

**U.S. Small Business Administration  
Office of Advocacy**

**Fiscal Year 2021  
Congressional Budget Justification**

**and**

**Fiscal Year 2019  
Annual Performance Report**

# U.S. Small Business Administration Office of Advocacy

## Fiscal Year 2021 Congressional Budget Justification and Fiscal Year 2019 Annual Performance Report

### Overview

The Office of Advocacy (Advocacy) is an independent office within the U.S. Small Business Administration (SBA). Advocacy has its own statutory charter, Title II of Public Law 94-305 as amended (15 U.S.C. § 634a *et seq.*), originally enacted in 1976. It is headed by a Chief Counsel for Advocacy, appointed by the President and confirmed by the Senate. Advocacy works to reduce the burdens that Federal regulations and other policies impose on small entities and provides vital small business research for the use of policymakers and other stakeholders.

The mission of Advocacy is to encourage policies that support the development and growth of American small businesses by:

- Intervening early in Federal agencies' regulatory development processes on proposals that affect small entities and providing Regulatory Flexibility Act<sup>1</sup> compliance training to Federal agency policymakers and regulatory development officials;
- Producing research to inform policymakers and other stakeholders on the impact of Federal regulatory burdens on small businesses, to document the vital role of small businesses in the economy, and to explore and explain the wide variety of issues of concern to the small business community; and
- Fostering two-way communication between Federal agencies and the small business community.

Advocacy represents the interests of small businesses within the Federal government. It advances the views and concerns of small businesses before Congress, the White House, Federal agencies, the Federal courts, and state and local policymakers as appropriate. Economic research, policy analyses, and small business outreach help identify issues of concern. Documentation of the contributions of, and challenges for, small businesses in the U.S. economy provides policymakers with the information that they need to make informed decisions.

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<sup>1</sup> Regulatory Flexibility Act (RFA) of 1980 as amended (5 U.S.C. § 601 *et seq.*).

In addition to those responsibilities included in Advocacy’s basic charter, further duties and powers were conferred upon the Chief Counsel for Advocacy by the Regulatory Flexibility Act (RFA) of 1980 as amended and Executive Order 13272. These duties include the monitoring of Federal agency compliance with the RFA, providing RFA compliance training to regulatory officials, and assisting regulatory agencies during all stages of the rule development process to mitigate the potential impact of rules on small entities while still achieving their regulatory objectives.

Public Law 111-240, the Small Business Jobs Act of 2010, further amended Advocacy’s statutory authority to require that each budget submitted by the President shall include a separate statement of the amount of appropriations requested for Advocacy, and that these funds be designated in a separate Treasury account. The Act also requires SBA to provide Advocacy with office space, equipment, an operating budget, and communications support, including the maintenance of such equipment and facilities (15 U.S.C. § 634g(b)).

Before FY 2012, Advocacy was fully integrated within SBA’s Executive Direction budget. In recognition of the office’s independent status and newly separate appropriations account, Advocacy’s FY 2013 Congressional Budget Justification and FY 2011 Annual Performance Report were for the first time presented in a separate appendix to SBA’s submission. The current budget request for FY 2021 continues to use this format, which is intended to improve the transparency of Advocacy’s operations and costs, more clearly identify the resources available to Advocacy, and provide a basis for performance measurement.

## FY 2021 Budget Request

For FY 2021, the Office of Advocacy requests \$9.19 million in new budget authority for its direct expenses, \$70,000 more than the amount enacted in FY 2020.

| New Budget Authority ( <i>dollars in millions</i> ) |                                 |                    |                    |                    |                    |                    |                    |                    |                    |
|---|---------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| FY 2012<br>Enacted                                  | FY 2013<br>Enacted <sup>1</sup> | FY 2014<br>Enacted | FY 2015<br>Enacted | FY 2016<br>Enacted | FY 2017<br>Enacted | FY 2018<br>Enacted | FY 2019<br>Enacted | FY 2020<br>Enacted | FY 2021<br>Request |
| 9.120   | 8.643                           | 8.750              | 9.120              | 9.120              | 9.220              | 9.120              | 9.120              | 9.120              | 9.190              |

<sup>1</sup> As adjusted by sequestration.

The largest portion of Advocacy’s request, \$8.72 million, is planned for the compensation and benefits of Advocacy’s professional staff. Staffing accounts for approximately 95 percent of Advocacy’s total FY 2021 budget and is planned at 55 full-time equivalent positions. Of the balance of Advocacy’s request, \$150,000 is planned to supplement available carryover balances for the office’s congressionally-mandated economic research program, and \$320,000 is planned

for all other direct expenses, including subscriptions to legal and economic research resources, travel, training, office supplies, and other miscellaneous expenses directly attributable to Advocacy.

Pursuant to Section 1602(b) of Public Law 111-240, SBA will provide additional support to Advocacy, including office space and equipment, communications and IT services, and maintenance of equipment and facilities. The costs for these services, as well as centralized indirect expenses shared with other SBA offices, appear elsewhere in SBA's budget request.

Small businesses are the engine of innovation, economic growth and job creation in America. Advocacy's FY 2021 request will allow it to continue its mission of supporting the startup, development and growth of small businesses and to focus on priority areas, including regulatory reform. Advocacy's activities have always required cross-agency collaboration with other Federal agencies throughout government. This includes assisting agencies in achieving their regulatory goals without unnecessary adverse consequences for small entities, adding value to the data that they collect and making it more accessible to stakeholders, and providing RFA compliance training to policy and rule development officials in more than 100 agencies. Advocacy engages every day in cross-agency cooperation to remove barriers to small business innovation, economic growth and job creation, and to provide stakeholders with the information they need to make informed decisions, as described in the Planned Performance sections below.

## **Advocacy Strategic Goals**

As part of the separation of Advocacy's annual budget justification and performance report from those of SBA, Advocacy adopted two strategic goals that are specific to the office, and it revised the performance indicators that are associated with these goals. The two goals align closely with Advocacy's two primary statutory responsibilities, regulatory advocacy and economic research. For each goal, a discussion follows on implementation strategies, performance objectives, FY 2019 accomplishments, and FY 2021 planned performance. Tables with performance metrics, including benchmarks and percent variations, follow these sections.

