

Office of the National Ombudsman



Report to Congress

Fiscal Year 2013



Working to Deliver Regulatory Fairness for America's Small Businesses

Office of the National Ombudsman

Report to Congress

Maria Contreras-Sweet
Administrator

Brian M. Castro
National Ombudsman and
Assistant Administrator for Regulatory Enforcement Fairness

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Message from the Administrator

On behalf of the U. S. Small Business Administration (SBA), I am pleased to present the *Report to Congress* of our Office of the National Ombudsman for Fiscal Year 2013.

This report highlights the achievements of the Office of the National Ombudsman (ONO), including its work to support the creation, growth, and success of America's small businesses. Many Federal regulations that cover small businesses were drafted with big businesses in mind. As a result, entrepreneurs often must engage in expensive and difficult efforts to ensure regulatory compliance. The National Ombudsman does vital work to bridge the gap between Federal regulators and small business owners by devising resolutions that achieve intended regulatory goals in ways that do not hinder small business growth.



The resources provided by ONO are an important part of the administration's commitment to ensure that the nation's most important job creators are not unreasonably burdened by the unintended consequences of Federal regulations.

In FY 2013, the Office of the National Ombudsman processed 346 small business comments or complaints; responded to over 2,800 public inquiries; held the annual Regulatory Fairness Board meeting; and submitted its *FY 2012 Annual Report to Congress*. To connect directly with small business owners, the Ombudsman held 17 roundtables and 27 meetings, which included the participation of Regulatory Fairness Board members in every region.

The Office of the National Ombudsman has developed and strengthened its relationships across multiple Federal agencies to identify and mitigate regulatory burdens impacting small business owners. For instance, the Office worked with the Department of Health and Human Services and the Centers for Medicare & Medicaid Services to explore impacts that certain Federal regulations are having on small providers of medical devices and other equipment. At hearings in Iowa and Washington, these providers stated that government auditing processes and regulatory barriers in Medicare's 'competitive bidding' program put small providers at a disadvantage while making it harder for patients to get access to critical health care. While work continues, steps have already been taken by the CMS to address some of the concerns raised in the hearings.

The National Ombudsman's Office will continue its important work to ensure a level regulatory playing field for small businesses, so entrepreneurs who create a majority of our new jobs are not hindered in their ability to grow their companies and the American economy.

Sincerely,

A handwritten signature in blue ink that reads "Maria Contreras-Sweet". The signature is fluid and cursive, with a prominent initial "M".

Maria Contreras-Sweet
SBA Administrator

Message from the National Ombudsman

In Fiscal Year 2013, the Office of the National Ombudsman expanded its work in collaboration with Federal agency partners to execute on President Obama's mandate that all agencies make their regulations more effective and less burdensome, and thereby support continued economic growth and job creation. By streamlining existing rules and eliminating duplicative and unnecessary regulations, while at the same time protecting the safety, health, and rights of all Americans, these regulatory reviews already have made our regulatory system more cost-effective and evidence-based, resulting in \$10 billion in regulatory compliance savings in the near term, with additional savings thereafter.



The Office partnered with Regional Regulatory Fairness Board members and SBA Regional and District teams to connect directly with members of the small business community throughout the country. In regulatory fairness hearings and roundtables, and in meetings, small business owners shared timely and vital data on regulatory barriers they face. With this information, ONO was able to advise its agency partners of the impact on Main Street of regulatory requirements and practices, both new and existing. This foundation has enabled ONO to engage Federal regulators to begin to address the most burdensome regulations.

- The Office of the National Ombudsman convened regulatory fairness hearings to learn more about and bring attention to critical regulatory issues disproportionately impacting small businesses. At hearings in Davenport, Iowa and Seattle, Washington, 40 owners of small medical providers testified about the impacts of an ongoing audit process that were described as posing existential threats to the future of hundreds of small businesses and severe threats to patient access to health care. Many more such providers – including prosthetists and providers of orthotics and durable medical equipment – registered similar concerns in written submissions to the Office of the National Ombudsman.
- Dozens of small medical providers also stated that the practice of awarding Medicare contracts through a program called ‘competitive bidding’ has reduced patient choice, access to life saving resources, and competition.
- During the course of FY 2013 the Office of the National Ombudsman received hundreds of comments from small businesses about Federal regulations or the

actions of Federal agencies impacting their operations. ONO worked with the Federal agencies involved to assure independent high-level analysis of the cases in question. Generally these cases ended in relief given to the commenting businesses. Two examples are: 1) A roofing company of fewer than five employees was fined \$7,600 for safety violations on a one-day job - ONO helped to have the violations consolidated and reduced to \$2,300; and 2) Medicare eligibility was suspended for a husband-and-wife medical supplies company forced to close its office for two days due to a medical emergency of the wife - ONO worked with the Department of Health and Human Services to have the business' Medicare supplier number reinstated. For case studies of ONO efforts on behalf of individual small businesses, see Chapter V.

While progress has been made, we recognize that there is more to be done as we work across government on behalf of small business owners. This Administration is firmly committed to a regulatory strategy that protects the safety and health of all Americans, while promoting continued economic growth and supporting small business. In Fiscal Year 2014 ONO and its Federal agency partners will seize every opportunity to honor that commitment by eliminating excessive and unjustified burdens on small businesses and ensuring that regulations are designed with careful consideration of their effects on small businesses.



