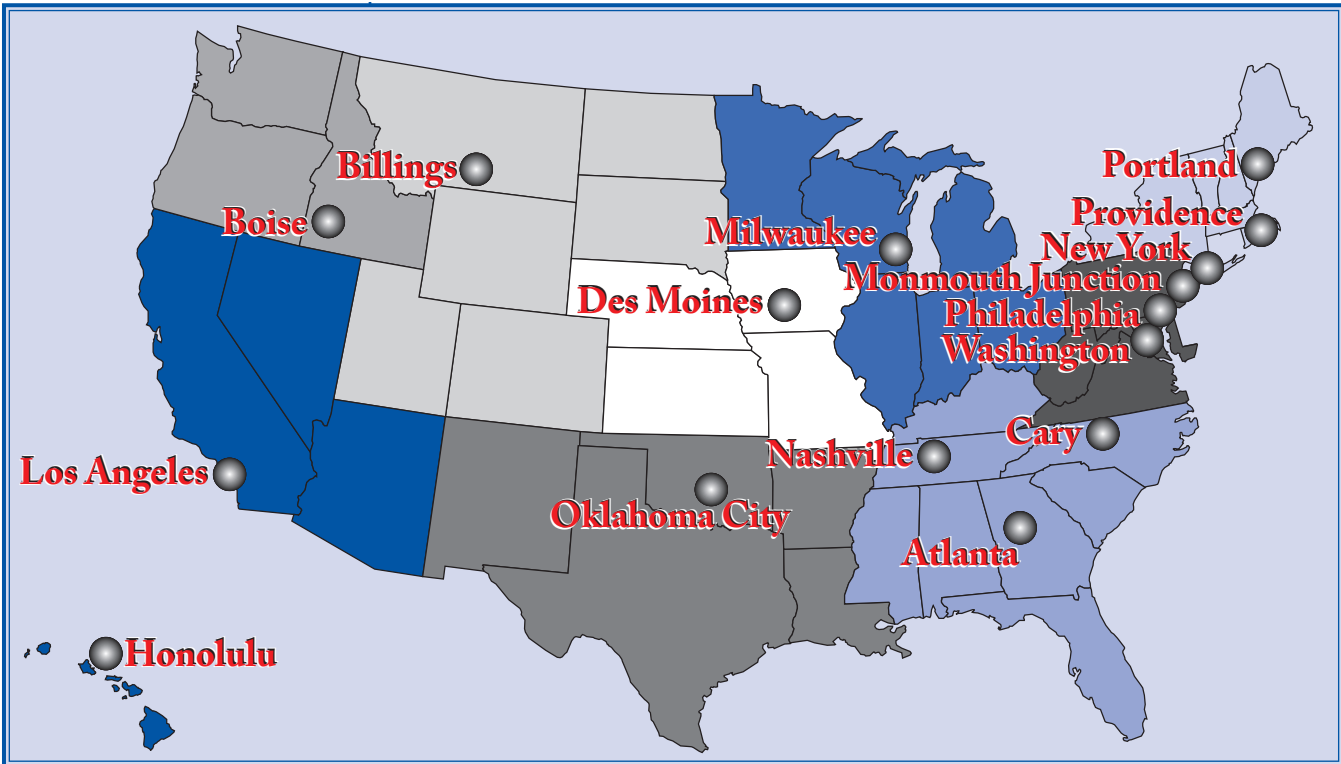


Table IV-2. ONO Media Efforts Outlet Circulation

ONO Event	Radio /TV	Print
Nashville, TN		6,180 Weekly
Atlanta, GA		5,000 Quarterly
Oklahoma City, OK		392,622 Daily
Cary, NC	962,540	4,200 Weekly
Salt Lake City, UT	769,230	64,205 Daily / Weekly
Phoenix, AZ		14,251 Weekly
Los Angeles, CA		815,723 Daily
Monmouth Junction, NJ		199,723 Daily
Honolulu, HI		107,495 Daily
Bangor, ME		65,374 Daily
Seattle, WA		145,344 Daily / Weekly
Boise, ID		22,906 Daily
Tampa, FL		7,445 Weekly

Because RegFair Board members are community leaders and newsmakers, they can attract media attention both before and after hearings to publicize the ONO's mission and the various ways that it can assist small companies (see Table IV-2). In Region X, for example, RegFair Board Chairman Larry Pettingill and National Ombudsman Owens were interviewed for a feature article in the Baker City Herald (www.bakercityherald.com) after a meeting with the Eastern Oregon Mining Association.

Pettingill underscored the challenge that small businesses face by noting that about 10 percent of the nation's 2.7 million Federal workers spend their time writing regulations that affect small business.

“Sometimes it’s hard for an individual to navigate the Federal bureaucracy. As a small business owner, you don’t have lobbyists and teams of accountants to help you. We’re your troubleshooter.”

— National Ombudsman Nicholas Owens during a town hall meeting in Baker City, OR

From contacting Congressional small business liaisons to briefing local elected officials, Board members have discovered that alerting government representatives to small business problems is a wise strategy. Rep. Mary Fallin (R-OK), a member of the

House Small Business Committee, emphasized the valuable role that the RegFair Board plays at a 2007 hearing:

“As business owners, you’re the ones out there everyday dealing with the laws and regulations of the government. No one knows best but you how government can either help you or hurt you. And that’s why this hearing is so important today. It is for us to listen to you and to see what we can do to make Oklahoma’s business environment friendlier to you. How many times have you thought, ‘Man, if I could just tell them what this regulation really does to my business.’ We want to know.”