***Advocacy Strategic Goal 1: To be an independent voice for small businesses inside the government and to assist Federal agencies in the development of regulations and policies that minimize burdens on small entities in order to support their start-up, development and growth.***

### **Implementation strategies**

**Monitoring of Federal regulatory activity.** Advocacy's Office of Interagency Affairs monitors new Federal regulatory proposals through publicly available sources such as the *Federal Register* and the agencies' periodic publication of their regulatory agendas. Many agencies also notify

Advocacy directly in advance of planned regulations, particularly when these proposals have significant costs or would affect significant numbers of small entities. Pursuant to Executive Order 13272, Advocacy also consults on regulatory proposals with the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs, with which the office has a strong working relationship. In addition, the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Financial Protection Bureau have special statutory requirements for notifying Advocacy of planned regulatory activity with significant effects. Advocacy also subscribes to various publications and services that specialize in tracking legislation, regulations, and public policy issues.

**Solicitation of the views of stakeholders.** Advocacy conducts a continuing program of outreach to its many stakeholders to solicit their views on issues of concern to small businesses. One of the most important sources of input are roundtables that Advocacy sponsors on specific topics, at which representatives of small businesses, industries and government agencies can meet and informally discuss matters of current interest. Many of these roundtables are held in Washington, but Advocacy also hosts regulatory roundtables across the country at which its professional staff can meet directly with stakeholders to learn what issues are of most importance to them in their own areas. Regulatory agencies whose actions could have particular impacts in these communities are also invited to participate in Advocacy's regional roundtables. Advocacy also sponsors larger conferences and symposia to discuss major issues. Advocacy maintains close contact with many congressional committees, including those with jurisdiction over the most important areas of interest to small businesses. The Chief Counsel regularly meets with business organizations and trade associations, in addition to traveling throughout the country to hear directly from stakeholders. Advocacy's regional advocates are the office's eyes and ears outside of Washington, and the office also receives a steady flow of input on small business concerns from its stakeholders, including business organizations and trade associations, congressional offices, SBA offices and resource partners, and small businesses themselves.

**Engagement with Federal agencies on regulations and policies affecting small businesses.** After an issue of interest has been identified, Advocacy's Office of Interagency Affairs works with regulatory development officials and policymakers to ensure that the views of small entities are known and considered in the agency's actions. This engagement can take many forms, depending on the stage of the policy or regulatory proposal. Advocacy attorneys and economists often have pre-proposal consultations with regulatory development officials to help them design a rule that will accomplish the agency's regulatory objectives while minimizing burdens on small entities. Advocacy also provides regulatory agencies with technical assistance of various types to help ensure agency compliance with the Regulatory Flexibility Act (RFA) and related requirements. Such assistance can include estimates of the numbers of businesses likely to be affected by a proposal, legal opinions on RFA issues, the review of draft materials, arranging consultations with affected industry representatives, and other assistance specific to each case. Advocacy can intervene at all stages of the rule development process, from confidential pre-decisional deliberative consultations before a proposal is made, to formal

comments after a proposed rule has been published, to comments after a rule has been finalized. Advocacy also provides congressional testimony on issues affecting small business as requested, and the office regularly advises congressional committees on small business issues.

**Small Business Regulatory Enforcement Fairness Act (SBREFA) Panels.** The Small Business Regulatory Enforcement Fairness Act (Title II of P.L. 104-121, as amended) requires three agencies (the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Financial Protection Bureau) to take special steps to ensure that the views and needs of small entities are considered early in the process of drafting rules that could have significant effects. In the SBREFA panel process, Advocacy, OMB's Office of Information and Regulatory Affairs, and the rule-writing agency develop information solicited from small entity representatives and other sources concerning the potential impacts of a new agency proposal. The panel then considers alternatives that minimize burdens, and it prepares a report with recommendations that must by law be addressed in the final rule. The extra steps required for those agencies and regulations subject to the panel process ensure that small business concerns are considered early in the rule development process, and the process is an important tool for Advocacy.

**Regulatory Flexibility Act compliance training.** The Regulatory Flexibility Act, first enacted in 1980 and strengthened in 1996 and 2010, requires most federal regulatory agencies to consider the effects of planned regulatory actions on small entities, and to take steps to minimize them when possible, including the consideration of alternatives for rules with significant impacts and the convening of SBREFA panels with special outreach provisions for certain agencies. Failure to comply with RFA requirements can result in litigation. A significant body of RFA case law has developed over the years, and courts have struck down rules because of RFA problems. Executive Order 13272 requires Advocacy to provide RFA compliance training to federal regulatory development officials, and the office has a continuing program to provide live classroom training to regulatory officials throughout the government. RFA training is customized to each individual agency or multi-agency group receiving the training. Advocacy believes that better-trained regulatory and policy staff can better assess the potential need for both regulation and de-regulation and, when regulation is necessary, develop smarter rules that have reduced impacts on small entities. Better compliance and reduced litigation are also favorable outcomes resulting from fully RFA-compliant rules.

**Retrospective review of regulations.** Section 610 of the Regulatory Flexibility Act requires agencies to review existing regulations periodically to determine whether they are still justifiable based on a number of factors. Advocacy believes that the full potential of this provision in the RFA has not been realized, and welcomed Executive Orders 13563, 13579, and 13610, which among other provisions, directed departments and agencies throughout government to review existing significant regulations and consider how best to promote retrospective analyses 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. Advocacy continues to work with OMB and regulatory agencies to identify rules

where regulatory cost savings can be achieved. More recently, President Trump signed important new executive orders on regulatory reform, including Executive Orders 13771 and 13777 which require Federal agencies to take more aggressive steps to alleviate unnecessary regulatory burdens. Advocacy stands ready to help all agencies in this effort.

### **Performance objectives**

Advocacy has two performance objectives related to Strategic Goal 1:

- Objective 1.1 - the achievement of regulatory cost savings of at least \$6.5 billion in FY 2021 from rules on which Advocacy has worked; and
- Objective 1.2 - the provision of Regulatory Flexibility Act compliance training in FY 2021 to at least 100 policymakers and regulatory development officials in Federal agencies which promulgate regulations that impact small entities.