Brian M. Castro
National Ombudsman and
Assistant Administrator for Regulatory Enforcement Fairness

chapter |

Introduction to the Office of the National Ombudsman

The mission of the Office of the National Ombudsman is to assist small businesses with solutions to unfair or disproportionate regulatory burdens.

The Office of the National Ombudsman (ONO) was created by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 to help level the regulatory playing field for small business.

Accordingly, ONO:

- Solicits and assesses hundreds of comments from small businesses concerning burdens imposed by Federal regulations or Federal agency enforcement actions.
- Analyzes small business concerns to detect regulatory trends and recurring issues that create barriers to small business growth.
- Partners with federal agencies that regulate small business to address and resolve issues of regulatory fairness for small business owners.
- Convenes public forums and participates in public outreach to identify regulatory barriers to small business success and disseminate information about resources available for the nation's small businesses through SBA and ONO.

- Evaluates and reports to Congress on Federal agencies' responsiveness to small business concerns and their adherence to the mandates of SBREFA.

Too often, well-intentioned rules or regulators' actions can have unintended consequences that create unnecessary barriers to small business success. And that's where the Office of the National Ombudsman comes in. The Ombudsman helps small business owners understand regulatory requirements, resolve disputes with Federal regulators, and ultimately thrive.

The Comment Process

Small businesses, including non-profits and small government entities, are encouraged to make inquiry about, challenge, or ask for reconsideration when they feel Federal regulation or penalties fall upon them out of proportion to an alleged infraction. Accordingly, each year, ONO receives hundreds of comments from small entities

seeking re-examination and relief. This begins the ONO comment process (see **Figure I-1**).

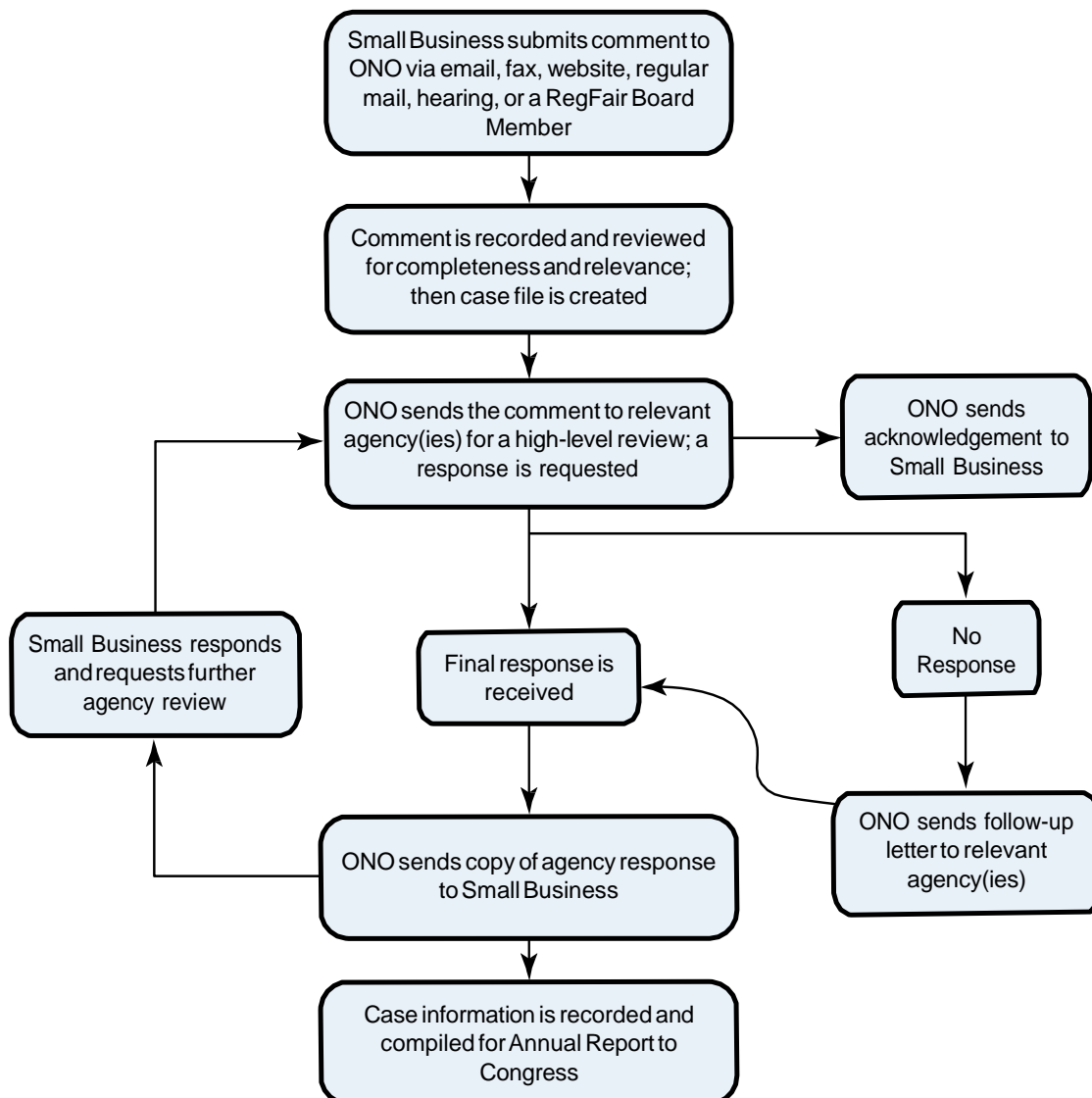
When a comment is received, ONO reviews it for substance and relevance, opens a case file, and contacts the Federal agency with which the small business commenter is concerned.