— Rep. Mary Fallin (R-OK), House Small Business Committee, at the Region VI RegFair Hearing, Oklahoma City

During a 2007 hearing, Region X Board member Daniel Picora explained why RegFair Board members take such a personal interest in the plight of entrepreneurs: they’ve been there themselves more than once. In reaching out to the small business community, Picora declared that he’s seen it all—from surprise inspections to liquor license disputes. He told the *Seattle Post-Intelligencer*, “I’ve been through the mill and I’ve come out on top a number of times and I kind of enjoy it.”

Federal Partners Extend the ONO Outreach

The ONO is an important component in the SBA's mission to serve small business and so are Federal agency partners that support the National Ombudsman in working toward enforcement fairness.

- SBA District and Regional field offices support RegFair Board members in publicizing hearings and serving as liaisons to small business owners. Field office staff are often those listed as points of contact for hearings, roundtables, and other ONO events.

- SBA Office of Advocacy is the ONO's counterpart during the creation of Federal rules. While the ONO is responsible for enforcement fairness issues after a regulation is final, Advocacy presents the small business viewpoint while legislation and regulations are being developed. The ONO often receives requests from small companies for support during rulemaking and the National Ombudsman is pleased to refer these requests. Advocacy also develops programs such as the State Regulatory Flexibility Initiative, a piece of model legislation similar to SBREFA to which state lawmakers can refer when writing their own laws. To date, 22 states have adopted enforcement fairness laws.

- Small Business Development Centers and SCORE serve as rich

resources when small companies make requests for start-up advice that is not within the ONO's jurisdiction.

These SBA resource partners can help entrepreneurs set the stage for success.

Trade Group Alliances Amplify ONO Message

When the ONO and RegFair Board members team with business and trade associations, the ONO strengthens its credibility and broadens its message within the small business community. These groups continued to support the ONO's mission in 2007 by speaking on behalf of their members, providing feedback on compliance and regulatory enforcement issues, and making it possible for the ONO to assist more small businesses.

The U.S. Chamber of Commerce, for example, uses information from the ONO to create email blasts sent to its small business membership database, announcing each upcoming RegFair Hearing and encouraging company owners' participation. Groups ranging from the Independent Business Association of Wisconsin to the World Association of Detectives publicize the ONO's mission and events and encourage members to speak out about enforcement fairness problems.

Organizations that promoted RegFair Hearings in FY 2007 represented more than 2 million members of the business community (see Appendix: Organizational Outreach).

Agency Outreach Fosters Fair Enforcement

The more knowledgeable a small business is about its compliance and regulatory obligations and the more comfortable it feels about seeking help, the better the chances of heading off compliance difficulties before they develop. The ONO's ultimate partners in regulatory fairness are those Federal agencies that rely on compliance assistance education as well as enforcement to protect the public good. Their compliance efforts promote an effective, not excessive regulatory environment:

EPA often deals with pollution problems generated by industries that are made up primarily of small businesses. In these cases, the agency has found that preemptive compliance outreach coupled with enforcement is an effective approach:

- EPA's New York Regional Office discovered that a significant number of funeral homes in the state were discharging liquid wastes (blood-borne impurities, formaldehyde, phenol, and assorted biological materials) using shallow disposal methods, such as septic systems and cesspools that allow waste to seep above ground or into underground sources of drinking water. Working extensively with the New York State Funeral Directors Association, EPA launched an outreach program to teach funeral home

operators about their responsibilities under the Safe Drinking Water Act. As a result, almost every facility in the state has voluntarily stopped using on-site disposal systems for embalming fluid and is cleaning up remaining contamination.

- Compliance inspections in the Northwest revealed that many operators of scrap metal salvage yards, processors, and smelters did not realize that their activities could result in exposing employees and the surrounding community to polychlorinated biphenyls (PCBs). EPA's Northwest regional office sent letters and information brochures to 246 scrap metal facilities in FY 2007 and launched a website with regulatory, scientific, and compliance information.

- Because EPA authorizes states to implement many of its Federal compliance and regulatory programs, the Federal agency sponsors a national conference to educate state compliance officers. The agency trained more than 100 state small business assistance providers at the 2007 conference, with an emphasis on using outcome-based measures to improve program performance. Training at the 2008 conference will focus on providing compliance assistance to small businesses regarding specific environmental laws.

Innovation and technology can go "hand in hand" to help agencies reach the maximum number of small businesses:

■ **The Internal Revenue Service** (IRS) has begun offering Small Business Phone Forums as a way to customize compliance education on key topics with a personal touch that avoids requiring busy, resource-strapped entrepreneurs to travel. Phone forums are free of charge and can be held at the local or national level. Entrepreneurs can find information about the forums and other IRS Small Business/Self Employed outreach events on the IRS website, www.irs.gov.