Representing the concerns of small businesses before Federal regulatory agencies is one of Advocacy's most important statutory missions. Advocacy has adopted the achievement of regulatory cost savings for small businesses and other small entities as an outcome performance measurement for this activity, although the office also works with agencies to advance small entity interests in other ways that do not necessarily produce measurable cost savings.

Advocacy works with Federal regulatory agencies at all stages of the rule development process to help them design regulations that will minimize unnecessary costs to small entities while still achieving agency regulatory objectives. Cost savings from rules on which Advocacy has intervened consist of forgone capital or annual compliance costs that otherwise would have been required in the first year of a rule's implementation. Advocacy captures cost savings in the quarter and fiscal year in which the regulating agency agrees to changes resulting from Advocacy's intervention and not necessarily during the period in which the intervention occurred. Therefore, the results reported for any year do not reflect the total of Advocacy's interventions to date that may produce quantifiable cost savings in the future. Cost savings estimates are generally based on estimates from the agencies promulgating the rules in which Advocacy intervened, although industry estimates may be used in some cases.

A limitation of this performance measure is that it is impossible to predict with any degree of accuracy when Federal agencies will publish final rules that reflect cost savings from rules in which Advocacy intervened, and it is equally difficult to predict the amount of savings likely to be achieved before action on a rule begins. Cost savings rely on externalities (i.e., it is a regulatory agency's decision to reduce the burden on small entities, not Advocacy's), so significant variations from established goals can and do occur. Also, because agencies may make further revisions to a rule, cost savings may change over time based on new information and/or further negotiations and revisions. However, even with these limitations, past performance over an extended period has demonstrated that significant cost savings have been

achieved and measured.<sup>2</sup> Another limitation of this measure is that Advocacy is unable to include in its annual estimate of regulatory cost savings those savings that result solely from pre-decisional deliberative consultations or technical assistance provided to regulatory agencies. These savings are in addition to those claimed under this performance measure and are substantial but impossible to measure with accuracy.

The second performance objective for Strategic Goal 1 in FY 2021 is that Advocacy will provide Regulatory Flexibility Act compliance training to at least 100 policymakers and regulatory development staff in Federal agencies which promulgate regulations that impact small entities. This output measure produces significant benefits, with the Federal regulatory officials gaining or enhancing expertise to assess the need for regulation or de-regulation and, if necessary, to develop and publish better rules that achieve their regulatory objectives while minimizing unnecessary burdens on small entities. Reduced RFA-related litigation and better compliance by the regulated community may also result.

Executive Order 13272 requires Advocacy to provide the RFA compliance training measured by this performance indicator. Since Advocacy began its ongoing RFA compliance training program in 2004 through FY 2019, such live classroom training has been provided to officials in 19 cabinet-level departments and agencies, 78 separate component agencies and offices within these departments, 23 independent agencies, and various special groups including congressional staff, business organizations and trade associations.

### **FY 2019 Accomplishments**

During FY 2019, Advocacy achieved \$773.0 million in first-year regulatory cost savings, all of which will also be annually recurring savings, although they will not be counted again for the purposes of performance measurement. These savings resulted from actions on ten separate Federal regulations originating in seven agencies (the Departments of Labor and Education, the Environmental Protection Agency, the Army Corps of Engineers, the Centers for Medicare and Medicaid Services, the Department of the Interior's Bureau of Safety and Environmental Enforcement, and the Consumer Financial Protection Bureau). Information on these rules will be detailed in Advocacy's annual RFA report for FY 2019. This report and those for past years are posted online at: <https://advocacy.sba.gov/category/resources/annual-report-on-the-rfa/>. Advocacy expects additional significant savings to be achieved as a result of its continuing work on other rules during FY 2019, but savings are not scored until a rule is finalized, and the timing for this is beyond Advocacy's control.

As noted in the preceding section, cost savings rely on factors over which Advocacy has no control, including regulatory agencies' decisions on cost-reducing modifications to their proposed rules and the timing of those decisions. As a result, significant variations from

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<sup>2</sup> These cost savings are reported in both Advocacy's annual RFA reports (posted at <https://advocacy.sba.gov/category/resources/annual-report-on-the-rfa/>) and in its annual Congressional Budget Justifications (posted at <https://advocacy.sba.gov/about/performance/>).



Advocacy's established goals can and do occur. During FY 2019, the Administration's aggressive government-wide efforts to reduce regulatory costs have been very successful. Administration initiatives have reduced the number of new regulations, required off-setting cost reductions when regulations are proposed, mandated the review of existing regulations for potential simplification or elimination, and generally required regulatory agencies to be more sensitive to the costs that their actions impose. Advocacy is fully supportive of these efforts and welcomes all resulting reductions in regulatory costs for small entities.

As agencies across government have responded to these new Administration initiatives, not only have there been fewer new regulations, but agencies are doing a better job of examining the potential costs of their actions before they decide to publish a regulation, a practice that Advocacy has promoted for many years. One result of this is that Advocacy has had fewer opportunities to have a cost-reducing impact between the publication of agencies' proposed rules and their finalization, the period during which Advocacy scores any regulatory cost savings in its own performance metrics. Advocacy is reviewing how to improve its regulatory advocacy performance metrics to more accurately measure its efforts and their effects, and to reduce its reliance on the actions and data of other agencies over which it has no control.

The second performance metric associated with Advocacy's Strategic Goal #1 is the provision of Regulatory Flexibility Act compliance training to policy and regulatory development officials. During FY 2019, Advocacy provided training to 113 officials at regulatory agencies, exceeding its annual goal for this activity that at least 100 officials receive such training.

Although not used as performance indicators, two other measures relating to regulatory advocacy illustrate the diversity of activity in which Advocacy was engaged. During FY 2019, Advocacy provided 22 public comment letters to 14 different agencies on a variety of proposals affecting small business. These and prior regulatory comment letters can be accessed at <https://advocacy.sba.gov/category/regulation/letters-to-agencies/>.

