

President Obama Issues Executive Order To Improve Rule Review

by Rebecca Krafft, Editor

On January 18, President Barack Obama signed Executive Order 13563, "Improving Regulation and Regulatory Review." The executive order directs federal agencies to enact procedures to review significant regulations on a regular basis in order to identify and revise those that have become "outmoded, insufficient, ineffective, or excessively burdensome."

E.O. 13563 was accompanied by two memoranda to the heads of federal agencies. One memo reiterated the key tenets of the Regulatory Flexibility Act and spelled out the critical importance of well-tailored regulations to small business job creation and economic recovery. The memo directs agencies to explicitly justify any decision not to provide flexibilities for small businesses in proposed or final rules.

The second memo to agency heads addressed regulatory compliance, with the goal of coordinating regulation among agencies so as to streamline overlapping or conflicting rules.

"I applaud President Obama's efforts today to reduce excessive and unjustified regulatory burdens on small business," said Chief Counsel for Advocacy Winslow Sargeant. "The Office of Advocacy looks forward to continuing to work closely with federal agencies and small business to design cost-effective, evidence-based regulations that are compatible with economic growth, job creation, and competitiveness."

Advocacy's research shows that small businesses with fewer than 20 employees spend 36 percent more than larger firms to comply with

federal regulations. For 30 years, Advocacy has monitored federal agencies' compliance with the Regulatory Flexibility Act, working with small businesses to reduce their outsized regulatory burden.

Our important mission continues!

OSHA Withdraws Two Controversial Rules; Will Seek Small Business Input

by Bruce Lundegren, Assistant Chief Counsel

In the wake of President Obama's new executive order on regulatory review and his memorandum to federal agencies on providing regulatory flexibility to small business, the Occupational Safety and Health Administration (OSHA) has withdrawn two controversial regulatory proposals that many small businesses opposed. The two proposals are "Interpretation of OSHA's Provisions for Feasible Administrative or Engineering Controls of Occupational Noise" and "Occupational Injury and Illness Recording and Reporting Requirements" for recording work-

related musculoskeletal disorders (MSDs), which include repetitive stress injuries. In addition, OSHA has reopened the MSD rulemaking docket in order to receive small business input.

The proposed changes to OSHA's noise standard would have required employers to implement administrative or engineering controls, such as enclosing machinery or purchasing quieter equipment, in order to reduce workplace noise before employees are allowed to wear personal protective equipment such as earplugs or earmuffs.

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Research Notes

New Report Documents Recession's End

by Kathryn Tobias, Senior Editor

After weathering the recession that began in late 2007, the American economy began to stabilize by the end of 2009. Many economic indicators began to show improvement, but for small businesses, one of the biggest remaining challenges was the lack of sales adequate to jump-start employment growth.

In the 2010 edition of the *Small Business Economy*, the Office of Advocacy reviews the overall economic environment for small businesses in the year 2009. The first chapter covers small businesses' contributions to job creation and innovation, challenges such as health care and pension coverage, and opportunities in exporting and federal procurement. The second chapter focuses on the financial marketplace for small firms as the recession came to an end. Appendices provide extensive small business data and a summary of Advocacy research.

In the first three quarters of 2009, small businesses accounted for almost 60 percent of the net job losses, with the greatest losses in the first quarter. By the third quarter, net small firm job losses were one-third what they had been in the first quarter. The American Recovery and Reinvestment Act generated stimulus activity benefiting small firms, and the Congressional Budget Office estimated that policy actions added between 1.5 percent and 3.5 percent to real gross domestic product in the fourth quarter.

The American Express Open Small Business Monitor found that 55 percent of entrepreneurs were optimistic about the future of their businesses in September 2009, up 10 percent from earlier in the year.

In the financial markets, tighter lending standards and weak demand for small commercial loans were most evident early in 2009. The U.S. banking sector was stressed, with write-offs totaling more than \$1.8 trillion for the year. Delinquency rates on commercial loans were up, and depressed sales had weakened loan demand. By the second half of the year, financial market conditions had become more supportive of monetary stimulus policies and growth. Interest rates on small fixed-term loans remained relatively stable, while rates on variable-rate loans tracked the decline in the prime rate.