■ Recognizing that its agencies enforce laws that can seriously affect all businesses—including small entities—**DOL** has launched a compliance access portal (www.dol.gov/compliance) leading to its agencies' many resources and tools. Businesses can search for information by topic, audience, and law and ask questions via email. The site averages 65,000 visitors a month.

While technology-based solutions have broadened agencies' outreach,

a personal understanding of small businesses and their place in their communities has also led to effective enforcement:

The **Department of Justice's** (DOJ) Community-Oriented Policing and Problem Solving Program trains all enforcement agents and officers in community policing philosophies and problem-oriented policing strategies. A select group of enforcement officers lead proactive compliance efforts in each region that include workshops, town hall meetings, and temporary helplines.

The DOJ's **Drug Enforcement Administration** (DEA) hosts and attends compliance sessions at conferences and meetings throughout the United States. DEA also sends its Diversion Headquarters personnel to give presentations to healthcare students at colleges and universities and even to individual businesses upon request.

V

Looking Ahead: Innovating to Serve Small Business

Fresh approaches to promoting fair and effective Federal regulation made 2007 a year of innovation for the Office of the National Ombudsman (ONO). The ONO opened new lines of communication and assisted a record number of small entities struggling with excessive Federal enforcement. The ONO doubled the number of business and trade association members with access to our message that the National Ombudsman stands ready to help when companies are overwhelmed by unfair fines and penalties.

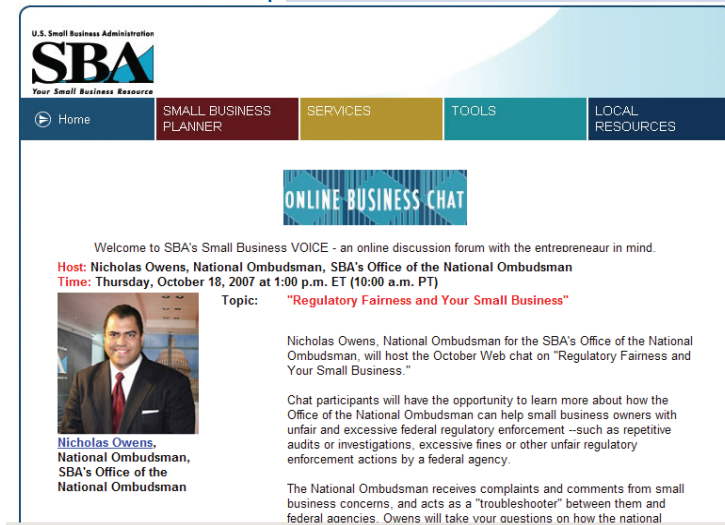
A top ONO priority for the future is building on these innovations and seeking more opportunities to assist small businesses in coping with enforcement difficulties:

- ❖ The ONO intends to make the National Regulatory Enforcement Fairness (RegFair) Hearing a permanent event. The success of the first National Hearing (see Feature IV-1) demonstrated that the ONO, small business constituents, and regulators have much to gain from understanding nationwide trends in Federal enforcement issues.
- ❖ Recognizing that the strength of its outreach lies in its Regional Hearings and Roundtables, the ONO plans to continue working in each region to make all small business owners aware of their right to meet with the National Ombudsman to discuss enforcement issues.
- ❖ The ONO looks forward to more online chats featuring the National Ombudsman (see Figure V-1). The ONO has discovered that the chat format is an effective way to reach out directly to small company owners who have questions about building their businesses and proactively handling potential compliance and regulatory challenges.
- ❖ The National Ombudsman is taking a cue from small business owners around the nation after hearing their frustration expressed at RegFair Hearings and Roundtables about excessive compliance and regulatory enforcement at the state and local level. Although authorized to review Federal enforcement only, the ONO can lead the way nationally by developing a tutorial called “Small Business Ombudsman Model for State and Local Governments.” When complete, this tutorial will assist officials by explaining how they can establish and provide an ombudsman service for small businesses in their own state and local governments.

Figure V-1. ONO Online Chat

The National Ombudsman Asks: Can We Chat?

Recognizing the ever-growing power of the Internet as a medium of exchange, National Ombudsman Nicholas Owens hosted the web chat “Regulatory Fairness and Your Small Business.” The chat was broadcast on SBA’s “Small Business VOICE – an online discussion forum with the entrepreneur in mind.”



Owens took the opportunity to educate entrepreneurs about the assistance that the ONO can offer. In the spirit of never turning away a small business owner’s question, Owens also steered participants to other resources when their questions were outside SBREFA. He informed business people about their own state RegFair Boards, local banks and credit unions, chambers of commerce, the Export-Import Bank, and SBA’s wide array of other resources.

“This has been a great opportunity to answer as many questions as possible,” Owens concluded, reminding participants one more time of how to contact the ONO regarding unfair or excessive Federal rules.

Figure V-2. ONO Goes Global

Reaching Out...Around the World

News coverage of the ONO’s first-ever National RegFair Hearing helped redefine the scope of the National Ombudsman’s outreach—in this case broadening it worldwide. RTVi (Russian Television International), a Russian-language TV network, covered the March 2007 event in Washington, DC, and conducted an interview with National Ombudsman Nicholas Owens as part of a story on America’s commerce. The network has studios based in Moscow, New York, and Tel-Aviv, and bureaus in Washington, Berlin, and Kiev, and broadcasts by satellite and cable to Europe, North America, Israel, and former Soviet Republic countries.