The Federal agency in turn conducts its own high-level, objective review of the facts of the case and any underlying agency action, then responds with its

conclusions to ONO. In many cases the agency acts to remedy the situation of the commenting small business by lowering fines, mitigating enforcement actions, or revising decisions in favor of a small business owner. *Chapter V* contains examples of such outcomes.

Collectively, these agency responses constitute the basis for the Federal agency ratings contained in this *Report to Congress* (see *Chapter IV*). Figure I-1 depicts the Comment Process.

FIGURE I-1. COMMENT PROCESS



History of the Office of the National Ombudsman

The Office of the National Ombudsman was established by P.L. 104-121, March 29, 1996, the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (since amended in 2007 by P.L. 110-28, May 25, 2007). The Act charged the National Ombudsman with working on behalf of small businesses and entrepreneurs that are unfairly burdened by Federal regulation and enforcement actions.

Sentiment built through the 1990s that despite a vibrant and growing small business sector of the economy, small business was bearing a disproportionate share of regulatory costs and burdens. Accordingly, a 1995 White House Conference on Small Business recommended reform to the way government regulations are developed and enforced as well as reductions in government paperwork requirements.

One result was SBREFA and the creation of the Office of the National Ombudsman. ONO is an impartial liaison that receives and directs the concerns of small business owners to appropriate Federal agencies for high-level fairness reviews. Whenever possible, ONO works with its agency partners and small business owners to resolve those concerns fairly and quickly.

ONO also reports once a year to Congress how well Federal agencies work with the small businesses they regulate. ONO grades the agencies on, among other

TABLE I-1. ONO FY13 COMMENTS

Total number of comments	346
Comments received via:	
Web	202
Fax	49
E-mail	32
Mail	11
Meeting	2
Testimony	50
Commenters	
Small Business	292
Association	12
Non-profit	12
Other	26
Small Government	4

things, timeliness of response, quality of responses and adherence to SBREFA requirements.

SBREFA also established ten Regional Regulatory Fairness Boards (RegFair Boards) around the country to advise ONO. These Boards are composed of small business owners who meet with the National Ombudsman annually and comment on regulations impacting small business.

Small businesses and entrepreneurs submit comments via www.sba.gov/ombudsman/comment, email (ombudsman@sba.gov), fax (202) 481-5719, or mail at U. S. Small Business Administration, Office of the National Ombudsman, 409 3rd Street, S. W., Washington, D. C. 20416.

chapter II

Regional Regulatory Fairness Boards

Five-member Regional Regulatory Fairness Boards (RegFair Boards) have been established in each of the Small Business Administration's ten regions pursuant to SBREFA. Members are small business owners, operators, or officers and serve three-year terms without compensation.

The task of the RegFair Boards is to inform the National Ombudsman about Federal regulations' impact on small business, highlight recurring problems, conduct hearings and other outreach events, and provide insights that can relieve undue burdens adversely affecting small business.

RegFair Boards meet collectively at least once a year. They also assist ONO in facilitating meetings, hearings, and presentations within their own regions. They review and comment on a draft of the *ONO Report to Congress*.

RegFair Board members are recommended to the Administrator of the SBA by numerous sources including the chair and ranking members of the Committees on Small Business of the House of Representatives and the Senate. No more than three members per Board may be of the same political party, and none may be an officer or employee of the Federal government. They are meant to accurately reflect the small business communities in their regions.

Below is a list of the ten RegFair Boards and their members who served for part or all of the 2013 Fiscal Year.

On behalf of the thousands of small business owners each Board member represents, the Office of the National Ombudsman expresses sincere appreciation for their tireless service, invaluable insights, and fervent commitment to supporting the small business community.

Regulatory Fairness Board Members Who Served in Fiscal Year 2013

Region I

Deborah A. Osgood
Robert J. Kane
Charles L. Largay
Kevin Maloney
Gary S. Ezovski

Exeter, NH
Waterbury, CT
Grand Beach, ME
Windsor Locks, CT
Slatersville, RI

Region II

W. Brian Maillian	New York, NY
Howard Horowitz	New Hyde Park, NY
Christopher Harvell	Newark, NJ
Gloria J. Benitez de Rodriguez	San Juan, PR

Region III

Louis G. Hutt, Jr., CPA Esq.	Columbia, MD
Brooks Hulitt (08/19/2010 - 08/19/2013)	Philadelphia, PA
Marilyn D. Landis	Pittsburgh, PA
Doña A.P. Storey	Virginia Beach, VA
Muriel Watkins	Washington, DC

Region IV

William Jackson Patton (08/19/2010 - 08/19/2013)	Winter Park, FL
Stanley L. King (11/22/2010 - 11/22/2013)	Atlanta, GA
Willie G. Lucas (08/19/2010 - 08/19/2013)	Wilson, NC
Emilio Pérez	Goldenrod, FL
Cliftena Carter	Fayetteville, TN

Region V

Robert A. Kulp	Stratford, WI
Joseph J. Montel (08/05/2010 - 08/05/2013)	Indianapolis, IN
Iris Cooper	Columbus, OH
William Howard Morris	Detroit, MI

