

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

**Fiscal Year 2023
Congressional Budget Justification**

and

**Fiscal Year 2021
Annual Performance Report**

U.S. Small Business Administration Office of Advocacy

Fiscal Year 2023 Congressional Budget Justification and Fiscal Year 2021 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 Advocacy has its own statutory charter, Title II of Public Law 94-305 as amended (15 U.S.C. § 634a *et seq.*), originally enacted in 1976.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 Act¹ 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.

¹ 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 2023 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 2023 Budget Request

For FY 2023, the Office of Advocacy requests \$10.211 million in new budget authority for its direct expenses, a \$745,000 increase from the amount enacted for FY 2022.

New Budget Authority (<i>dollars in millions</i>) ¹								
FY 2016 Enacted	FY 2017 Enacted	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Enacted	FY 2022 Annualized CR	FY 2022 Enacted	FY 2023 Request
9.120	9.220	9.120	9.120	9.120	9.190	9.190	9.466	10.211

¹ Actual obligations for past years are reported in the tables at end of this presentation.

The largest portion of Advocacy’s request, \$9.741 million, is planned for the compensation and benefits of Advocacy’s professional staff. Staffing accounts for approximately 95 percent of

Advocacy's total FY 2023 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 2023 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 2021 accomplishments, and FY 2023 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 has also hosted 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 additional consideration 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 continues to work with OMB and regulatory

agencies to identify rules where regulatory cost savings can be achieved; 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.

International trade. Public Law 114-125, the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), 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 Interagency Working Group (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.²

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 2023 from rules on which Advocacy has worked; and
- Objective 1.2 - the provision of Regulatory Flexibility Act compliance training in FY 2023 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

² <https://advocacy.sba.gov/2018/12/21/advocacy-releases-trade-report/>

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.³ 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 2023 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 2021, such live classroom training has been provided to officials in 18 cabinet-level departments and agencies, 80 separate component agencies and offices within these departments, 24 independent agencies, and various special groups including congressional staff, business organizations and trade associations.

³ 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/>).

FY 2021 Accomplishments

During FY 2021, Advocacy achieved \$3.277 billion 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 nine separate Federal regulations originating in five agencies (the Environmental Protection Agency, the Occupational Safety and Health Administration, USDA's Animal and Plant Health Inspection Service, the National Oceanic and Atmospheric Administration, and the Army Corps of Engineers). Information on these rules will be detailed in Advocacy's annual RFA report for FY 2021. 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 2021, 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 Advocacy's established goals can and do occur. Advocacy will continue exploring opportunities to capture and improve regulatory advocacy performance metrics to measure these efforts and their effects.

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 2021, Advocacy provided training to 290 officials at regulatory agencies, substantially exceeding its annual goal 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 2021, Advocacy provided 17 public comment letters to 10 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 2021, Advocacy's legal team hosted 20 virtual roundtables to collect information from stakeholders on a range of issues. More information on regulatory roundtables is posted at <https://advocacy.sba.gov/category/regulation/agency-roundtables/>.

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.

On October 15, 2020, the Consumer Financial Protection Bureau (CFPB) convened a SBREFA panel on its section 1071 rulemaking. Section 1071 of the Dodd-Frank Act amends the Equal Credit Opportunity Act to require, subject to rules prescribed by the CFPB, financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. On December 15, 2020, the CFPB released the Final Report of the Small Business Review Panel on the CFPB's Proposals Under Consideration for the Small Business Lending Data Collection Rulemaking. This report includes a summary of the feedback received from small entity representatives during the panel process, and findings and recommendations made by the panel. A Notice of Proposed Rulemaking was published in October 2021 which included several recommendations in the panel report.

On November 25, 2020, the Environmental Protection Agency notified Advocacy that it was convening a SBREFA panel in anticipation of a proposed rule on air emissions of ethylene oxide from commercial sterilization and fumigation operations. The panel met with small businesses that operate sterilization facilities in December 2020 to discuss likely impacts of such regulations and the technical and regulatory barriers to reducing ethylene oxide emissions. The panel concluded its work with a panel report signed on April 26, 2021.

On January 7, 2021, the Environmental Protection Agency notified Advocacy that it was convening a SBREFA panel on a potential rulemaking under the Toxic Substances Control Act to regulate the conditions of use of methylene chloride that present an unreasonable risk. The panel met with small entity representatives on January 28, 2021. The panel report was signed in November 2021.