Conclusion

Small business is the engine that drives America's economy—a fact that is so firmly a part of the nation's consciousness that it has almost become a cliché. In 2007—even as the mortgage debacle and resulting soft housing market upended stock markets worldwide—research from SBA's Office of Advocacy indicated that small company output rose, business income and profits were up, and unemployment was down.

Despite the consistently strong contributions by small business to American prosperity, the ONO hears every year from entrepreneurs who are crippled by excessive compliance and regulatory enforcement, and unfair fines and penalties assessed upon them by the Federal government. Unfortunately, because of their lack of resources and fear of challenging compliance and regulatory decisions, small businesses all too often fall short of being adequately represented or

avoiding unjust enforcement actions against them. According to the Office of Advocacy, on an annual basis:

- Companies that employ fewer than 20 people pay \$3,296 per employee to comply with environmental regulations, while firms with 500 or more employees pay \$710.
- Small businesses pay \$1,304 per employee to comply with tax regulations. Their big business counterparts pay \$780.
- Small businesses pay \$920 per employee to comply with workplace rules; large corporations pay \$841.

These imbalances do not have to continue. The ONO is determined to increase understanding among entrepreneurs and regulators alike that fair, effective regulation is a win-win situation. Going forward, the National Ombudsman will continue to grow the base of small businesses and to strengthen the relationship between the small business community and the government that serves them.

Appendix: Media Outreach

Event	Location	Date	Radio/TV Interviews		Print Media Articles	Internet
			Name	Circulation	Circulation	
Eastern Mining Association Meeting	Baker City, OR	01-05-07			<i>Baker City Herald</i> ran an article promoting the Office of the National Ombudsman.	3,187 daily
Hearing	Nashville, TN	01-17-07			<i>The Nashville Business Journal</i> mentions the hearing in an article published on January 29, 2007, to highlight the proposed Tennessee Regulatory Flexibility Act of 2007.	6,180 weekly
Hearing	Atlanta, GA	02-22-07			<i>BIZ Georgia Business Directory & Business News</i> ran an article to promote the hearing.	5,000 quarterly
Hearing	Oklahoma City, OK	02-23-07			<p><i>The State Chamber</i> (Oklahoma City, OK) promoted the hearing in its February 9, 2007, newsletter.</p> <p><i>Tulsa World</i> published an article on February 11, 2007, to promote the hearing.</p> <p>The Edmond Area Chamber of Commerce published an article to promote the hearing in its February 14, 2007 <i>Chamber Voice Newsletter</i>.</p> <p><i>The Daily Oklahoman</i> published an article on February 23, 2007, to promote the hearing.</p> <p><i>The Daily Oklahoman</i> published an article on February 27, 2007, featuring Nicholas Owens and the Office of the National Ombudsman and promoting the hearing.</p>	170,000 daily
						222,622 daily

Event	Location	Date	Radio/TV Interviews		Print Media Articles		Internet
			Name	Circulation	Name	Circulation	
Hearing	Cary, NC	03-14-07	Bea Thompson of WBAV Radio (101.9 FM) interviewed National Ombudsman Nicholas Owens on March 12, 2007, to promote the hearing.	962,540	The <i>Clay County Progress</i> (Hayesville, NC) published an article on February 22, 2007, to promote the hearing.	4,200 weekly	Carolina Business Connection promoted the hearing through its website www.claycountyprogress.com
Roundtable	Salt Lake City, UT	04-05-07	Ann Johnson of KPCW radio (Park City, UT) interviewed National Ombudsman Nicholas Owens on April 3, 2007, to promote the roundtable.	769,230	<i>Deseret Morning News</i> published an article on April 4, 2007, promoting the roundtable. <i>Wasatch Front Focus</i> , a supplement to <i>The Enterprise</i> (Salt Lake City, UT), published an article in April 2007 about the roundtable.	63,505 daily 700 weekly	
Hearing	Providence, RI	05-01-07			Blackstone Chamber of Commerce promoted the hearing in the April / May edition of the <i>Valley Chamber Review</i> .		
Roundtable	Phoenix, AZ	06-13-07			The <i>Phoenix Business Journal</i> published an article to promote the roundtable.	14,251 weekly	
Hearing	Los Angeles, CA	06-14-07			The <i>Glendale News Press</i> (Glendale, CA) published an article on June 14, 2007, to recap the hearing.	20,149 daily	
Hearing	Monmouth Junction, NJ	06-28-07			The <i>Asbury Park Press</i> (Neptune, NJ) published an article on June 6, 2007, to promote the hearing. The <i>New Jersey Entrepreneur</i> published an article to promote the hearing. SBA's Office of Field Operations included a photo and caption of the hearing in its July 30, 2007, newsletter.	199,723 daily	Packet Online published an article on June 21, 2007, to promote the hearing.