Region VI

John A. Michael	Corpus Christi, TX
Anna Muller (02/23/2010 - 02/23/2013)	Albuquerque, NM
Dr. Ernest L. Johnson, Sr.	Baton Rouge, LA
Kay C. Bills	Oklahoma City, OK

Region VII

Cynthia (Cindy) Brown	Hazelwood, MO
Joseph E. Jindra	Concordia, KS
Carisa L. McMullen	Olathe, KS
Jennah Purk	St. Louis, MO

Region VIII

Michael J. Stransky (11/22/2010 - 11/22/2013)	Salt Lake City, UT
Alison K. Brown, PhD	Colorado Springs, CO
Danton B. Rice	Livingston, MT
Sheryl Garling	Casper, WY
Steven M. Marks	Clancy, MT

Region IX

Eddy N. Kemp (08/05/10 - 08/05/13)	Kaneohe, HI
James Settlemeyer	Minden, NV
Paul C. Wright	Oakland, CA
Ernest J. Reyes (04/21/10 - 04/21/13)	San Diego, CA
Ronald W. Wong	Alhambra, CA

Region X

David M. Hart (10/26/2010 - 10/26/2013)	Sun Prairie, WI
Anthony Welcher	Bellevue, WA
Richard G. Gaspar	Seattle, WA
Wilfred P. Ryan	Anchorage, AK

Regulatory Fairness Boards

Region I

Deborah A. Osgood **Knowledge Institute** **Exeter, NH**

Dr. Deborah Osgood is president and CEO of the Knowledge Institute for Small Business Development, the creator and contributing editor to America's Entrepreneurial Education and Resource Network, and an advisor to the Foundation for Entrepreneurial Resource and Development. She is also the national spokesperson for IBM on issues pertaining to women and minorities in business. She is an author and serves on several state economic development committees.

Dr. Osgood holds a doctorate in Transformational Leadership with a concentration in Systems Approach to Entrepreneurial Development, and an MBA and Bachelor of Science in Marketing. She also holds certificates in leadership development, entrepreneurial facilitation, webmaster technologies, and communications.



Robert J. Kane **KarTele** **Waterbury, CT**

Robert J. Kane founded and operates KarTele Cellular Phones of Waterbury, Connecticut. He holds an MBA from the University of New Haven.

He serves or has served on a number of business-oriented boards, including those of the United Way and the Regional Workforce Investment Board. He is a past recipient of the Waterbury Regional Chamber Malcolm Baldrige Award for Volunteerism, and a past recipient of the Waterbury Regional Chamber Harold Webster Smith Small Business Award.

Mr. Kane is also a state senator representing parts of western Connecticut. He serves as the Ranking Member of the General Assembly's Appropriations Committee in addition to serving on the Public Health and Regulations committees. He is a past chair of the Watertown Town Council and was founding chair of the town's Business Development Subcommittee.



Charles L. Largay **Yankee Logic LLC** **Grand Beach, ME**

Charles Largay has developed several small businesses, including Yankee Logic, which he manages today and which

provides private cloud services, consulting, and innovative research and development projects. Mr. Largay is an expert in cost effectively providing the right technology solutions for clients in continuity of operations, cyber security, supply chain management, crisis management, and operations both to public and private entities. He is an experienced strategist and solution executive.



Mr. Largay previously worked at IBM in a number of leadership positions and was a respected leader and innovator in IBM's Olympic and Corporate Philanthropy programs.

A professor of information assurance and cyber security, Mr. Largay also serves on the board of the Maine Cyber Security Center.

Kevin Maloney
Northeast Express Transportation, Inc.
Windsor Locks, CT

In 1977 Kevin Maloney co-founded Airfreight Services (AFS), an air freight motor carrier that pioneered computer software for the industry. For 20 years, he served as a director of the Air & Expedited Motor Carriers Association



and for four years as its president. He served on a variety of air freight industry committees formed to establish standards of communication and performance for the non-integrated air freight door-to-door product.

In 1991 Mr. Maloney founded Northeast Express Transportation, a distribution company, and a little later purchased sole ownership of AFS, at which time the entities consolidated into the operating group presently known as NEXT. Sales for the group doubled in the subsequent three years.

Mr. Maloney has been president of the Connecticut Messenger & Courier Association and a director of the Connecticut Motor Transport Association (MTAC). He chairs the Connecticut Public Transportation Commission (CPTC) and the Connecticut Leadership Council of the National Federation of Independent Business.

Gary S. Ezovski
Lincoln Environmental Properties, LLC
Slatersville, RI

A civil engineer, Gary S. Ezovski began his career in construction management. He became an owner of Lincoln Environmental and was ultimately responsible for remedial measures on some of New England's most challenging subsurface leaks at retail



petroleum facilities. Having sold his interest in Lincoln Environmental, he remains active managing property held by Lincoln Environmental Properties and the Grand Banks Commerce Park.

Mr. Ezovski was twice elected to the North Smithfield School Committee, serving two years as chairman. He has also served as chair of the town's Sewer Commission, and vice chairman of the town's Water Authority, Planning Board, and Fire Study Commission. He was an active member of several school building committees.

Mr. Ezovski has served as chairman of the Northern Rhode Island Chamber of Commerce and remains a delegate to the Rhode Island Chamber Coalition. He previously co-chaired the Rhode Island Department of Environmental Management's Business Round Table. He is a director of the Freedom National Bank, trustee of Berkshire Financial Services, and chairman of the Regulations Subcommittee for the Annual Rhode Island Small Business Economic Summit.