On April 27, 2021, the Environmental Protection Agency notified Advocacy that it was convening a SBREFA panel on a potential rulemaking under the Toxic Substances Control Act to regulate the conditions of use of 1-bromopropane that present an unreasonable risk. The panel met with small entity representatives on May 11, 2021.

On July 15, 2021, the Environmental Protection Agency notified Advocacy that it was convening a SBREFA panel on methane emissions from oil and gas production. Air emissions from oil and gas production were also the subject of a SBREFA panel in 2015 and EPA rulemaking in 2012, 2016, and 2020. The panel met with small businesses likely affected by this rule in July and August 2021. The panel report was signed on September 20, 2021, and a proposed rule was published on November 15, 2021. EPA issued a fact sheet for small businesses that discussed the SBREFA panel and EPA's responses to the panel's recommendations.

On August 2, 2021, the Department of Labor's Occupational Safety and Health Administration (OSHA) notified Advocacy that was planning to convene on October 4, 2021, a SBREFA panel on a potential Emergency Response standard. The draft Emergency Response standard would apply to employers that designate employees to provide emergency response services that are currently covered by OSHA's Fire Brigades standard (29 CFR §1910.156) or are not specifically covered by another OSHA standard. The panel will meet with small entity representatives over the course of several videoconferences in October 2021. In accordance with OSHA's anticipated schedule, the panel would conclude its work with a panel report signed on December 2, 2021.

In addition, throughout FY 2021, EPA notified Advocacy that it would be convening a SBREFA panels on potential rulemakings under the Toxic Substances Control Act to regulate the conditions of use of four other chemicals: trichloroethylene, cyclic aliphatic bromide cluster, perchloroethylene and pigment violet 29.

Additional SBREFA panel activity is expected in FY 2022. As this document was being prepared, EPA has notified Advocacy that it intends to convene a SBREFA panel on regulating Perfluorooctanesulfonic Acid (PFOS) and Perfluorooctanoic Acid (PFOA) in public drinking water systems.

Public Law 114-125, the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), 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 Interagency Working Group (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.

During FY 2021, Advocacy continued work on an IWG report on the impact of a trade agreement with Japan, after the President notified Congress in FY 2020 of the intent to negotiate trade agreements with Japan, the European Union and the United Kingdom. Advocacy convened an IWG for all three agreements, as required by the TFTEA statute, and will produce reports under the Trade Promotion Act in the event agreements are reached. Advocacy will continue to use its resources and regulatory experience to help small businesses participate in international trade with a more level playing field.

In August 2020, Advocacy was asked to participate in a formal dialogue between the Office of the International Trade Representative, the U.S. Agency for International Development, SBA and officials representing Kenya to discuss the development of a Small Business Development Center Program in Kenya. Discussions on that project continued in FY 2021.

FY 2023 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 2023, 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 \$6.23 billion from FY 2002 through FY 2021. 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.

Advocacy will continue exploring opportunities to capture and improve regulatory advocacy performance metrics to measure these efforts and their effects.

Advocacy will continue to train Federal regulatory agency personnel on RFA compliance, as required by Executive Order 13272. Classroom and virtual training have been conducted by Advocacy staff since FY 2004 and will continue. Agencies have been responsive to the 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.

In FY 2023, 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.

In FY 2023, 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 increased new SBREFA panel activity in FY 2023. 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. Advocacy anticipates that in FY 2023 EPA will continue to convene SBREFA panels for most or all of high priority chemicals reviewed under the Toxic Substances Control Act. EPA is now required to have 20 chemicals in the process of risk evaluation at all times, and the scope of the next 20 risk evaluations was published in August 2020. These risk evaluations must be complete by the end of 2022, after which more SBREFA panels will likely follow.

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.

As noted above, Advocacy has convened IWGs under the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) for pending trade negotiations with Japan, the European Union, and the United Kingdom, and plans to produce a report for each negotiation, as well as any others that may be announced. Advocacy expects this work to continue into 2023 and 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 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.

Advocacy economists. Advocacy's economists have knowledge and expertise on the latest available data on small businesses from government and non-government sources. They are often sought out by congressional staff, SBA offices and resource partners, other federal agencies, the media, and trade associations to answer important questions in understanding the small business economic landscape. Beyond the value of research products, Advocacy economists provide critical resources to stakeholders across government and the private sector on the latest small business data and statistics available from a variety of sources.