The report also documents longer term trends, including small business demographics and benefits. While the self-employed are predominantly white, male, married, and older, minorities have made big advances, increasing their overall share of self-employment over the past decade. Small businesses continue to face challenges in providing health care and retirement benefits to their employees.

The Small Business Advocate

Editor Rebecca Krafft

Managing Editor Rob Kleinsteuber

Production Assistant Angela Hamilton

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The report is available on the Internet at www.sba.gov/advocacy/849. Printed copies are available for purchase from the National Technical Information Service at www.ntis.gov, order number: PB 2011-103976.

Startup America Launched

On January 31, the White House launched "Startup America," a national campaign to promote high-growth entrepreneurship across the country. It includes new initiatives to help encourage private sector investment in job-creating startups and small firms, accelerate research, and address barriers to success for entrepreneurs and small businesses.

One such initiative, "Empowering Entrepreneurship, Reducing Barriers," will include eight events around the country for the Obama Administration to hear directly from small businesses about barriers to entrepreneurship and growth. The Office of Advocacy looks forward to participating in several of these events. There will also be an online component that will allow small businesses to submit suggestions and ideas.

For the latest information, visit www.startupamericapartnership.org.

Message from the Chief Counsel

Small Business Talks. Advocacy Listens.

by Dr. Winslow Sargeant, Chief Counsel for Advocacy

Recently, there has been a lot of talk about federal regulations—by politicians, media pundits, think tank experts—all weighing in on the topic. Despite all the talk, if you're a small business owner, it could start to feel like nobody is listening to you, even though small businesses are the key to a successful economy. While they're an engine of economic growth, small businesses pay 36 percent more than big business when it comes to federal regulations. And though you may welcome President Obama's recent executive order and memorandum on regulatory flexibility for small business, you might wonder, "Is anybody in the federal government going to listen to me and my concerns?" The answer is yes. The Small Business Administration's Office of Advocacy listens.

For over 30 years the Office of Advocacy has been the independent voice for small business within the federal government, working with small business and federal agencies to reduce the outsized burden of regulations on small business. Advocacy listens to small business about what works and what doesn't, then works with federal agencies to explore possible alternatives to proposed rules. Through this cooperative process, we've been able to save small businesses nearly \$15 billion in regulatory costs this past fiscal year, while still accomplishing the agencies' objectives. We're proud of our success, but there is still more to do.

As an entrepreneur, as somebody who has built and sold companies, and as chief counsel for advocacy, I know that small businesses are looking for regulatory relief. And with President Obama's recent

executive order and memorandum, I think we're on the path to reaffirming that the voice of small business will be heard.

Small businesses know that some regulations are needed. They know that regulations provide the rules and structure for our society

“The President's regulatory approach emphasizes listening to small business, builds on the best practices of the past, and allows for the flexibility necessary to tackle the challenges of the future.”

to properly function. And when it comes to the rulemaking process, small businesses know that it works a lot better when they have a chance to provide input into what can sometimes be a complicated process.

At Advocacy, every day we listen to small business and advocate on their behalf. When small businesses from all sectors told us that the IRS Form 1099 reporting requirement from the new health care law was going to place an undue burden on them, I called for a repeal of the requirement. The

President did the same in his State of the Union address.

The President's regulatory approach emphasizes listening to small business, builds on the best practices of the past, and allows for the flexibility necessary to tackle the challenges of the future. It dismisses a "one size fits all" approach to regulations and understands the value of increased public participation. The President's executive order and memorandum calls for a regulatory process that is clear, transparent and predictable. Most importantly it calls for existing regulations to be reviewed by federal agencies to determine if they still are necessary and relevant to solve current problems.