Also during FY 2019, Advocacy's legal team hosted 12 roundtables in Washington and 5 more roundtables outside Washington to collect information from stakeholders on a range of issues. In addition, 10 regional regulatory roundtables were hosted outside of Washington around the country. Four additional outreach meetings on international trade issues were also held, one in Washington and three outside of Washington. More information on regulatory roundtables is posted at <https://advocacy.sba.gov/category/regulation/agency-roundtables/>, on regional regulatory reform roundtables at <https://advocacy.sba.gov/regulatory-reform/>, and on international trade outreach meetings at <https://advocacy.sba.gov/category/regulation/international-trade/>.

During FY 2019, Advocacy also continued to provide the Administration with counsel subsequent to Executive Order 13771 (*Reducing Regulation and Controlling Regulatory Costs*; January 30, 2017) and Executive Order 13777 (*Enforcing the Regulatory Reform Agenda*; February 24, 2017) which require Federal agencies to take more aggressive steps to alleviate unnecessary

regulatory burdens. These steps include the establishment of a Regulatory Reform Task Force in each agency to identify regulations that eliminate jobs or inhibit job creation; are outdated, unnecessary, or ineffective; impose costs that exceed benefits; interfere with regulatory reform initiatives and policies; or that rely on questionable data, information or methods. The Task Force must report to its agency head progress made towards identifying regulations for repeal, replacement or modification, and agencies must incorporate into their annual performance plans indicators that measure progress towards these goals.

The new executive orders are intended to work in tandem with and strengthen the earlier Executive Orders 12866 and 13563, which are both mentioned by name in Executive Order 13777 and through which Advocacy has for years provided counsel to the Administration and Federal agencies on regulatory issues affecting small businesses. This new regulatory initiative is very much in keeping with Advocacy's mission, the RFA and Executive Order 13272. During FY 2019, Advocacy continued to examine rules that agencies determined should be reviewed, and the office continues to provide counsel on which rules would likely lead to regulatory burden reduction for small business.

Also of importance in the office's regulatory advocacy activities is its participation in the Small Business Regulatory Enforcement Fairness Act (SBREFA) panels required by Title II of Public Law 104-121, as amended, for significant rules planned by three agencies: the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Financial Protection Bureau. In the panel process, representatives of the rule-writing agency, OMB, and Advocacy are empaneled to solicit information from industry representatives and other sources on the potential effects of a new agency proposal, to consider alternatives that minimize burdens, and to prepare a report with recommendations that must by law be addressed in the final rule. Although SBREFA panels are labor intensive, they have a proven track record of helping agencies write better rules. Although fewer new rules were proposed during FY 2019, and no new SBREFA panels were convened, an OSHA panel on telecommunications towers was completed at the beginning of FY 2019 (October 2018).

### **FY 2021 Planned Performance**

The Office of Advocacy intends to continue to achieve regulatory cost savings and a reduced regulatory burden through its regulatory interventions. The office relies on various types of activities to achieve regulatory cost savings. These include: participating in the SBREFA panel process for regulations promulgated by EPA, OSHA, and the Consumer Financial Protection Bureau; writing official comments to Federal regulatory agencies on their compliance with the Regulatory Flexibility Act and other rulemaking activities; testifying before Congress on small business issues; responding to OMB referrals on proposed legislation and regulatory proposals; participating with OMB during the Executive Order 12866 review process and during implementation of Executive Order 13272; and providing technical and RFA compliance assistance to agencies as requested at all stages of the rule development process.

In FY 2021, Advocacy's goal for regulatory cost savings is \$6.5 billion. Although year-to-year fluctuations can and do occur, the 20-year long-term annual average of Advocacy's cost savings metric is \$6.36 billion from FY 2000 through FY 2019. Advocacy continues to review difficulties in the quantification of cost savings resulting from rules on which it has worked. In recent years, Advocacy has helped agencies improve numerous draft rules, reducing burdens on small entities, but many agencies have not provided data upon which cost savings estimates can be based. Advocacy was not able to quantify savings on these rules, therefore none were claimed.

More recently, important new Administration initiatives have reduced the number of new regulations, required off-setting cost reductions for new rules that are published, and encouraged agencies to do a better job of examining the costs of their proposals before they publish them. Advocacy is very supportive of these efforts, but one result is that Advocacy has had fewer opportunities to have a cost-reducing impact between the publication of agencies' proposed rules and their finalization, the period during which Advocacy scores any regulatory cost savings in its performance metrics. Advocacy is reviewing how to improve its regulatory advocacy performance metrics to more accurately measure its efforts and their effects, and to reduce its reliance on the actions and data of other agencies over which it has no control.

Advocacy will continue to train Federal regulatory agency personnel on RFA compliance, as required by Executive Order 13272. Classroom training has been conducted by Advocacy staff since FY 2004 and will continue into the future. Agencies have been responsive to the classroom training that their staffs have received, and many have implemented better regulatory flexibility practices as a result. Almost all Federal regulatory agencies have now received RFA compliance training from Advocacy, but Advocacy will continue to provide refresher training, train new personnel, and train officials of component agencies within major departments. Advocacy expects to exceed its FY 2021 goal of providing RFA training to at least 100 regulatory officials.

In FY 2021, Advocacy will continue to assist regulatory agencies in complying with the requirements of Executive Orders 13563, 13579 and 13610. These orders direct Federal regulatory agencies to promote the coordination, simplification and harmonization of regulations that are redundant, inconsistent or overlapping across agencies. They also direct agencies to consider regulatory flexibility whenever possible, to ensure scientific and technological objectivity in regulatory development, and to identify means to achieve regulatory goals that are designed to promote innovation. The orders and related guidance documents also direct agencies to review existing significant regulations and 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. Public participation in this process is encouraged and an accountability framework through agency reporting to OMB has been established.

More recently, President Trump has signed Executive Order 13771 (*Reducing Regulation and Controlling Regulatory Costs*; January 30, 2017) and Executive Order 13777 (*Enforcing the*

*Regulatory Reform Agenda*; February 24, 2017) which require Federal agencies to take more aggressive steps to alleviate unnecessary regulatory burdens. The new executive orders are intended to work in tandem with and strengthen the earlier Executive Orders 12866 and 13563, which are both mentioned by name in Executive Order 13777. Advocacy stands ready to help all agencies in this newly strengthened effort to review regulations and reduce their burdens when possible.