Region II

W. Brian Maillian

Whitestone Capital Group, Inc.
New York, NY

Mr. Maillian is responsible for setting the strategic direction of the Whitestone Capital Group, Inc. and for new business development, global capital markets and client management. In this role, Brian interfaced with clients to provide sophisticated and innovative global capital markets solutions for large scale

multi-faceted and complex engagements. The company is an investment banking firm specializing in global capital markets, raising capital for private sector, government and institutional clients, and strategic financial advisory services to the U.S. Government and its Federal Agencies since 1993. Mr. Maillian has approximately 30 years of experience in the financial services industry.



Howard Horowitz **Elite Marketing Group** **New Hyde Park, NY**

Howard Horowitz began creating businesses 40 years ago. Today his companies are established nationally, working out of five offices across the country.

Mr. Horowitz has been the president of Elite Promotional Marketing since its inception 17 years ago. One of his main strengths has been as an innovator, and Elite has branched into so many fields that it has become a full-service agency. In the early years Mr. Horowitz hired everyone at Elite, forming a group that is the nucleus of today's management team.



Mr. Horowitz serves on the U. S. Chamber of Commerce Corporate Leadership Advisory Council.

Christopher Harvell
Dental Kidz, LLC
Newark, NJ

In 2008 Chris Harvell and his wife Lezli co-founded Dental Kidz, now the largest pediatric dental practice in New Jersey. Before starting Dental Kidz, Mr. Harvell was an investment banker in the



Real Estate Finance Group at Credit Suisse based in New York City. He has also worked pro-bono for Bill Clinton's Harlem Small Business Initiative.

Mr. Harvell received his B.S. in Electrical Engineering from George Washington University and M.B.A. in Finance and Real Estate from Columbia University.

In 2010 Mr. Harvell was among Columbia University Business School's list of top 10 young alumni who are adapting and thriving during the economic downturn. His company was recently recognized by the City of Newark for its contribution to the economic development of Newark.

Gloria J. Benitez de Rodriguez
Rod Ben International DBA SHRED-IT
San Juan, PR

Gloria J. Benitez de Rodriguez for 17 years was the owner and general manager of the Glorijudy Flower Shop. For five years she served as secretary to the board of the National Group, an insurance entity. Fourteen years ago she became vice president and then president of Shed-It Puerto Rico.



Region III

Louis G. Hutt, Jr., CPA, Esq.
Bennett Hutt & Co.
Columbia, MD

Louis G. Hutt, Jr. is the founder of The Law Office of Louis G. Hutt, Jr. and Bennett, Hutt and Co., L.L.C., Certified Public Accountants. Hutt focuses on financial leadership development and representation of entrepreneurs, facilitating business development, financing, contract negotiation, business acquisition transactions,



and resolution of tax controversies. Hutt is widely recognized and sought for business coaching, management training and public speaking by business and professional associations of entrepreneurs, membership groups, professional athletes, and economic development organizations. He also hosts the Lou Hutt Show weekly on Sirius XM radio. Louis holds degrees from the School of Business of Washington University and the University of Maryland School of Law. Mr. Hutt is an Attorney and Certified Public Accountant.

Brooks Hulitt
Drexel Hamilton, LLC
Philadelphia, PA

Mr. S. Brooks Hulitt is the Managing Director of Drexel Hamilton, LLC. He is the Founder of Strategic Contracting Inc., a Philadelphia/Washington, DC-based consulting and contracting firm. His duties include: sales, client acquisition, compliance, marketing and corporate growth. He served in the Presidential Honor Guard and in Operation Vigilant Warrior in Kuwait and Saudi Arabia. Mr. Hulitt volunteers for the First Troop Philadelphia City Cavalry's color guard. He is currently a member of the Pennsylvania Army National Guard.



Marilyn D. Landis
Basic Business Concepts, Inc.
Pittsburgh, PA

Marilyn D. Landis is president and CEO of Basic Business Concepts, which provides CFO-level services to small business via six offices in five states.



Over a 30-year career, Ms. Landis has worked for three of the largest SBA lenders in the country - marketing, originating and underwriting SBA loans. She has worked for and with commercial lenders, banks and small businesses. She has served as a financial consultant; headed training, consumer loans and mortgage departments; collected delinquent loans; and coordinated operations for a multi-bank merger.

In 2008 Ms. Landis was elected chair of the National Small Business Association (NSBA). She has testified before U. S. Senate and House committees representing Small Business Councils and NSBA member businesses. In 2009, she was awarded the SBA National Financial Services Champion of the Year.

Ms. Landis also has extensive board-level experience with nonprofits whose fields range from economic development to social services.

Doña A.P. Storey
GOVtips, LLC
Virginia Beach, VA

Doña Storey has been a successful entrepreneur creating and leading award winning businesses in both the Federal and commercial sectors. She is a widely recognized expert on business focusing on Federal and corporate procurement. She writes widely and has appeared as an expert on broadcast news shows. She serves and has served as a consultant and featured speaker on supplier diversity issues for ISM (the Institute for Supply Management).



Ms. Storey also blogs on topics ranging from the entrepreneurial mindset to Federal regulatory contracting issues.