All of these are straightforward positive steps that can help lessen the regulatory burden faced by small business. It won't be easy. But a regulatory process that actively examines what works and what doesn't, listens to small business about the potential impact of a proposed rule, and is clear and concise in its final rulemaking—this is a regulatory process that works for small business. I look forward to continuing to work closely with federal agencies to ensure that throughout this process we all listen to small business.

Memo to Agencies Offers RFA Assistance

Following up on several developments strengthening the Regulatory Flexibility Act (RFA), Chief Counsel for Advocacy Winslow Sargeant issued a memorandum to the heads of all federal agencies on January 31. The memo advised agencies of recent changes to the RFA and provided guidance on Executive Order 13563 and the presidential memorandum on the RFA. Dr. Sargeant offered the Office of Advocacy's continued assistance to all agencies in complying with the RFA.

The memo can be found at www.sba.gov/advocacy/816.

New Senators Schooled in Small Business Values

by Thad Inge, Assistant Chief Counsel for Congressional Affairs

New to Washington in the 112th Congress are many senators and representatives with strong small business roots. Occasionally, The Small Business Advocate will profile some of these individuals.



West Virginia Senator Joe Manchin.

When travelling around West Virginia, the newly elected Senator Joe Manchin often touts small business as the backbone of the state's economy. He has said that if small businesses don't prosper, then everyone is hurting badly. As governor for six years, Manchin was heralded from both sides of the aisle for his common sense policies that kept West Virginia's unemployment rate lower than the national average and its fiscal condition sound. Through his "Open for Business" initiative, Manchin cut small business taxes, promoted small business exporting, and improved the economic environment in West Virginia.

Senator Manchin's strong commitment to the importance of small business, however, was not born in the state capital or on the campaign trail. It started many years

before that, working as a young child in his grandfather's grocery store and his father's carpet and furniture store. For the Manchins, small business was a family affair, and Manchin learned the important role small business plays in a community at a very early age. When his father's carpet and furniture store burned down in a fire, Manchin took a semester off of college to rebuild it. After college he went to work in the business and helped send four siblings to college. Manchin eventually struck out on his own and started a coal brokerage business that his son still runs today.

As a U.S. senator, Manchin says he wants to bring West Virginia's common sense problem-solving to Washington. "In West Virginia, we know how to work together, and Washington needs a dose of our West Virginia values," Senator Manchin said recently. In line with these values, Senator Manchin will be bringing his long background in small business to Washington, a heritage that will most certainly influence the decisions and impact he makes in the Senate.

Senator Manchin will not be alone, however, when it comes to new members of the Senate who started working in small business at an early age. As a young boy, Ron Johnson, the new senator from Wisconsin, had a number of jobs. Johnson helped bale hay on his uncle's dairy farm, caddied at the local golf course, delivered papers, and worked as a dishwasher. Before the age of 16, he rose through the ranks and became a night manager at Walgreen's grill.

Johnson's entrepreneurial spirit and strong work ethic continued into his adulthood, when he co-



Wisconsin Senator Ron Johnson.

founded a specialty plastics company, PACUR. Under Johnson's leadership, PACUR grew from supplying a single customer to being the largest producer in the world of a plastic used in medical device packaging. One of the company's favorite sayings: "We don't export jobs, we export plastic."

Senator Johnson's election to the Senate marks his first foray in public office. Johnson prides himself on his private sector experience and says as a U.S. senator he will work to create a job-friendly environment by reducing and simplifying taxes and regulations on business.

With the continued national focus on the economy and jobs, small business issues are likely to be at the forefront of the 112th Congress, as they were in the 111th Congress. Look for Senators Manchin and Johnson, with their long histories and deep interest in small business, to be at the center of each of these discussions.

Regulatory News

Federal Reserve Announces Plans to Postpone Financial Rulemakings

by Jennifer Smith, Assistant Chief Counsel

On February 1, the Federal Reserve Board announced that it does not expect to finalize three pending rulemakings under Regulation Z, which implements the Truth in Lending Act, prior to the transfer of authority for such rulemakings to the Consumer Financial Protection Bureau.