In FY 2021, Advocacy will continue to work with OMB and Federal regulatory agencies as they implement the retrospective review of existing regulations as provided by both Section 610 of the RFA and executive orders. Advocacy will examine rules that agencies determine should be reviewed and provide further recommendations and technical assistance to encourage regulatory burden reduction for small business.

Advocacy is prepared for new SBREFA panel activity in FY 2021. Although it is impossible to predict with accuracy how many of these labor-intensive panels will be convened in the future, Advocacy is prepared to accommodate this priority work.

At the request of OMB's Office of Information and Regulatory Affairs and the Office of the United States Trade Representative, Advocacy has participated since 2012 in various international working groups on regulatory cooperation and trade initiatives that would affect U.S. small businesses. International regulatory cooperation has become the subject of recent trade negotiations, including disproportionate burdens that smaller businesses may face in international trade. Advocacy's unique knowledge of how regulations affect small business can help American small businesses have a place at the table during trade negotiations. The office continues to explore how it can represent U.S. small businesses both in dealing with foreign regulations and those U.S. regulations impeding small business involvement in international trade. Lowering such regulatory barriers could open vast new markets to smaller firms.

On May 18, 2017 the Administration formally notified Congress of its intent to renegotiate the North American Free Trade Agreement (NAFTA). This triggered Advocacy's first ever convening of an Interagency Working Group (IWG) under Public Law 114-125, the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA). This statute established a new role for Advocacy to facilitate greater consideration of small business issues during international trade negotiations. Under TFTEA, the Chief Counsel for Advocacy must convene an IWG whenever the President notifies Congress that the Administration intends to enter into trade negotiations with another country, including re-negotiations of existing treaties. The purpose of the IWG is to conduct small business outreach in the manufacturing, services, and agriculture sectors and to receive input from small businesses on the potential economic effects of a trade agreement on these sectors. From these efforts, the IWG is charged with identifying in a report to Congress the most important priorities, opportunities, and challenges affecting these industry sectors. This report must also provide an analysis of the economic impact on various industries, information on state-owned enterprises, recommendations to create a level playing field for U.S.

small businesses, and information on Federal regulations that should be modified in compliance with the potential trade agreement.

Advocacy's first report under TFTEA, "Section 502 Small Business Report on the Modernization of the North American Free Trade Agreement (NAFTA): Prepared for the Consideration of the United States-Mexico-Canada Agreement (USMCA)" is available on Advocacy's website.<sup>3</sup> Advocacy is currently working on a report on the impact of a trade agreement with Japan, after the President on October 16, 2018 notified Congress of the intent to negotiate trade agreements with Japan, the European Union and the United Kingdom. Advocacy has convened an Interagency Working Group for each of the other two, as required by the TFTEA statute, and will produce a report for each as well. Advocacy will continue to use its resources and regulatory experience to help small businesses participate in international trade with a more level playing field.

***Advocacy Strategic Goal 2: To develop and disseminate research and data on small businesses and the role that they play in the economy, including the availability of credit, the effects of regulations and taxation, the role of firms owned by women, minority and veteran entrepreneurs, innovation, and factors that encourage or inhibit small business start-up, development and growth.***

### **Implementation strategies**

**Adding value to raw data.** Advocacy itself is not a data collection agency (although in some contract research projects, surveys may be conducted). Instead, Advocacy's Office of Economic Research assembles and uses data and other information from many different sources to develop data products that are as timely and actionable as possible. Advocacy's efforts often add value to existing government data resources by developing information that is useful to small business stakeholders from sources that may not have been originally intended for that purpose. Advocacy economic research funds support the development of small firm data at agencies such as the U.S. Census Bureau. Other agencies which have contributed to Advocacy research include the Bureau of Labor Statistics, the Internal Revenue Service, the Social Security Administration, the Federal Reserve Board, the Departments of Education, Defense and Veterans Affairs, and additional components in the Departments of Commerce and Labor. Advocacy has used data from all of these agencies and other sources in its data and research products. Advocacy aims in all its data publications to respond to the needs of its stakeholders with products that help answer their questions and inform their decisions with the best information possible.

**Specialized contract research.** Another important activity in meeting this strategic goal is contract research to address specialized issues of concern to Advocacy's stakeholders. These

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<sup>3</sup> <https://cdn.advocacy.sba.gov/wp-content/uploads/2018/12/20094150/Section-502-Small-Business-Report-on-the-Modernization-of-the-North-American-Free-Trade-Agreement-NAFTA.pdf>.

issues are many and varied. Some have been addressed regularly, such as the cost of regulation, innovation, job creation, taxation, and topics relating to firms owned by women, minority and veteran entrepreneurs. Other topics reflect changing policy issues and priorities or respond to requests from stakeholders. Subject to the availability of funding, Advocacy solicits ideas for its discretionary contract research program each year, and announcements for competitive research proposals are published as small business set-asides through the regular government procurement process. Advocacy also uses contract research funds to update older studies of special value when resources are available.

**Assistance in regulatory advocacy.** Advocacy economists work with agencies throughout government every day to assess the potential impact of proposed regulations on small entities. This is an example of how the various operating divisions within Advocacy work together to advance the office's goals. Regulatory flexibility analyses, and threshold analyses to determine what RFA provisions apply to a given proposal, often turn on how many firms of what size would be affected by that proposal. Advocacy's regulatory economists provide data and economic analyses to help quantify these effects. Advocacy research funds have also supported a competitive "indefinite date – indefinite quantity" (IDIQ) contract for professional assistance on impact analyses that are needed on particularly complex proposals or ones with potentially large impacts.

**Dissemination of research.** Advocacy research products receive wide distribution. All data products and contract research studies are published online, and information on new research is included in Advocacy's electronic newsletter, *The Small Business Advocate*, which goes to 36,000 online subscribers. Also, Advocacy's specialized research and data listserv goes to more than 29,000 subscribers, and its regulatory listserv goes to 27,000 subscribers. Roundtables are held to discuss the office's research products, in addition to conferences and symposia on topics of special interest, such as access to capital and innovation. Advocacy's Office of Interagency Affairs shares economic research with its contacts throughout government, and Advocacy's field component of twelve regional advocates promotes the office's data and research products in presentations throughout the country. Advocacy data and research products are frequently cited in the press, and they are widely used by congressional offices, government policymakers, and many other stakeholders.

