Office of Advocacy Submits Comments on the Small Business Administration's Proposed Rule on Size Standards: Calculation of Annual Average Receipts

On Monday, June 24, 2019, the Small Business Administration (SBA) published a proposed rule on size standards which, when final, will change the formula for determining the small business status of companies whose size standard is based on annual receipts. The rule will change the basis from a three-year average to a five-year average.

On August 22, 2019, the Office of Advocacy (Advocacy) submitted a letter to SBA regarding the proposed *Rule on Size Standards: Calculation of Annual Average Receipts.*

- In 2018, Congress passed and President Trump signed Public Law 115-324, the Small Business Runway Extension Act. This law requires SBA to recalculate annual receipts used to prescribe size standards for small businesses on the basis of a five-year average instead of three years.
- Two groups of small business groups are expected to suffer immediate losses: an estimated 2,855 small firms that will lose their small status, plus 347 firms that will have their small status for a shorter period of time.
- Advocacy urged SBA to revisit, revise and re-publish for comment its Initial Regulatory Flexibility Analysis (IRFA) to ensure that the small business impact and proper alternatives are discussed.
- The Regulatory Flexibility Act requires consideration of alternatives that are feasible and do not violate the intent of the authorizing statute.
- One alternative would be to allow for a one- or two-year phase-in period.
- A second alternative would allow for the company that has already been awarded a contract under the current three-year standard to be recertified using either the current or the proposed standard through the life of that contract and any options.
- Republishing the IRFA for this rule and encouraging the public to provide additional alternatives may strengthen this rule when published as a final rule.