Muriel Watkins
MW Financial, Inc.
Washington, DC

Muriel Watkins is President of MW Financial Inc., a boutique public policy analysis firm headquartered in Washington, DC. Capitalizing on Ms. Watkins' experience as a Harvard-trained former senior executive in Federal government, the firm specializes in the marketing, sale, and repositioning of real estate assets financed, insured, or guaranteed by Federal agencies. Federal agencies with credit and asset sale

programs often emphasize outreach to enhance the competitive position of entrepreneurs and small businesses, an area of focus that has since involved Ms. Muriel Watkins



has been a member of Women in Housing & Finance. She is on the editorial board of *The Public Manager*, a publication devoted to advancing innovation and excellence in government by documenting "best practices" and contributes articles to the publication.

Region IV

William Jackson Patton
Kratos Defense & Security Solutions,
& DEI Services Corporation
Winter Park, FL

William Patton holds a degree in Business from the Metropolitan University in Orlando, FL, a Master's Degree as an Education Training Specialist, and a Master's Degree as an Electrical Engineer equivalent.



Mr. Patton has more than 35 years of executive managerial experience -

including position of corporate president — in government and commercial industry. He has worked and concluded business with the Department of Defense and numerous Federal agencies. He has extensive experience in business operations, multi-million dollar programs in the commercial sector, and the Federal government.

Mr. Patton has wide knowledge and experience in all phases of managing businesses, including corporate development, financial planning, execution of contractual requirements, and preparation and execution of business plans, strategies, and operational plans and procedures. He has been successful working with large and small businesses, focusing on building a company from startup to multi-million dollar enterprise.

Stanley L. King
S. L. King & Associates, Inc.
Atlanta, GA

Stanley King is a Mechanical Engineer with a M. S. degree in Mechanical Engineering. He has more than 30 years' experience in directing, supervising, and reviewing large commercial and industrial projects for the likes of the General Services Administration, University of Georgia, Hartsfield-Jackson Atlanta Airport, the Denver Regional Transportation District,



and Georgia Power.

He specializes in HVAC design, steam distribution, heavy equipment and power generation design, and the design and analysis of fossil fuel utility boilers. As president and CEO of S. L. King & Associates he concentrates on operations and the company's quality control aspects.

Mr. King is also active in his local community and advises the Drexel University School of Engineering.

Willie G. Lucas
JSL Development Center, Inc.
Wilson, NC

Willie G. Lucas manages two child-care centers in two North Carolina counties. Mr. Lucas obtains and manages child-care contracts with North Carolina's Department of Social Services for four state counties as well as Partnership for Children programs in two counties.



Mr. Lucas manages food re-imbusement grants with the North Carolina Department of Health and Human Services for the Federal Department of Agriculture Child and Adult Care Food Program (CACFP). He also works with a local school district to establish transportation routes for before- and after-school care.

Emilio Pérez
Emilio Pérez, LLC
Goldenrod, FL

A native of San Juan, Puerto Rico, Emilio Pérez moved to central Florida and is now president and CEO of EP Financials, which consults with and assists small businesses. He has served on several county and state boards and local organizations.



Mr. Pérez was also founder and president of the Central Florida Redistricting Council, which worked to define political districts in central Florida. He is past president of the Puerto Rico Chamber of Commerce of Central Florida, a group he led for four years developing it from a marginal organization to one of 500 members.

Cliftena Carter
CSCI
Fayetteville, TN

Cliftena Carter is owner and president of Carter Safety Consultants, Inc. (CSCI), which offers a variety of support services to private and public entities. CSCI provided technical support to the U. S. military during Iraqi Freedom in 2003 and to the Gulf Coast Reconstruction Effort following Hurricanes Katrina and Rita. Her company was recognized for outstanding performance and achievement by the U. S. Army Corps of

Engineers and U. S. Navy.

Early in Ms. Carter's career, she played an integral role introducing OSHA/EPA compliance solutions to reduce environmental risk to schools and local governments.



Ms. Carter holds a B.S. in Biology from Tennessee State University and an M.S. in Human Resource and Development from the University of Knoxville. She is also a member of the Society of Army Military Engineers National Committee.

Region V

Robert A. Kulp
Kulp's Of Stratford, LLC
Stratford, WI

In 1985 at age 19 Bob Kulp founded a roofing and sheet metal business. He has since added energy-efficient insulation and alternative energy companies, including ones involving solar photovoltaic roofing and



compressed natural gas. Overall Kulp's Of Stratford employs more than 40 people with a management team of six.

Mr. Kulp is a vice president of the National Roofing Contractors Association (NRCA) and a past chairman of the NRCA Government Relations Committee. He has served as President of the Wausau chapter of the Construction Specifications Institute and board member of the Wausau Area Builders Association.

Kulp's Of Stratford was designated Small Business of the Year by the Wausau Region Chamber in 2012. Projects the company has completed have been featured in numerous national trade publications.

Joseph J. Montel
Coleman Stevenson & Montel
Indianapolis, IN

Joseph Montel is an attorney. He devotes his practice primarily to general corporate, mergers and acquisitions, private placements and corporate finance. His practice encompasses all aspects of commercial and residential real estate matters, including platting, loan and finance transactions, zoning and environmental permitting. Mr. Montel has particular in-depth understanding of non-disclosure agreements and covenants not to compete.



