

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

MEMORANDUM

TO: Members of the Committee on Small Business

FROM: Committee Majority Staff

DATE: June 16, 2023

RE: Full Committee Hearing Titled: “Reviewing the SBA's Office of Advocacy Report on the Regulatory Flexibility Act.”

On **June 22, 2023, at 10:00AM** the Committee on Small Business will hold a hearing titled **“Reviewing the SBA's Office of Advocacy Report on the Regulatory Flexibility Act.”** The meeting will convene in room 2360 of the Rayburn House Office Building. The purpose of this hearing is to examine the Small Business Administration’s (SBA) Office of Advocacy’s work with the Regulatory Flexibility Act (RFA) and oversight of federal agency rulemaking, as well as discuss challenges that the office faces advocating for small business within the SBA.

I. Witness

- **Mr. Major L. Clark, III**, Deputy Chief Counsel for Advocacy, U.S. Small Business Administration, Office of Advocacy

II. Background

The SBA’s Office of Advocacy (Advocacy) is the independent voice for small business within the federal government. Advocacy serves as the federal watchdog of the RFA and oversees agencies’ compliance with the statute. Advocacy also conducts important small business statistical research that helps policy makers better understand issues facing small business owners.

Advocacy provides annual estimates of the regulatory cost savings its activities provide to small businesses in the form of foregone capital or annual compliance costs that otherwise would have

been required in the first year of a rule’s implementation.¹ In the most recent fiscal year, reported costs savings from Advocacy input translated to only \$73.5 million, the lowest in the last 10 years, despite both a record level of regulatory activity from federal agencies and Advocacy engaging federal agencies at its highest rate over that period of time.²

Advocacy issues annual reports summarizing its oversight of federal compliance with the RFA. Actions discussed include: (1) direct comment letters from Advocacy to federal agencies about aspects of their proposed rules; (2) “regulatory roundtables” where Advocacy moderates a meeting between small business stakeholders and federal agencies, and (3) training Advocacy gives to federal agency staff on how to comply with the RFA. Advocacy’s most recent report came out on May 15, 2023.³ It is clear from the report that the lack of FY2022 savings is not due to a lack of effort on behalf of Advocacy. Advocacy submitted 37 comments and held 30 roundtables—the highest for both over the last 10 years—and trained 257 federal agency staff on RFA, the second highest in a decade.⁴

In addition to its work with the RFA, Advocacy is responsible for producing research on the role that small entities play in the economy. Compiled datasets provide information on the number of small businesses in each state, the number of employees, jobs created by small businesses, the industries with the most small businesses, business owner demographics, and the exports of small businesses in each state.⁵ This data collected by Advocacy’s Office of Economic Research (OER), in conjunction with information collected by the U.S. Census Bureau and the Department of Labor, is used by Advocacy to inform the positions taken by the office. It serves not only to support information in comment letters on agencies’ rulemaking, but also to inform the government and other stakeholders about the state of Main Street America.

III. Conclusion

In many cases, Advocacy is the only government entity considering the impacts that regulations may have on small business owners. The owners of America’s smallest businesses face significant challenges in understanding and complying with ever changing federal regulations. Many of these small businesses do not have the resources to hire a dedicated staff or pay to ensure compliance with these regulations. Empowering the RFA and nominating a Chief Counsel for Advocacy to lead the department would enhance support of small business within the federal government.

¹ R. CORINNE BLACKFORD & ROBERT JAY DILGER, CONG. RESEARCH SERV., R43625, SBA OFFICE OF ADVOCACY: OVERVIEW, HISTORY, AND CURRENT ISSUES, 10 (last updated Mar. 30, 2022).

² Dan Goldbeck, *A Down Year for Small Businesses’ Federal Advocate*, AM., ACTION FORUM (May 18, 2023).

³ U.S. SMALL BUS. ADMIN., OFFICE OF ADVOCACY, REPORT ON THE REGULATORY FLEXIBILITY ACT, FY 2022 (May 15, 2023).

⁴ *Id.* at iii; Dan Goldbeck, *A Down Year for Small Businesses’ Federal Advocate*, AM. ACTION FORUM (May 18, 2023).

⁵ U.S. SMALL BUS. ADMIN. OFFICE OF ADVOCACY, 2022 SMALL BUSINESS PROFILES FOR THE STATES, TERRITORIES, AND NATION (Aug. 31, 2022).