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 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. Additionally, as Advocacy’s role in regulatory development has expanded into trade policy as required by the Trade Facilitation and Trade Enforcement Act, Advocacy’s economists have supported these efforts with analyses of relevant small business trade data. 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 regulatory 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 41,000 online subscribers. Also, Advocacy’s specialized research and data listserv goes to more than 35,000 subscribers, and its regulatory listserv goes to 32,000 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 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 2023, 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 2023, 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 2023, 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 work with agencies throughout government daily 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 2023 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. In addition to policymakers, a wide variety of other stakeholders use Advocacy research and statistics, including Congressional offices, SBA and its resource partners throughout the country, state and local governments, the press, and small businesses themselves.

A second performance objective for Strategic Goal 2 is an output measure that Advocacy's 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 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 most 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, including RFA training conducted in cooperation with Advocacy's Office of Interagency Affairs.

FY 2021 Accomplishments

During FY 2021, Advocacy published 23 research and data products. Advocacy released new editions of its popular *Small Business Profiles for the States, the District of Columbia, and the U.S.*; the office's *Frequently Asked Questions about Small Business*; and Advocacy's *RFA Data Resources for Federal Agencies*. Also published was a new lending study, *Change in Small Business Loans Outstanding During the COVID-19 Pandemic*, in addition to two new numbers of Advocacy's *Small Business Economic Bulletin*. A new Issue Brief was also published entitled *The Effects of the COVID-19 Pandemic On Small Businesses*, and Advocacy's Office of Economic Research (OER) contributed data analyses to Advocacy's *Report on the Regulatory Flexibility Act, FY 2020*, released in July 2021.

Ten new items were added to Advocacy's list of Fact Sheets:

- *The Pulse of Small Business: an Industry Breakdown*;
- *What's New With Small Business?*;
- *Small Business Facts: Pandemic Pressures City Businesses*;
- *Small Business Facts: Science/High-Tech Workers and Small Firms*;
- *Small Business Facts: Paths to Business Ownership*;
- *Small Business Facts: Business Ownership Demographics*;
- *Small Business Facts: Equally Male/Female-Owned Employer Businesses*;
- *Small Business Facts: Women-Owned Businesses*;
- *Small Business Facts: Supply Squeeze – Small Business Commodity Challenges*; and
- *Small Business Facts: The Importance of Business Ownership to Wealth*.

Also during FY 2021, four contract research studies were published, including papers entitled *Do Banks Lend Where They Borrow? A Study On Local Small Business Lending in the U.S.*; *Contributions of Small Business Indirect Exports To U.S. International Trade*; *Effects of Small Loans On Bank And Small Business Growth*; and *Millennial Veteran Entrepreneurship: Research on the Next Generation of Veteran Entrepreneurs*.

As part of project to develop new sources of non-employer firm data, Advocacy also continued in FY 2021 to financially support a ground-breaking project Advocacy has undertaken in collaboration with the U.S. Census Bureau to develop and publish on an annual basis comprehensive business owner demographic data on non-employers. Such data has not been available since the Census Bureau discontinued its Survey of Business Owners after its 2012 edition, replacing it with annual products with owner demographics on employer firms only. The new data product, [Nonemployer Statistics by Demographics \(NES-D\)](#), is now available online and fills a major data gap, including information on non-employers owned by women, minority, and veteran entrepreneurs.

During FY 2021, Advocacy's Office of Economic Research sponsored two 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 2021.

Beginning in FY 2013, Advocacy adopted a performance indicator for measuring outreach activity by its professional economists. During FY 2021, Advocacy economists had made 25 qualifying presentations to academic, media, or policy audiences, as well as participating in RFA compliance training at regulatory agencies, exceeding the annual goal of 12 presentations.

Also beginning in FY 2013, Advocacy adopted another 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. Because all of Advocacy's regional advocate positions have been vacant subsequent to the transition in administrations on January 20, 2021, no qualifying outreach events have been recorded in FY 2021. This activity is expected to resume with the appointment of a new regional advocate team.

FY 2023 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 regulatory economists provide data and economic analyses to help quantify these effects. 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. Advocacy expects its economists to respond to an increasing number of data inquiries related to the COVID pandemic and other issues on the latest small business statistics and assessments of small business impacts by geographic area, owner demographic, and industry. Advocacy economists will continue to serve as a key resource for congressional staff, SBA offices and resource partners, other federal agencies, the media, and trade associations in understanding the latest small business data sources available to provide policymaking insight.