On December 23, the Office of Advocacy submitted comments asking for postponement of one of these rulemakings, Regulation

Z; Docket No. R-1390 Truth in Lending. Advocacy expressed concern about the proposal's going forward when little is known about its potential costs, especially given imminent major changes for the industry. In addition, burdensome changes could lead to the exit of small entities from the mortgage industry, negatively affecting mortgage availability, competition, and consumers.

Advocacy commends the Federal Reserve Board for its decision, which will benefit small entities in the mortgage industry.

Advocacy's letter on Regulation Z; Docket No. R-1390 Truth in Lending can be found at www.sba.gov/advocacy/816. The Federal Reserve Board news release is at www.federalreserve.gov/newsevents/press/bcreg/20110201a.htm.

Assistant Chief Counsel Major Clark Recognized for Public Service

Assistant Chief Counsel Major Clark III was recently honored with the MAPPS Public Service Award. (MAPPS is the Management Association for Private Photogrammetric Surveyors.) This is only the second time that MAPPS has bestowed this award.

Clark was recognized for his leadership in the revision of the architectural fee retainage rule. This federal contract requirement was a

particular regulatory burden to small contractors in the architectural, engineering, surveying, and mapping fields. The retainage clause mandated that 10 percent of fees be held back until closeout of a contract, regardless of the firm's performance or quality of work. In practice, release of funds was sometimes delayed as much as 15 months beyond the closeout date, imposing a significant cash flow burden.

The rule, FAR 52.232-10, was the first regulation to go through the Office of Advocacy process known as r3—Regulatory Review and Reform—from nomination to final revision. The regulatory change Clark shepherded through the federal bureaucracy made retainage a negotiable, discretionary contract provision. Advocacy estimates the action saved small businesses \$335 million annually.

OSHA Withdraws Rules, *from page 1*

OSHA's proposed change drew sharp opposition from employers who said the proposal would radically change current safety practices and be unduly expensive. OSHA's proposed rule was discussed at the Office of Advocacy's labor safety roundtable in November; OSHA has pledged to conduct additional stakeholder outreach before proceeding.

The second proposal, on musculoskeletal disorders reporting, was similarly controversial. The proposal would have added a separate column for MSDs to the OSHA 300 Log, which employers are

required to keep to record work-related injuries. However, many small businesses objected that the definition of an MSD was subjective and would require employers to make complex medical diagnoses which they are not qualified to make. Advocacy had conducted outreach to small business and filed formal public comments on OSHA's proposed rule recommending that OSHA reassess the cost and complexity of complying with the rule before proceeding.

Advocacy and OSHA have agreed to conduct a joint small business outreach meeting on MSD reporting before OSHA proceeds. In an announcement, OSHA Assistant Secretary David Michaels

stated that "It is clear that the proposal has raised a high level of concern among small businesses and OSHA is reaching out to the small business community to listen to these concerns." Chief Counsel for Advocacy Winslow Sargeant welcomed OSHA's decision. "This Advocacy-OSHA meeting will provide the opportunity for small businesses to voice their concerns on this critical issue," said Sargeant.

Advocacy will publicize information about stakeholder meetings on these two rules as it becomes available. To learn more, contact Assistant Chief Counsel Bruce Lundegren at (202) 205-6144 or bruce.lundegren@sba.gov.

Presidential Documents

Title 3—

The President

Executive Order 13563 of January 18, 2011

Improving Regulation and Regulatory Review

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve regulation and regulatory review, it is hereby ordered as follows:

Section 1. General Principles of Regulation. (a) Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

(b) This order is supplemental to and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866 of September 30, 1993. As stated in that Executive Order and to the extent permitted by law, each agency must, among other things: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(c) In applying these principles, each agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. Where appropriate and permitted by law, each agency may consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

Sec. 2. Public Participation. (a) Regulations shall be adopted through a process that involves public participation. To that end, regulations shall be based, to the extent feasible and consistent with law, on the open exchange of information and perspectives among State, local, and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole.