### **Performance objectives**

Advocacy has three performance objectives related to Strategic Goal 2:

- Objective 2.1 - in FY 2021, the publication of at least 20 research and data products related to small businesses and issues of concern to them;
- Objective 2.2 - in FY 2021, at least 360 outreach events by Advocacy's regional advocate team at which research or data developed by Advocacy or policy and regulatory issues are discussed with at least five or more small business stakeholders; and

- Objective 2.3 - in FY 2021, at least 12 presentations by Advocacy economists on Advocacy research to academic, media, or policy audiences.

In addition to regulatory advocacy, the second core responsibility of the Office of Advocacy is the development of economic research and data products relating to the role that small businesses play in the nation's economy, including the availability of credit, the effects of regulations and taxation, the role of firms owned by women, minority and veteran entrepreneurs, factors that influence entrepreneurship, innovation and other issues of concern to small businesses.

Advocacy economists perform and publish in-house research in addition to managing contract research projects on specific issues. Advocacy economic research funds also support the development of small firm data at other agencies such as the U.S. Census Bureau. Advocacy economists also work with agencies throughout government on a daily basis to assess the potential impact of their regulations on small entities.

Advocacy is continuing its output measure of the number of its published research and data products related to small businesses and issues of concern to them, with a FY 2021 goal of 20 such products. These research reports inform policymakers by providing data on small business demographics, demonstrating the importance of the role of small business in the economy, highlighting the impact of Federal policies and regulations on small businesses, and providing new research on specialized issues of interest to stakeholders. Advocacy believes that good policy requires good information, and the office's research and data products result in the outcome that policymakers have the information they need to make better decisions.

A second performance objective for Strategic Goal 2 is an output measure that Advocacy's twelve regional advocates collectively participate in at least 360 outreach events with at least five small business stakeholders where Advocacy research or data products or regulatory and policy issues are discussed. Advocacy makes every effort that its research and data products provide information that is both timely and actionable, with the outcome that stakeholders can make better decisions. It is also important that these stakeholders are aware of the availability of Advocacy's work, and how to access it electronically.

Many of Advocacy's stakeholders and users of its research products are located in or near Washington, including congressional offices, Federal agencies, and business and trade associations. However, there is an important need to promote awareness of Advocacy's work not just in Washington, but also in communities throughout the country where the vast majority of small businesses are located. Advocacy's regional advocates promote this awareness in their respective regions. This performance indicator measures Advocacy's continuing outreach efforts to disseminate information on economic research products and pending regulatory proposals.

A third performance objective for Strategic Goal 2 is an output measure that Advocacy economists make at least 12 economic presentations to academic, media, or policy audiences each year. Typical events in which presentations might take place include academic conferences, trade association meetings, policy symposia, or government-sponsored events.

### **FY 2019 Accomplishments**

During FY 2019, Advocacy met its goal and published 20 research and data products. Advocacy released new editions of its popular *Small Business Profiles for the States and Territories*, its *Frequently Asked Questions about Small Business*, the office's *Small Business Data Resources*, and Advocacy's *Small Business Economic Bulletin*. In addition, an important new resource was published, *Small Business Profiles for the Congressional Districts*. Seven new items were added to Advocacy's growing list of Fact Sheets: *What is the Status of Bank Credit to Small Businesses?*; *Spotlight on Community Bank Lending*; *Spotlight on Nonprofits*; *Establishment Dynamics*; and three new spotlights on minority-, women-, and veteran-owned employer firms. Advocacy also published online *Data from the Census Bureau Shows Growth in Hispanic-Owned Businesses* and an infographic, *What's New with Small Business*.

Also during FY 2019, two contract research studies were published, including papers entitled *Small Business GDP, 1998-2014* and *How Accelerators Promote Regional Entrepreneurship*. As part of project to develop new sources of non-employer firm data, Advocacy also supported financially a working paper by the Census Bureau's Center for Economic Studies entitled *Nonemployer Statistics by Demographics (NES-D): Using Administrative and Census Records Data in Business Statistics*. Advocacy's Office of Economic Research (OER) contributed data analyses to Advocacy's *Report on the Regulatory Flexibility Act, FY 2018* and to a report to Congress, *Section 502 Small Business Report on NAFTA-USMCA*, pursuant to the Trade Facilitation and Trade Enforcement Act concerning the views of small business on priorities, opportunities and challenges offered by a renegotiated trade agreement with Canada and Mexico. Finally, the office issued its own *Annual Report of the Office of Economic Research, FY 2018*.

During FY 2019, Advocacy's Office of Economic Research sponsored five Small Business Economic Research Forums. For these forums, OER invites an expert to discuss a key economic topic and to give a presentation to attendees. The forums are valuable to keep Advocacy's staff up to date on the latest data and research from other agencies and researchers. More detail on each forum will be provided in OER's annual report for FY 2019.

Beginning in FY 2013, Advocacy adopted a new performance indicator for measuring outreach activity by its professional economists. During FY 2019, Advocacy economists made 22 qualifying presentations to academic, media, or policy audiences, exceeding the annual goal of 12 events.



Also beginning in FY 2013, Advocacy adopted another new performance measure for outreach activity by its regional advocates, participation in at least 360 outreach events by Advocacy's regional advocate team at which research or data developed by Advocacy or policy and regulatory issues are discussed with at least five or more small business stakeholders. During FY 2019, Advocacy's twelve regional advocates reported a total of 852 qualifying outreach events, substantially exceeding their annual goal of 360 such events.

### **FY 2021 Planned Performance**

Economic research remains one of the office's core statutory missions. Not only does it provide valuable information to Advocacy's many stakeholders, but it also plays a significant role in the office's other missions, including regulatory advocacy in particular. Regulatory flexibility analyses and policy decisions often hinge on how many firms suffer what consequences from a given proposal or policy. Advocacy's economic research also drives many of the outreach efforts that the office conducts to serve its customers. These include publications, symposia and other meetings, regional advocate activities, data requests from other agencies, and congressional inquiries.