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 2023, 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 2023 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 2023 goal is to publish 20 new research and data products.

During FY 2023, 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, including Regulatory Flexibility Act training. 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 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 2016 through FY 2021, together with FY 2022 and FY 2023 targets.

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.									
Objective 1.1 - Achievement of regulatory cost savings									
Performance Indicator		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
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	1.39	1.15	0.26	0.77	2.26	3.28	TBD	TBD
	Variance	-79%	-82%	-96%	-88%	-65%	-50%	TBD	TBD
TDB - To be determined. Additional information: This goal has been used since the establishment of performance measurements in FY 2001.									
Performance Indicator		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Cost per \$1 million in regulatory cost savings (\$)	Target	\$1,403	\$1,434	\$1,403	\$1,403	\$1,403	\$1,458	\$1,480	\$1,571
	Actual	\$6,574	\$7,055	\$35,938	\$13,840	\$4,118	\$2,177	TBD	TBD
TDB - To be determined. 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.									
Objective 1.2 - Provision of Regulatory Flexibility Act compliance training to regulatory development officials throughout government									
Performance Indicator		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Newly trained regulatory staff with in-house expertise on Regulatory Flexibility Act (#)	Target	100	100	100	100	100	100	100	100
	Actual	157	195	132	113	224	290	TBD	TBD
	Variance	57%	95%	32%	13%	124%	190%	TBD	TBD
TDB - To be determined. 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 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Actual	FY 2022 Request	FY 2023 Request
Administrative resources (\$ thousands)	\$9,157	\$8,113	\$9,344	\$10,698	\$9,306	\$7,141	\$9,620	\$10,211
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.								

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.

Objective 2.1 - Publication of research and data products

Performance Indicator		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Advocacy research & data publications (#)	Target	20	20	20	20	20	20	20	20
	Actual	26	20	20	20	21	23	TBD	TBD
	Variance	30%	0%	0%	0%	5%	15%	TBD	TBD

TBD - To be determined
Additional information: This goal has been used since FY 2004.

Objective 2.2 - Outreach by regional advocates

Performance Indicator		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Outreach events by regional advocate team using Advocacy work products (#)	Target	360	360	360	360	360	360	360	360
	Actual	509	141	523	852	552	0	TBD	TBD
	Variance	41%	-61%	45%	137%	53%	-100%	TBD	TBD

TDB - To be determined.
Additional information: This goal has been used since FY 2013.

Objective 2.3 - Outreach by Advocacy economists

Performance Indicator		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Presentations by Advocacy economists to academic, media or policy audiences (#)	Target	12	12	12	12	12	12	12	12
	Actual	52	28	18	22	12	25	TBD	TBD
	Variance	333%	133%	50%	83%	0%	108%	TBD	TBD

TDB - To be determined.
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 2021 and actual results. Explanations for these variances follow.

Regulatory cost savings to small businesses (50% below goal). Advocacy did not meet its goal of \$6.5 billion in regulatory cost savings to small businesses, being able to quantify \$3.28 billion in such savings in FY 2021. However, Advocacy's 20-year annual average from FY 2002 through FY 2021 was \$6.23 billion in savings per year. As explained in the section on FY 2021 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. Advocacy will continue exploring opportunities to capture and improve regulatory advocacy performance metrics to measure these efforts and their effects.

Regulatory staff with in-house expertise on Regulatory Flexibility Act compliance (190% over goal). Advocacy continued its aggressive RFA compliance outreach efforts in FY 2021, providing in house RFA compliance training to 290 regulatory development and policy officials.

Research and data publications (15% over goal). Advocacy exceeded its FY 2021 goal of 20 research and data publications with the release of 23 such products, including updated revisions to its most popular periodic reports, 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 (100% below goal). Because all of Advocacy's regional advocate positions have been vacant subsequent to the transition in administrations on January 20, 2021, no qualifying outreach events have been recorded in FY 2021. This activity is expected to resume with the appointment of a new regional advocate team.

Presentations by Advocacy economists to academic, media, or policy audiences (108% above goal). Advocacy economists substantially exceeded their FY 2021 goal of making presentations to at least 12 academic, media, or policy audiences, with 25 such presentations, including participation in Advocacy RFA compliance training classes provided to regulatory development and policy officials in government agencies.

Office of Advocacy Organization

FY 2023