(b) To promote that open exchange, each agency, consistent with Executive Order 12866 and other applicable legal requirements, shall endeavor to provide the public with an opportunity to participate in the regulatory process. To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally

E.O. 13563

Executive Order 13563 and the two memoranda to agency heads dated January 18, 2011, were published in the *Federal Register* on January 21, 2011.

Executive Order 13563, Improving Regulation and Regulatory Review: www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf.

Memo on Regulatory Flexibility, Small Business, and Job Creation: www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1386.pdf.

Memo on Regulatory Compliance: www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1387.pdf.

be at least 60 days. To the extent feasible and permitted by law, each agency shall also provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded. For proposed rules, such access shall include, to the extent feasible and permitted by law, an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings.

(c) Before issuing a notice of proposed rulemaking, each agency, where feasible and appropriate, shall seek the views of those who are likely to be affected, including those who are likely to benefit from and those who are potentially subject to such rulemaking.

Sec. 3. *Integration and Innovation.* Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. Greater coordination across agencies could reduce these requirements, thus reducing costs and simplifying and harmonizing rules. In developing regulatory actions and identifying appropriate approaches, each agency shall attempt to promote such coordination, simplification, and harmonization. Each agency shall also seek to identify, as appropriate, means to achieve regulatory goals that are designed to promote innovation.

Sec. 4. *Flexible Approaches.* Where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. These approaches include warnings, appropriate default rules, and disclosure requirements as well as provision of information to the public in a form that is clear and intelligible.

Sec. 5. *Science.* Consistent with the President's Memorandum for the Heads of Executive Departments and Agencies, "Scientific Integrity" (March 9, 2009), and its implementing guidance, each agency shall ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions.

Sec. 6. *Retrospective Analyses of Existing Rules.* (a) To facilitate the periodic review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned. Such retrospective analyses, including supporting data, should be released online whenever possible.

(b) Within 120 days of the date of this order, each agency shall develop and submit to the Office of Information and Regulatory Affairs a preliminary plan, consistent with law and its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.

Sec. 7. *General Provisions.* (a) For purposes of this order, "agency" shall have the meaning set forth in section 3(b) of Executive Order 12866.

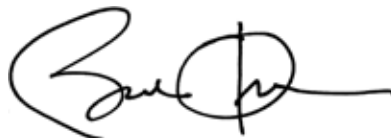
(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, its agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
January 18, 2011.

Regional Report

Meet Advocacy's Regional Team

Advocacy's Office of Regional Affairs has sprung into action with the appointment of nine regional advocates. (The tenth regional advocate is expected on board soon.) The regionals are the nerve system connecting the chief counsel with the concerns of small businesses around the country. Please be in touch with your regional advocate. They are also available as speakers for small business and economic development events.

Region I: Lynn Bromley

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

U.S. Small Business Administration
10 Causeway Street, Room 265
Boston, MA 02222
Phone: (617) 565-8418
lynn.bromley@sba.gov

Most recently, Lynn Bromley was the principal in Audax Group LLC, a Maine consulting practice specializing in business development and private/public partnerships. From January 2000 to December 2008, she served as a senator in the Maine Legislature where she was chair of the Joint Standing Committee on Business, Research and Economic Development. In

addition Bromley was co-chair of the Maine Economic Growth Council. She has a master's degree in social work from Boston College and a bachelor of arts degree from Bridgewater State College.

Region II Teri Coaxum

New Jersey, New York, the U.S. Virgin Islands, Puerto Rico.

U.S. Small Business Administration
26 Federal Plaza, Room 3100
New York, NY 10278
Phone: (212) 264-7752
teresa.coaxum@sba.gov

Teri Coaxum was the deputy state director from 2004 to 2010 for New York Senator Charles Schumer; Coaxum advised the senator on issues ranging from economic development to job creation. From 2001 to 2004, she served as an administrative manager in the Kings County district attorney's office, where she coordinated a community development arm to begin economic empowerment, job readiness, and technological advancement. She has a master's degree in business administration from Metropolitan College of New York. She also has a master's degree in public administration and a bachelor of arts degree in criminal

justice from John Jay College of Criminal Justice.

