

## U.S. Small Business Administration

### Office of the National Ombudsman

#### Overview of the Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act was enacted into law March 29, 1996. The six key aspects of the legislation are as follows:

**(1) Regulatory compliance simplification:** Federal agencies are required to develop comprehensive guidelines and a well defined process to respond to small business inquiries on actions that businesses are required to take to comply with rules established by the agencies. These guidelines must be written in plain English.

**(2) Equal access to justice amendments:** Small businesses are given expanded authority to go to court to be awarded attorney's fees and costs when an agency has been found to be excessive in its enforcement of federal regulations.

**(3) Congressional review:** Congress is authorized to review each major rule promulgated before it can take effect.

**(4) Regulatory enforcement reform of penalties:** Within 1 year each agency shall establish a policy to provide for the reduction and, in some circumstances, the waiver of civil penalties for violations of a regulation.

The final two key aspects most directly affect the U.S. Small Business Administration (SBA) as follows:

**(5) Small business advocacy review panels:** Before proposed rules are published, the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) are required to establish government panels that receive input from affected small businesses and make public the panel's report as part of the record.

**(6) Oversight of regulatory enforcement:** The SBA Administrator must appoint a Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Small Business Regulatory Fairness Boards to comment on the enforcement activities of federal regulatory agencies. Small businesses are provided with a procedure to comment on the enforcement activity conducted by federal regulatory agencies. The National Ombudsman must annually report to Congress on the findings.

## **Brief Explanation of the National Ombudsman and Regional Fairness Boards**

The Oversight of Regulatory Reform provision of the Act created the National Ombudsman and 10 Regional Fairness Boards to provide small businesses with the opportunity to comment on enforcement activity by federal regulatory agencies. Through this provision, Congress and the President have provided a way that small businesses can meaningfully participate in the regulatory process by establishing a forum in which to express their views and share their experiences about federal regulatory activity.

The National Ombudsman and the Fairness Boards will receive comments about federal compliance and enforcement activities from small businesses, and report these findings to Congress every year. The report will give each agency a kind of "customer satisfaction rating" by evaluating the enforcement activities of regulatory agency personnel and rating the regional and program offices of the regulatory agencies responsiveness to small business.

### **Regulatory Enforcement Ombudsman**

- (1) Receive comments from small businesses on compliance and enforcement actions
- (2) Review small business concerns
- (3) Report annually to Congress.

### **10 Regional Fairness Boards**

- (1) Members are small business owners/operators
- (2) Perform outreach to get the word out to small businesses about their opportunity to participate in regulatory reform
- (3) Report to the National Ombudsman about comments and issues specific to their regions
- (4) Contribute to the annual report to Congress