Event	Location	Date	Radio/TV Interviews		Print Media Articles		Internet
			Name	Circulation	Name	Circulation	
Hearing	Milwaukee, WI	07-10-07	The Independent Business Association of Wisconsin promoted the hearing on its website's calendar of events. www.ibaw.com		The Wisconsin Department of Commerce promoted the hearing in its newsletter. The SBA Wisconsin District Office promoted the hearing in its June 2007 newsletter.		The Independent Business Association of Wisconsin promoted the hearing on its website's calendar of events. www.ibaw.com The State Bar of Wisconsin promoted the hearing on its website. www.wisbar.org
Roundtable	Grand Rapids, MI	07-11-07			The Grand Rapids Chamber of Commerce included an article in its July 2007 newsletter to promote the roundtable.		MiBiz.com published an article on June 26, 2007, to promote the roundtable.
Hearing / National Association of Federal Credit Unions event / State Chamber of Commerce event	Honolulu, HI	07-19-07			The <i>Honolulu Advertiser</i> published an article on July 4, 2007, to promote the hearing. The <i>Honolulu Advertiser</i> published an article on July 12, 2007, to promote the hearing. The <i>Honolulu Advisor</i> published an article on July 20, 2007, to recap the hearing.	107,495 daily	

Event	Location	Date	Radio/TV Interviews		Print Media Articles		Internet
			Name	Circulation	Name	Circulation	
Hearing	Portland, ME	08-16-07			The <i>Bangor Daily News</i> published an article on August 1, 2007, to promote the hearing.	65,374 daily	The National Federation of Independent Business promoted the hearing on its website. www.nfib.com
Roundtable	Seattle, WA	08-20-07			The <i>Puget Sound Business Journal</i> published an article on August 17, 2007, to promote the roundtable. The <i>Seattle Post-Intelligencer</i> published an article on August 20, 2007, to recap the roundtable.	17,332 weekly 128,012 daily	The National Federation of Independent Business promoted the roundtable on its website. www.nfib.com
Hearing	Billings, MT	08-21-07			The SBA Montana District Office published an article in its October 2007 newsletter to recap the hearing.		Montana Associated Technology Roundtables promoted the hearing on its website. www.matr.net
Hearing	Boise, ID	08-23-07			<i>Times-News</i> (Twin Falls, ID) published an article on July 31, 2007, to promote the hearing.	22,906 daily	The National Federation of Independent Business promoted the hearing on its website. www.nfib.com
Roundtable	Tampa, FL	09-21-07			The <i>Tampa Bay Business Journal</i> published an article on September 17, 2007, to promote the roundtable.	7,445 weekly	

Date	Radio/Television Interviews		Print Media Articles		Internet Articles	Purpose of Media
	Name	Circulation	Name	Circulation		
12-19-06				307,238 daily	<i>The Sacramento Bee</i> www.sacbee.com	Announced agency ratings in the National Ombudsman's 2005 Report to Congress.
12-21-06					National Association of Federal Credit Unions (NCUA) www.nafcunet.org	Highlighted NCUA's grade in the National Ombudsman's 2005 Report to Congress and followed up on September 2006 hearing in Sacramento, CA.
12-19-07	New Media Broadcasters (Havre, MT)					Interviewed National Ombudsman Nicholas Owens. The interview focused on the services of the National Ombudsman for Montana's small businesses.
	• KRYK					
	• KOJM					
	• KPQX					
01-04-07			<i>Santa Maria Sun</i> (Santa Barbara County, CA)	20,000 weekly		Published an article announcing the release of the 2005 Ombudsman Annual Report to Congress.
01-24-07			<i>Los Angeles Times</i>	815,723 daily		Announced availability of the National Ombudsman's 2005 Annual Report to Congress and promoted the June 2007 hearing in Los Angeles, CA.
03-15-07					U.S. Small Business Administration www.sba.gov	National Ombudsman Nicholas Owens participated in a web chat with small business owners.
03-21-07					Associated Builders and Contractors (ABC) www.abc.org	ABC published an article on its website recapping its participation at the Office of the National Ombudsman's National Hearing in Washington, DC.

Date	Radio/Television Interviews		Print Media Articles		Internet Articles	Purpose of Media
	Name	Circulation	Name	Circulation		
03-21-07			Zions Business Resource Center			The Zions Business Resource Center promoted the roundtable in Salt Lake City, UT in the Calendar of Events section of its weekly email newsletter on March 21, 2007.
January – March 2007			The World Association of Detectives, Inc.			Published an article about Kimberly King, former Board Chair, Region IX.
May 31, 2007			<i>Market Watch</i> from Dow Jones www.marketwatch.com			<i>Market Watch</i> from Dow Jones published an article on drug wholesalers. The article included a quote from National Ombudsman Nicholas Owens.

Other:

Press release prepared by the National Credit Union Administration to recap NCUA Vice Chairman Rodney Hood's meeting with Karl Yoneshige, President and CEO of HawaiiUSA Federal Credit Union, and Nicholas Owens, National Ombudsman.

The National Federation of Independent Business issued a press release highlighting Joe Balsarotti, NFIB member and SBA Regional Regulatory Fairness Board member for Region VII. Balsarotti and one of his employees attended the 2007 State of the Union Address as guests of First Lady Laura Bush.

The SBA issued a news release on March 7, 2007, to promote the ONO National Hearing (March 16, 2007).