Region III: Ngozi Bell

Delaware, District of Columbia, Maryland, Pennsylvania, West Virginia, Virginia.

U.S. Small Business Administration
1150 First Avenue Suite 1001
King of Prussia, PA 19406
Phone: (610) 382-3093
ngozi.bell@sba.gov

Prior to her appointment, Ngozi Bell served as vice president of Birchmere Ventures, an early-stage venture capital firm focusing on investment in and development of startup companies in medical, cleantech, and tech sectors. She has worked on small business initiatives in the telecom and wireless sectors. In 2005, Bell cofounded a nonprofit Nigerian-American organization in Pennsylvania focusing on education, cultural exchange, and economic development. She has also operated a small business in the fashion and small transportation sector. Bell received her master's degree in electrical engineering from Florida A&M/Florida State University and her bachelor's degree in physics from University of Port Harcourt in Nigeria.



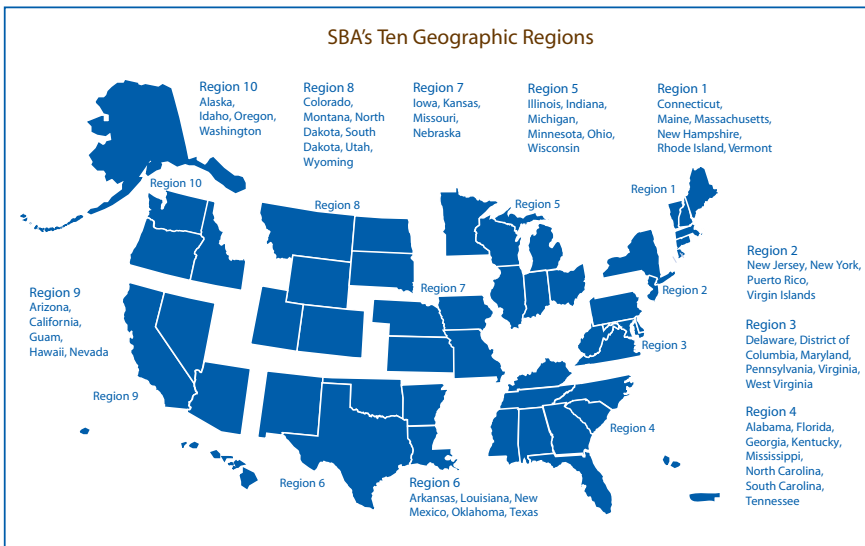
Region I Advocate Lynn Bromley.



Region II Advocate Teri Coaxum.



Region III Advocate Ngozi Bell.



Region IV: Mark Berson

Alabama, Georgia, Florida, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

U.S. Small Business Administration
233 Peachtree Street NE, Ste. 1900
Atlanta, GA 30303

Phone: (404) 331-3081
mark.berson@sba.gov

Most recently, Mark Berson served as the president and CEO of the Berkeley, California, Chamber of Commerce for 2010. From 2003 to 2009 he led the Alabama Gulf Coast Chamber of Commerce. From 2000 to 2003 Berson was the executive director of the Alabama Bureau of Tourism and Travel. Under his leadership, the state's

tourism marketing and advertising program was named the best in the nation by the Travel Industry Association of America in 2001. A small business owner from 1978 to 2000, Berson has a bachelor of science in marketing from the University of Florida.

Region V: Henry Sanders

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

U.S. Small Business Administration
740 Regent Street, Suite 100
Madison, WI 53715

Phone: (608) 441-5264
henry.sanders@sba.gov

Henry Sanders brings a broad range of experience in the public, private, and nonprofit sectors to the office.