Iris Cooper
JustAskIris!
Columbus, OH

Iris Cooper is owner of JustAskIris!, an entrepreneurial coaching firm. She is also one of the founders of Glory Foods, Inc., a national food marketing company, and in addition has operated a mortgage business and retail gift shop. For over 25 years in the financial service arena she provided funding for housing, commercial real estate, nonprofits, and small businesses. She writes a monthly column on small business issues.



Ms. Cooper is a former Director of the Ohio Division of Entrepreneurship and Small Business, which features Small Business Development Centers. She holds a BA degree in Journalism plus an MBA in Marketing from Indiana University, and she is working on a doctorate in Business Administration. She teaches marketing courses at Franklin University and provides content guidance for its entrepreneurship program.

William Howard
Morris Prairie & Tireman
Detroit, MI

Mr. Morris is the president and Chief Investment Officer of the Prairie & Tireman Group of Detroit. He has been senior portfolio manager of Comerica Bank, Emergency Financial Manager

of the Inkster (Michigan) Public School District, CFO of the Detroit Public School District, president and CEO of WILMOCO Capital Management, assistant professor of accounting at Hillsdale College, senior treasury analyst at Chrysler Corp., and senior accountant at PeatMarwick.



Mr. Morris is a CPA and CFA as well as a Personal Financial Specialist (PFS) and a Chartered Global Management Accountant (CGMA). He holds an MBA from the Wharton School of the University of Pennsylvania.

Region VI

John A. Michael
Naismith Engineering, Inc.
Corpus Christi, TX

John Michael is a civil engineer as well as president and chairman of Naismith Engineering, an architectural, engineering, survey, and environmental firm in Corpus Christi, TX with three branches in south Texas.



Mr. Michael's work has mainly involved public works infrastructure for city and county governments in south Texas, including flood control, water supply, wastewater treatment, solid waste management, transportation, and recreation. He was instrumental in works on Packery Channel, the JFK Causeway, the Nueces County Regional Fairgrounds, and the San Patricio County Fairgrounds.

Mr. Michael has also worked to forward the profession of civil engineering. He has served in every office capacity of the Corpus Christi Branch of the ASCE as well as on state committees. He has been awarded several Texas professional engineering awards. He is also active in charitable, non-profit, economic development, and environmental initiatives in south Texas.

Anna Muller
NEDABusiness Consultants, Inc.
Albuquerque, NM

Anna Muller is Director of the New Mexico Minority Business Center. She manages a staff of highly qualified consultants to assist minority firms in developing strategies to navigate the complex Federal contracting environment.



Dr. Ernest L. Johnson, Sr.
Developers & Managers Group, LLC
Baton Rouge, LA

Dr. Ernest Johnson has over 36 years of professional, leadership and management experience in a number of high-level legal, financial, educational, and civic and public policy positions. He has been a



member of the NAACP National Board of Directors since 2006, and chairman of its Member and Units Committee since 2009. He serves as NAACP's assistant treasurer and in 2001 he was appointed by President Bush to serve as a public delegate to the United Nations.

Dr. Johnson is a recipient of the Earl Warren Legal Fellowship and Baker-Voorhis Award. Over his career as an attorney he specialized in general, corporate and civil rights litigation. He teaches law and has won important awards in both the legal and civil rights fields.

Dr. Johnson is president and CEO of Louisiana Community Development Capital Fund, a consulting firm advising for emerging businesses. He co-founded several Louisiana radio and television stations. And for three years he was president and CEO of the Life Savings Bank of Baton Rouge.

Kay C. Bills
Strategic Native American Partnership,
LLC
Oklahoma City, OK

In 2005 Kay Bills was recruited by the Minority Business Development Agency (MBDA) to help implement the Native American Business Development, Trade Promotion and Tourism Act. She headed the Office of Native American Business Development (ONABD), which was eventually elevated to report directly to the U. S. Secretary of Commerce.



During Ms. Bills' tenure at the Department of Commerce from 2005-2009, she was responsible for significant contracts obtained by Native American tribes. She received two letters of commendation from the Secretary of Commerce.

Ms. Bills has also owned a successful 8(a) business in Alaska and she has taught entrepreneurship at Howard University in Washington, D.C.

In 2009 Ms. Bills returned to Oklahoma and was appointed the Oklahoma Ombudsman. She now is president of a trade association of small and large Federal contractors. She is a member of the Osage Nation of Oklahoma.

Region VII

Cynthia (Cindy) Brown

**Shred-it,
Brown Germann Enterprises, Inc.
Hazelwood, MO**

Cynthia Brown is majority owner of Brown Germann Enterprises, Inc., DBA Shred-it. She and her business partner founded the company in 1998 with three employees. It has since grown to a fleet of 13 shredding trucks with 26 employees, and in 2005 built an office/warehouse/baling facility. The company has won multiple awards on the Federal, state and local levels including the 2008 Missouri Small Business Team of the Year, the 2012 Better Business Bureau Torch Award, and the St. Louis Small Business Monthly Best in Business, Best in Customer Service, and Best in Quality awards.



Ms. Brown is a member of the National Association of Women's Business Owners and was named a Distinguished Member by the St. Louis Chapter. The St. Louis Business Journal named her one of The Most Influential Women Business Owners in 2008. The St. Louis Small Business Monthly has repeatedly named her a Top Woman Business Owner. She and her company have been involved in numerous national and local philanthropies.

Ms. Brown has served on various non-

profit boards and is a member of P. E. O., a women's Philanthropic Educational Organization (P.E.O.) organization.