In general, Advocacy's economic research budget supports: 1) the development and purchase of small business data from other Federal agencies and special tabulations of unpublished data relating to small business that are held by these agencies; and 2) the commissioning of extramural contract research projects on specialized topics of importance to policymakers and the small business community.

For FY 2021, Advocacy's request includes \$150,000 in new budget authority for economic research purposes. This amount will supplement expected carryover balances which occur when solicitations for contract research proposals, for which funds must be reserved in advance, do not result in technically acceptable proposals. When this happens, the previously reserved but unused funds become available again and can be used to fund new research projects. The FY 2021 request provides sufficient funding to continue data purchases and to support data collection at other agencies that underpins a variety of Advocacy's widely used data products. Advocacy's FY 2021 goal is to publish 20 new research and data products.

During FY 2021 Advocacy economists will make at least 12 economic presentations to academic, media, or policy audiences at organized events. Typical events in which presentations might take place include academic conferences, trade association meetings, policy symposia, or other government-sponsored events. This goal is intended to encourage Advocacy's professional economists to share Advocacy's work and their own research with other professionals, policymakers and opinion leaders.

Advocacy has an annual goal that its 12 regional advocates participate collectively in at least 360 meetings with at least five small business stakeholders where Advocacy research or data

products or regulatory and policy issues are discussed. This activity is intended to provide broad distribution of Advocacy's work and to inform stakeholders on the availability of Advocacy resources online, as well as to solicit information from attendees. Advocacy's regional advocates promote this awareness in their respective regions.

Advocacy's regional advocates have a specific performance measure for economic research dissemination, but they also contribute to Advocacy's work in many other ways. Regional advocates are the Chief Counsel's eyes and ears outside of Washington and are on the front line in carrying out Advocacy's mission. They interact directly with small businesses, small business trade organizations, governors and state legislatures to educate them about the benefits of regulatory flexibility. Regional advocates conduct outreach to locate participants for SBREFA panels that require small entity representatives. They work closely with the ten regional Regulatory Fairness Boards to develop information for SBA's National Ombudsman. They alert businesses in their respective regions about regulatory proposals that could affect them (for example, by alerting firms that an agency is seeking comment on the small business impacts of a proposed regulation). Regional advocates are vital for the two-way communication that Advocacy needs from the vast majority of small entities that operate outside of the Washington.

# Performance Measurement

Following are tables depicting Advocacy performance indicators from FY 2014 through FY 2019, together with FY 2020 and FY 2021 targets.

| <b>Advocacy Strategic Goal 1: To be an independent voice for small businesses inside the government and to assist federal agencies in the development of regulations and policies that minimize burdens on small entities to support their start-up, development and growth.</b>   |          |         |         |         |         |          |          |         |         |
|--|----------|---------|---------|---------|---------|----------|----------|---------|---------|
| <b>Objective 1.1 - Achievement of regulatory cost savings</b>  |          |         |         |         |         |          |          |         |         |
| Performance Indicator  |          | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018  | FY 2019  | FY 2020 | FY 2021 |
| Regulatory cost savings to small businesses (\$ billion)   | Target   | 6.50    | 6.50    | 6.50    | 6.50    | 6.50     | 6.50     | 6.50    | 6.50    |
|  | Actual   | 4.81    | 1.61    | 1.39    | 1.15    | 0.26     | 0.77     | TBD     | TBD     |
|  | Variance | -26%    | -75%    | -79%    | -82%    | -96%     | -88%     | TBD     | TBD     |
| TDB - To be determined.<br>Additional information: This goal has been used since the establishment of performance measurements in FY 2001.   |          |         |         |         |         |          |          |         |         |
| Performance Indicator  |          | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018  | FY 2019  | FY 2020 | FY 2021 |
| Cost per \$1 million in regulatory cost savings (\$)   | Target   | \$1,301 | \$1,301 | \$1,403 | \$1,434 | \$1,403  | \$1,403  | \$1,403 | \$1,414 |
|  | Actual   | \$1,793 | \$5,754 | \$6,574 | \$7,055 | \$35,938 | \$13,840 | TBD     | TBD     |
| TDB - To be determined.<br>Additional information: This efficiency measure has been used since the establishment of performance measures in FY 2001. Targets for this measure are established by dividing Advocacy's budget request for any given year by the regulatory cost savings target for that year. Actuals for this measure are established by dividing Advocacy's actual obligations incurred (see accompanying table) by actual cost savings achieved (see preceding indicator). Unlike other performance measures, lower actual costs per million in savings than those originally targeted reflect better than expected outcomes. Accordingly, variance percentages for this efficiency measure are not used. |          |         |         |         |         |          |          |         |         |
| <b>Objective 1.2 - Provision of Regulatory Flexibility Act compliance training to regulatory development officials throughout government</b>   |          |         |         |         |         |          |          |         |         |
| Performance Indicator  |          | FY 2014 | FY 2015 | FY 2016 | FY 2017 | FY 2018  | FY 2019  | FY 2020 | FY 2021 |
| Newly trained regulatory staff with in-house expertise on Regulatory Flexibility Act (#)   | Target   | 100     | 100     | 100     | 100     | 100      | 100      | 100     | 100     |
|  | Actual   | 132     | 126     | 157     | 195     | 132      | 113      | TBD     | TBD     |
|  | Variance | 32%     | 26%     | 57%     | 95%     | 32%      | 13%      | TBD     | TBD     |
| TDB - To be determined.<br>Additional information: This goal has been used since FY 2004, the function being mandated by Executive Order 13272.  |          |         |         |         |         |          |          |         |         |

| Budgetary Resources   | Budgetary obligations incurred |                |                |                |                |                | Budget plan     |                 |
|---|--------------------------------|----------------|----------------|----------------|----------------|----------------|-----------------|-----------------|
|   | FY 2014 Actual                 | FY 2015 Actual | FY 2016 Actual | FY 2017 Actual | FY 2018 Actual | FY 2019 Actual | FY 2020 Enacted | FY 2021 Request |
| Administrative resources (\$ thousands)   | \$8,628                        | \$9,264        | \$9,157        | \$8,113        | \$9,344        | \$10,698       | \$9,120         | \$9,190         |
| Public Law 111-240 established a separate appropriations account for Advocacy effective in FY 2012. Amounts in this table reflect only amounts requested for or incurred by its own appropriations account. |                                |                |                |                |                |                |                 |                 |