He founded the Madison Area Growth Network (MAGNET) and Propel Wisconsin Innovation—non-profits dedicated to job creation and attracting/retaining skilled professionals to grow Wisconsin's economy. Sanders has also worked for U.S. Representative Tammy Baldwin, the city of Madison, and the Wisconsin Housing and Economic Development Authority. A small business owner himself, Sanders served as vice president of the Greater Madison Chamber of Commerce, where he built the organization's Small Business Advisory Council and helped increase the involvement of women and minority-owned businesses in south-central Wisconsin.

Region VI: Vacant

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region VII: Becky Greenwald

Iowa, Kansas, Missouri, Nebraska.

U.S. Small Business Administration
210 Walnut Street, Room 749
Des Moines, IA 50309-2186

Phone: (515) 284-4554
rebecca.greenwald@sba.gov

Becky Greenwald has worked in sales and marketing in the agricultural sector in the Midwest for over 20 years. As a services manager with Pioneer Hi-Bred International she promoted the change and adoption of critical



Region IV Advocate Mark Berson.



Region V Advocate Henry Sanders.



Region VII Advocate Becky Greenwald.

new business initiatives for clients, field management, and sales force. Greenwald is a member of the National Agri-Marketing Association, past president of the American Forge and Grassland Council, and has received two DuPont Volunteer Recognition Awards. Greenwald has a master's in business administration from Drake University and a bachelor of science degree in family environment from Iowa State University.

Region VIII: John Hart

Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

U.S. Small Business Administration
721 19th Street, Suite 400
Denver, CO 80202-2599
Phone: (303) 844-0503
john.hart@sba.gov

John Hart served as the director of asset management, planning, and development for the Housing Authority of Baltimore City (Maryland), where he oversaw project management of city-owned housing and housing development. He was a business affairs coordinator, multimedia, and bank financing analyst with Canal+/Studiocanal in Los Angeles, where he advised on over \$1.5 billion worth of current multimedia joint venture projects. He has served as a consultant in numerous small business startups focusing on

venture financing, business plan development, and asset acquisition. Hart has a juris doctor degree from Loyola Law School in Los Angeles and a master's degree in business administration from the University of California at Los Angeles.

Region IX: Yvonne Lee

Arizona, California, Hawaii, Nevada, Guam.

U.S. Small Business Administration
455 Market Street, Suite 600
San Francisco, CA 94105-2445
Phone: (415) 744-8493
yvonne.lee@sba.gov

Yvonne Lee has a 20-year record in public engagement and governmental affairs. A public affairs consultant in San Francisco since 1994, she has organized and led strategic planning campaigns in public policy and programming. Appointed to the U.S. Commission on Civil Rights by President Clinton in November 1995, Lee served as a commissioner until December 2001. The commission is an independent agency which monitors federal agencies' enforcement of civil rights laws and conducts hearings to investigate civil rights concerns. Lee has a bachelor of science degree in health education from the University of California at Davis.

Region X: Jennifer Clark

Alaska, Idaho, Oregon, Washington.

U.S. Small Business Administration
2401 Fourth Avenue, Suite 400
Seattle, WA 98121
Phone: (206) 553-0390
jennifer.clark@sba.gov

Jennifer Clark has 18 years of domestic and international experience in marketing and new product development, human resources, and startup/change management. She was a founding partner of Veracity Analytics, LLC, a management consulting firm whose clients range from Fortune 500 companies to small businesses and not-for-profits. Clark has a master's degree in business administration from the University of Chicago Graduate School of Business and a bachelor of arts from Bryn Mawr College.



Region VIII Advocate John Hart.



Region IX Advocate Yvonne Lee.



Region X Advocate Jennifer Clark.

Claudia Rodgers Promoted to Deputy Chief Counsel

Claudia Rayford Rodgers has been promoted to deputy chief counsel after serving in an acting capacity since October 2009. Rodgers has worked on small business issues in

the federal government service for nearly two decades.