Appendix: Organization Outreach

Nashville, TN	
Nashville Area Chamber of Commerce	National Federation of Independent Business
New York, NY	
Chambers of Commerce	NYC Department of Small Business Services
Small Business Development Center	Printing & Imaging Association of NY
Brooklyn Chamber of Commerce	Greater NY Chamber of Commerce
Atlanta, GA	
Women's Economic Development Agency – SBA Partner	SCORE
MARTA	Georgia Small Business Environmental Assistance program
Oklahoma City, OK	
Chambers of Commerce	Oklahoma Trade Associations
Oklahoma Bar Association	Oklahoma HUBZone/SDB/8(a) companies
Oklahoma Small Business Development	Centers/SCORE
Cary, NC	
NC Department of Commerce	City of Cary
Washington, DC	
Russian Television International	Daily Tax Report
Philadelphia, PA	
PA Chamber of Business & Industry	
Providence, RI	
RI Department of Environmental Management	RI Economic Development Corporation
RI Office of Lieutenant Governor	RI Office of Secretary of State
Los Angeles, CA	
21st Century Business Seminars	African American Business Association
Alameda Corridor Business Outreach Program	Alfaro & Alfaro
Allectus LLC	American Dental Hygienists Association
American Legion	American Society of Women Accountants
Asian American Economic Development Enterprises	Asian Business Association
Asian Business League of Southern CA	Asian Pacific Islander Small Business Program
Asset Foreclosure Services, Inc.	Athens Westmont Business Center Community Dev. Commission
County of Los Angeles	Atrio Group
AT&T California	Auditable Business Solutions
Azusa Pacific University	Barrio Planners, Inc. dba East LA Minority
Business Development Center	Bell Gardens Association of Merchants & Commerce
BlueCross of California	BRJ & Associates
Brother Business Development & Capital Fund	Brotherhood Crusade

Los Angeles, CA (cont'd)

Buchanan & Associates	Business & Investment Consulting International
Business Life	Business Network
Business Partners	California Community Economic Development Association
California Economic Development Lending Initiative	California Native American Business Development Center
California State Board of Equalization	California Women Lawyers of Los Angeles
CEDLI	Center for International Trade Development (Oxnard College)
Center for Organization and Goal Planning	Central City South Business to Business Networking Mixers
Chambers of Commerce Hispanic California	CHARO-SBA Women's Center
Chicana Service Action Center	Chinatown Service Center
City of Los Angeles Community Development Department	City of Inglewood Office of Economic and Business Development
City of Long Beach Economic Development Bureau Business Development Center	City of Los Angeles
City of Pomona	City of Thousand Oaks
Coldwell Banker Vista Realty	Coleman Publishing
Combos Capital Group	Community Build
Community Development Technologies Center	Community Harvest Charter Schools
Complete Telecommunications, Inc.	Compton Business Assistant Center
Compton Unified School District	Consumer Credit Counseling
CRA/LA	Department of Military & Veterans Affairs
Diane Castaño Salle & Associates, Inc.	Digital Video Images
Dunbar Economic Development Corp.	East LA Minority Business Development Center
East Los Angeles Vet Center	Economic & Workforce Development Program
El Clasificado	Encon Solutions, Inc.
Enterprise Funding Corporation	Ernst & Young LLP
FAME Renaissance Program	Federal Deposit Insurance Corporation
Federal Reserve Bank of San Francisco-Los Angeles Office	Federal Reserve Bank of San Francisco
Fidelity National Default Solutions	Goldman Organization
Grant Housing and Economic Development Corporation	Greater Antelope Valley Economic Alliance
Hammond Financial Group	Hana Financial
Hub Cities Consortium	Hummingbird Strategies
Imperial Professional Services	Inglewood Office and Business Development
Inland Valley Economic Development Corporation	Insurance Agency
Internal Revenue Service	JMK
JPL	Joe Torres & Associates
KABC-TV	Korean Churches for Community Development
Koreatown Multi-Purpose Senior	LA City Commission on Status of Women
LA County Community Development Commission	LA Housing and Business Team (Office of Mayor James K. Hahn)
LA Local Development Corporation	LA Minority Business Opportunity Committee
LA Southwest College	La Mirada Chamber of Commerce
Latin Business Association	Los Angeles Commission on the Status of Women
Los Angeles County Economic Development Corporation	Los Angeles LDC, Inc.
Los Angeles World Airports	Machado & Company
Mexican Grocers Association	Military Order of Purple Heart
Minority Business Development Agency, U.S. Department of Commerce	Minority Business Entrepreneur

Los Angeles, CA (cont'd)