|  |          |                |                |                |                |                |                |                |                |
|--|----------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| <b>Advocacy Strategic Goal 2: To develop and disseminate research and data on small businesses and the role that they play in the economy, including the availability of credit, the effects of regulations and taxation, the role of firms owned by women, minority and veteran entrepreneurs, innovation, and factors that encourage or inhibit small business start-up, development and growth.</b> |          |                |                |                |                |                |                |                |                |
| <b>Objective 2.1 - Publication of research and data products</b>   |          |                |                |                |                |                |                |                |                |
| <b>Performance Indicator</b>   |          | <b>FY 2014</b> | <b>FY 2015</b> | <b>FY 2016</b> | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> |
| Advocacy research & data publications (#)  | Target   | 20             | 15             | 20             | 20             | 20             | 20             | 20             | 20             |
|  | Actual   | 22             | 26             | 26             | 20             | 20             | 20             | TBD            | TBD            |
|  | Variance | 10%            | 73%            | 30%            | 0%             | 0%             | 0%             | TBD            | TBD            |
| TBD - To be determined<br>Additional information: This goal has been used since FY 2004.   |          |                |                |                |                |                |                |                |                |
| <b>Objective 2.2 - Outreach by regional advocates</b>  |          |                |                |                |                |                |                |                |                |
| <b>Performance Indicator</b>   |          | <b>FY 2014</b> | <b>FY 2015</b> | <b>FY 2016</b> | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> |
| Outreach events by regional advocate team using Advocacy work products (#)   | Target   | 360            | 360            | 360            | 360            | 360            | 360            | 360            | 360            |
|  | Actual   | 536            | 550            | 509            | 141            | 523            | 852            | TBD            | TBD            |
|  | Variance | 49%            | 53%            | 41%            | -61%           | 45%            | 137%           | TBD            | TBD            |
| TDB - To be determined.<br>Additional information: This goal has been used since FY 2013.  |          |                |                |                |                |                |                |                |                |
| <b>Objective 2.3 - Outreach by Advocacy economists</b>   |          |                |                |                |                |                |                |                |                |
| <b>Performance Indicator</b>   |          | <b>FY 2014</b> | <b>FY 2015</b> | <b>FY 2016</b> | <b>FY 2017</b> | <b>FY 2018</b> | <b>FY 2019</b> | <b>FY 2020</b> | <b>FY 2021</b> |
| Presentations by Advocacy economists to academic, media or policy audiences (#)  | Target   | 12             | 12             | 12             | 12             | 12             | 12             | 12             | 12             |
|  | Actual   | 26             | 34             | 52             | 28             | 18             | 22             | TBD            | TBD            |
|  | Variance | 117%           | 183%           | 333%           | 133%           | 50%            | 83%            | TBD            | TBD            |
| TDB - To be determined.<br>Additional information: This goal has been used since FY 2013.  |          |                |                |                |                |                |                |                |                |

## Verification and Validation

Advocacy management has adopted verification and validation documentation in conformity with the standards used by SBA's Office of Performance Management. This documentation is reviewed annually and is on file with that office. It is also published on Advocacy's own **Performance and Budget** website at <https://advocacy.sba.gov/about/performance/>.

## Explanations for Variances

As indicated in the preceding charts, significant variances occurred between certain Advocacy goals for FY 2019 and actual results. Explanations for these variances follow.

**Regulatory cost savings to small businesses (88% below goal).** Advocacy did not meet its goal of \$6.5 billion in regulatory cost savings to small businesses, being able to quantify \$773 million in such savings in FY 2019. However, Advocacy's 20-year annual average from FY 2000 through FY 2019 was \$6.36 billion in savings per year. As explained in the section on FY 2019 accomplishments under Strategic Goal #1, significant variations in this measure can and do occur from year to year due to factors over which Advocacy has no control. Cost savings rely on externalities – regulatory agencies make the actual decisions that reduce burdens on small entities, not Advocacy, and these agencies control both the timing and amount of savings when they finalize and publish their rules. Advocacy continues to address the challenges of the quantification of cost savings resulting from rules on which it has worked. In recent years, Advocacy has helped agencies improve numerous draft rules reducing burdens on small entities, but the agencies have not provided data upon which cost savings estimates can be based. Because Advocacy was not able to quantify savings on these rules, none were claimed.

In FY 2019, important new Administration initiatives reduced the number of new regulations, required off-setting cost reductions for new rules that were published, and encouraged agencies to conduct more extensive examinations of the costs of their proposals before they published them. Advocacy is very supportive of these efforts, but one result is that Advocacy has had fewer opportunities to have a cost-reducing impact between the publication of agencies' proposed rules and their finalization, the period during which Advocacy scores any regulatory cost savings in its performance metrics. Advocacy is reviewing how to improve its regulatory advocacy performance metrics to more accurately measure its efforts and their effects, and to reduce its reliance on the actions and data of other agencies over which it has no control.

**Regulatory staff with in-house expertise on Regulatory Flexibility Act compliance (13% over goal).** Advocacy continued its aggressive RFA compliance outreach efforts in FY 2019, and agencies have also responded to presidential directives on regulatory review, including the new Executive Orders 13771 and 13777 signed by President Trump.

**Research and data publications (no variance).** Advocacy met its FY 2019 goal of 20 research and data publications with the release of 20 such products, including updated revisions to its most popular periodic reports, an important new product on small firms by congressional district, additions to its *Fact Sheet* series, new contract research studies, and support for a new Census Bureau project to develop firm data on non-employers.

**Outreach events by regional advocates (137% above goal).** Advocacy's twelve regional advocates substantially exceeded their goal of participation in 360 qualifying outreach events during FY 2019, with 852 such events.

**Presentations by Advocacy economists to academic, media, or policy audiences (83% over goal).** Advocacy economists substantially exceeded their FY 2019 goal of making presentations to at least 12 academic, media, or policy audiences, with 22 such presentations.

# Office of Advocacy Organization

FY 2021