As deputy, Rodgers manages the daily operations and statutory responsibilities of the Office of

Advocacy. In addition, she represents the chief counsel in his absence. Prior to her service as deputy, Rodgers served as senior counsel, a role in which she coordinated the office's work complying with and implementing presidential executive orders and congressional mandates. Rodgers developed the current Regulatory Flexibility Act training modules and is a recognized expert on the subject.

Prior to her service with Advocacy, Rodgers worked at the Economic Development Administration of the U.S. Department of Commerce and at the White House Domestic Policy Council in the Clinton Administration. Rodgers is a graduate of Howard University School of Law.



Deputy Chief Counsel Claudia Rodgers at the RFA 30th Anniversary symposium.

Advocacy Welcomes New Front Office Staff

As 2011 began, Advocacy welcomed two new staff members who work closely with Chief Counsel Winslow Sargeant. Elizabeth Horowitz has more than five years of Capitol Hill experience and is Dr. Sargeant's confidential assistant. Most recently, she served as scheduler for Arkansas Senator Blanche Lincoln, following service as scheduler and executive assistant for Representative Mike Ross. Horowitz has a bachelor of arts in political science and criminal justice from the University of Arkansas. She is responsible for Dr. Sargeant's calendar, and will assist in coordinating events and working with Advocacy's congressional liaison. She can be reached at elizabeth.horowitz@sba.gov or (202) 205-6934.

Erik Gulbrandsen has joined Advocacy's staff as special assistant to the chief counsel. Gulbrandsen comes from Madison, Wisconsin, where he worked

for Congresswoman Tammy Baldwin and the Census Bureau. Most recently he worked on business development concerns and managed social media with Morgridge Institute for Research. Gulbrandsen has a bachelor of arts

in political science from Trinity College in Connecticut. He works directly with Dr. Sargeant on policy issues and will support Advocacy's team of regional advocates. You can reach him at erik.gulbrandsen@sba.gov or (202) 205-7990.



Liz Horowitz and Erik Gulbrandsen are new to Advocacy's Washington staff.

IRS Responds to Small Business Concerns Regarding PTINs

by Dillon Taylor, Assistant Chief Counsel

In a January 14 letter, the Office of Advocacy commended the Internal Revenue Service (IRS) for responding to concerns raised by small businesses who prepare tax returns and administer employee benefit plans. These concerns had been voiced at Advocacy small business roundtables during 2010.

In 2009, the IRS recommended increased oversight of tax return preparers through the issuance of rules related to preparer tax identification numbers (PTINs). The IRS also announced that it intended to make the issuance of a PTIN contingent on competency testing requirements, continuing education requirements, and the extension of the ethics rules under 31 CFR Part 10. During the past year, the IRS issued a series of guidance to implement these recommendations.

Small businesses expressed concern to Advocacy over two new requirements related to PTINs.

First, small business raised the issue that the new testing and education requirements related to PTINs should not apply to non-signing tax return preparers who were supervised by tax preparers already subject to the new education requirements.

Second, small businesses owners who sponsor or administer employee benefit plans expressed concern that those responsible for preparing a Form 5500 (Annual Returns/Reports of Employee Benefit Plan), would be subject to the new PTIN requirements. Plan administrators, who are already subject to oversight and education requirements, believed that the new PTIN requirements would be duplicative, costly, and burdensome.

In Notice 2011-6, the IRS addressed small business concerns by creating an exception so that staff who assist or substantially prepare a return, but do not sign it,

and are supervised by an attorney, CPA, or enrolled agent, can obtain a PTIN. Notice 2011-6 excluded such supervised staff from competency exam and education requirements. The notice also exempted from the exam requirements professionals who do not prepare any Form 1040 series returns or accompanying schedules. In short, it exempted plan administrators who prepare only Form 5500 from the new requirements, relieving small businesses of the additional burdens that they had been anticipating.

To Learn More

Advocacy's comment letter is available at: www.sba.gov/advocacy/816. IRS Notice 2011-6, "Implementation of Rules Governing Tax Return Preparers" is available at: www.irs.gov/pub/irs-drop/n-11-06.pdf.

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