N.A.A.C.P.	NAI Capital
National Association of Minority Contractors of Southern California	National Center For American Indian Enterprise Development
New Economics for Women	New England Financial
Northeast Los Angeles Business Assistance Center	OCT Default Services Division
Office & Commercial - Southern California	Office of Governor Arnold Schwarzenegger
Old Republic Title Company	Operation Hope
PACE Business Development Center, Inc.	Pacific American Indian Development
<i>Pacific Coast Business Times</i>	Pacific Coast Regional Development Corporation
Pacific Gas and Electric Company	Pasadena Development Center
Pasadena Enterprise Center	Pasadena Neighborhood Housing Services
Passions & Dreams	Philippine-American Society of CPAs
Pre-Paid Legal Services, Inc.	Public Counsel Law Center
R.F.G. Financial Services	Recycling Black Dollar
Remax	Rio Honda College
Rocky Peak Enterprises, LLC	SAIF Program
Salvadoran American Political Action Committee	San Gabriel Valley Economic Partnership
<i>San Marino Tribune</i>	Securities Regulation Division
Sempre Energy	SLB Associates
Small Business Financial Services	South Bay Economic Development Partnership
South Los Angeles Economic Alliance	Southern California Edison
Southland EDC	Squire, Sanders & Dempsey LLP
Starcom Los Angeles	T.D. Service Financial Corporation
Telacu	Terry & Associates, Inc.
Thai Community Development Center	The Black Business Association
The East Los Angeles Community Union	The Gas Company
The Metropolitan Water District of Southern California	The National Latino Arts, Education, & Media Institute
The Port of Los Angeles	The Society of Hispanic Professional Engineers, Inc.
The South Los Angeles Economic Development Partnership	The Southern California Minority Business Development Council
Thousand Oaks Westlake Village	TMC Development
TNS	Turning Point Magazine
U.S. Department of Commerce	U.S. Department of Veterans Affairs
U.S. Export Assistance Center	U.S. Department of Commerce Minority Business Development Agency
University of Southern California Tech Center	University of The Hood
USC Center for Economic Development	Valley Economic Development Center
Valoure, Inc.	Verdugo Banking Company
Veterans of Foreign Wars	Vinitus & Nesto Consulting
Visionaries University	Vnesto
VRNE Section	West Angeles Community Development Corporation
Western Direct, Inc.	Westside Economic
Women at Work	Women In Business
Women In Film Los Angeles	Women Lawyers of Los Angeles
Women's Business Center	Workforce Development

Los Angeles, CA (cont'd)	
Workforce Investment Board Community Development & Housing Department	WorkSource California
Xarax Environmental & Engineering Solutions, Inc.	
Monmouth Junction, NJ	
NY/NJ Foreign Freight Forwarders & Brokers Association	New Jersey Technology Council
New Jersey State Bar Association	New Jersey Lumber Dealers Association
New Jersey Gasoline Retailers and Allied Trades	New Jersey Asphalt Pavement Association
New Jersey Tooling and Manufacturing Association	New Jersey Society of Professional Engineers
New Jersey Society of Professional Land Surveyors	New Jersey Food Council
National Limousine Association	American Council of Engineering Companies of NJ
Garden State Seafood Association	Mechanical Contractors Association of NJ
United Boatmen of New Jersey	Association of New Jersey Recyclers
The Recreational Fishing Alliance	New Jersey Retail Merchant Association
Association of Food Industries, Inc.	Meadowlands Regional Chamber of Commerce
New Jersey Chamber of Commerce	New Jersey Business & Industry Association
Commerce and Industry Association of New Jersey	NJ Society of CPAs
Vegetable Growers Association of NJ	Northeast Organic Farming Association of NJ
New Jersey Food Processors Association	Juvenile Products Manufacturers Association
Korean-American Cleaners Association of NJ	American Cranberry Growers Association
New Jersey Motor Truck Association	
Milwaukee, WI	
Pewaukee Chamber of Commerce	Clintonville Area Chamber of Commerce
Milltown Community Club	Watertown Area Chamber of Commerce
Manawa Area Chamber of Commerce	Fox Cities Chamber of Commerce
Denmark Community Business Association	Galesville Area Chamber of Commerce
Metropolitan Milwaukee Association of Commerce	National Federation of Independent Business
Germantown Area Chamber of Commerce	Mukwonago Chamber of Commerce
Hartland Area Chamber of Commerce	Muskego Area Chamber of Commerce
Mequon-Thiensville Area Chamber of Commerce	Racine Area Manufacturers & Commerce
East Troy Area Chamber of Commerce	Sharon Chamber of Commerce
Butler Area Chamber of Commerce	Rice Lake Area Chamber of Commerce
Somerset Area Chamber of Commerce	Greenwood Chamber of Commerce
Nebagamon Community Association	Greater Brookfield Chamber of Commerce
Twin Lakes Area Chamber & Business Association	Wauwatosa Area Chamber of Commerce
Hispanic Chamber of Commerce of Wisconsin	Greater Ladysmith Area Chamber of Commerce
Thorp Business Association	Wisconsin SBA Newsletter
Associated Builders & Contractors of Wisconsin	
Honolulu, HI	
Chamber of Commerce of Hawaii	Small Business Hawaii
NFIB	Building Industry Association of Hawaii
Department of Business, Economic Development and Tourism	Filipino Chamber of Commerce
Kona Kohala Chamber of Commerce	Kauai Chamber of Commerce
Maui Chamber of Commerce	Hawaii Island Chamber of Commerce
Native Hawaiian Chamber of Commerce	Pacific Export Council
Hawaii Science and Technology Council	Hawaii Restaurant Association

Honolulu, HI (cont'd)	
BNI (Business Networking Institute)	African American Commerce & Industry Council
Hawaii Venture Capital Association	City and County of Honolulu Office of Economic Development
Hawaii SBDC Network	SCORE
Hawaii District Advisory Board	General Contractors Association
Portland, ME	
National Federation of Independent Businesses	Maine Lobstermen's Association
Androscoggin County Chamber of Commerce	Jay Livermore Chamber of Commerce
Eastern Maine Development Corporation	Kennebec Valley Chamber of Commerce
Maine State Chamber of Commerce	Bangor Region Chamber of Commerce
Maine Small Business Development Centers	Bath Brunswick Region Chamber of Commerce
Belfast Area Chamber of Commerce	Bethel Area Chamber of Commerce
Biddeford-Saco Chamber of Commerce	Upper Kennebec Valley Chamber of Commerce
Boothbay Chamber of Commerce	Boothbay Harbor Region Chamber of Commerce
SCORE – state of Maine	Southern Midcoast Maine Chamber
St. Croix Valley Chamber of Commerce	Camden Rockport Lincolnville Chamber of Commerce
Caribou Chamber of Commerce & Industry	Damariscotta Region Chamber of Commerce
Deer Isle-Stonington Chamber of Commerce	Southern Piscataquis County Chamber of Commerce
Eastport Area Chamber of Commerce	Ellsworth Area Chamber of Commerce
Farmington-Wilton Chamber of Commerce	Fort Fairfield Chamber of Commerce
Greater Fort Kent Area Chamber of Commerce	Freeport Merchants Association
Moosehead Lake Region Chamber of Commerce	Greater Houlton Chamber of Commerce
Jackman-Moose River Chamber of Commerce	Katahdin Area Chamber of Commerce
Kennebunk-Kennebunkport Chamber of Commerce	Limestone Chamber of Commerce
Lincoln Lakes Region Chamber of Commerce	Machias Bay Area Chamber of Commerce
Greater Madawaska Chamber of Commerce	Mount Desert Chamber of Commerce
Ogunquit Chamber of Commerce	Old Orchard Beach Chamber of Commerce
Oxford Hills Chamber of Commerce	Portland Regional Chamber of Commerce
Presque Isle Area Chamber of Commerce	Rangeley Lakes Region Chamber of Commerce
Rockland/Thomaston Area Chamber of Commerce	River Valley Chamber of Commerce
Sanford/Springvale Chamber of Commerce	Skowhegan Area Chamber of Commerce
Southwest Harbor Chamber	Mid-Maine Chamber of Commerce
Wells Chamber of Commerce	Greater Windham Chamber of Commerce
Yarmouth Chamber of Commerce	Greater York Region Chamber of Commerce
Associated Builders & Contractors	Convention & Visitors Bureau of Greater Portland
Eastern Maine Charities	Economic Development Council of Maine
Freeport Merchants Marketing Association	Home Builders & Remodelers Association of Maine
Maine AFL-CIO	Maine Antique Dealers Association
Maine Association of Community Banks	Maine Bankers Association
Maine Center for Economic Policy	Maine Development Foundation
Maine Funeral Directors Association	Maine International Trade Center
Maine Merchants Association	Maine Metal Products Association
Maine Oil Dealers Association	Maine Restaurant Association
Piscataquis County Economic Development Council	Portland Board of Realtors
Southern Maine Regional Planning Commission	Women, Work & Community
Maine Crafts Association	United Maine Craftsman

Portland, ME (cont'd)	
Lewiston-Auburn Economic Development Corporation	State of Maine SBA Lenders
Maine Small Business Advisory Council	Maine Campground Owners Association
Maine Snowmobile Association	
Boise, ID	
National Federation of Independent Businesses	Boise Metro Chamber of Commerce
Associated General Contractors	Building Contractors Association
National Association Insurance & Financial Advisors Idaho	Idaho Health Care Association
Idaho Association of Commerce & Industry	Idaho Association of Highway
Idaho Bankers Association	Idaho Farm Bureau Federation
Idaho Retailers Association	Idaho Sugar Beet Growers Association
Independent Insurance Agents & Brokers of Idaho	Idaho Small Business Development Center
Service Corps of Retired Executives Idaho	Sage Community Resources
Capital Matrix	Idaho Automobile Dealers Association
Idaho Credit Union League	Intermountain Forest Association
Idaho Lodging & Restaurant Association	Milk Producers of Idaho
Idaho Outfitters & Guides Association	Idaho Society of CPA's
Coeur d'Alene Chamber of Commerce	Idaho Falls Chamber of Commerce
Greater Pocatello Chamber of Commerce	Twin Falls Area Chamber of Commerce
Sun Valley Ketchum Chamber of Commerce	Lewiston Chamber of Commerce
Moscow Chamber of Commerce	Nampa Chamber of Commerce
Meridian Chamber of Commerce	Post Falls Chamber of Commerce
Jerome Chamber of Commerce	Rexburg Chamber of Commerce
Caldwell Chamber of Commerce	Blackfoot Chamber of Commerce
Des Moines, IA	
National Federation of Independent Businesses	Iowa Association of Business and Industry
Professional Developers of Iowa	Iowa Bankers Association
Greater Des Moines Partnership	Iowa Chamber of Commerce Executives
Iowa SBA Lenders	Iowa SCORE Members
Iowa SBDC Directors	Iowa Farm Bureau
Iowa State Congressional Offices	Iowa State Legislature
Iowa Entrepreneurs Coalition	Associated Builders and Contractors of Iowa



U.S. Small Business Administration

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