**Joseph E. Jindra
KNCK, Inc.
Concordia, KS**

North Central Kansas native Joe Jindra started working at KNCK while still in high school and spent his life working in radio across the country in Kansas, Missouri, and Arizona.



He returned to Concordia in 1989 and purchased the station from General Broadcasting Company. Mr. Jindra currently owns and manages the station.

Under Jindra's ownership, the station increased its power, initially to 6,000 watts, and ultimately to 100,000 watts. Increase of power to 100,000 watts required the station to purchase a new transmitter, change frequency from 95.3 MHz, a "class A" channel (limited to 6,000 watts), to 94.9 MHz, a "class C1" channel, and move to a new tower, 528 feet tall.

**Carisa L. McMullen
Landworks Studio, LLC
Olathe, KS**

Carisa McMullen is principal owner of Landworks Studio, a landscape architecture and urban planning firm in Olathe, KS, now in its 14th year. She

graduated from Kansas State University in 1993 and after five years working for the city of Wichita, gained additional experience working in private practice.



Ms. McMullen has served as vice president of the Prairie Gateway Chapter of the American Society of Landscape Architects and on the KSU Alumni Review Board for 10 years.

Jennah Purk
Purk & Associates, P.C.
St. Louis, MO

Jennah Purk is president and founder of the CPA firm Purk & Associates, which specializes in areas such as high net-worth individual taxation services and estate planning. She works with venture capital, buyouts, companies backed by venture capital and more.



Ms. Purk is also known for her proficiency in the healthcare industry and was the first CPA in Missouri to earn the designation of Certified Healthcare Business Consultant.

Ms. Park is a national director for

the National Association of Women Business Owners Greater St. Louis Chapter, treasurer of the Entrepreneur's Organization, and a member of both the Women's President Organization and Winning Women.

Region VIII

Michael J. Stransky
GSBS Architects
Salt Lake City, UT

Mr. Stransky is President Emeritus of GSBS Architects. He has served as President and CEO of the firm for over 30 years. His practice is focused on both the private and public sectors. Project clients have included the General Services



Administration, Corps of Engineers, Hill Air Force Base, Veterans Administration, United States Postal Service, the State of Utah, including various institutions and agencies, multiple municipalities throughout the state, and multiple private clients. Project types include higher education, industrial, commercial, institutional, retail, hospitality, religious and residential.

Mr. Stransky's responsibilities have included management, design, administration, business development, client relations, project management and principal in charge. He is registered to practice in Utah, Wyoming, Colorado,

Nevada (emeritus), California and Texas (emeritus). He holds a National Council of Architectural Registration Board Certificate and he is a LEED AP.

Mr. Stransky was commissioned in the U. S. Army Reserves in 1970. He is a retired captain in the U. S. Corps of Engineers. He is a Fellow and an active member of the American Institute of Architects and the Utah Chapter of the American Institute of Architects.

Alison K. Brown, PhD
NAVSYS Corporation
Colorado Springs, CO

Dr. Alison Brown is President and Chief Executive Officer of NAVSYS Corp., which she founded in 1986. NAVSYS specializes in developing next generation Global Positioning System (GPS) technology.



Dr. Brown holds a PhD in Mechanics, Aerospace, and Nuclear Engineering from UCLA, an MS in Aeronautics and Astronautics from MIT, and an MA and BA in Engineering from Cambridge University. She is an Honorary Fellow of Sidney Sussex College, Cambridge, and a Fellow of the Institute of Navigation.

Dr. Brown is a board member of the Small Business Technology Council, the Mountain States Employer Council, the Rocky Mountain Chapter of the National Defense Industrial Association

(NDIA), and a member of NDIA's Board of Trustees and Small Business Executive Committee. She is a member of the International Women's Forum, the Cosmos Club, and the GPS World Advisory Board. She has three times chaired the District 13 Rhodes Scholar selection board. She served two terms on the Scientific Advisory Board for the U. S. Air Force from 1994 - 2003.

Dr. Brown has been selected Entrepreneur of the Year by Colorado's Celebrate Technology, and as a Woman of Distinction by the Girl Scouts Mile-Hi Council.

Danton B. Rice
PrintingForLess.com
Livingston, MT

Danton Rice is vice president of Corporate Affairs of PrintingForLess.com (PFL), one of the largest commercial printers in the United States and which pioneered the concept of on-line commercial print sales. Since joining PFL in



2003, Mr. Rice has worked as legal counsel, CFO, information technology manager, community relations manager, and project lead for the location, financing, design, and construction of a 46,500 square-foot mixed-use facility.

Drawing on his background in recruiting and human resources, Mr. Rice also has worked with the Human Resources team to ensure a continuous flow of

high-quality applicants and employees. He gained his experience running the daily operations of a multi-state staffing company and has personally interviewed over 10,000 applicants in his career.

Before joining PFL, he worked as a practicing attorney and served as legal counsel to the Kansas Secretary of State. He holds a JD from Washburn University and a BA from Wichita State University.

Sheryl Garling
R and D Enterprises, Inc.
Casper, WY

Sheryl Garling earned her civil engineering degree from Clarkson College of Technology, now Clarkson University. She is president of R and D Enterprises in Casper, WY, which provides technical advisory services to the energy industry, including uranium mining and oil and gas in the Rocky Mountain region. R and D Enterprises offers due diligence, dangerous goods and hazardous materials shipping to Afghanistan in support of U. S. troops, ALARA (As Low As Reasonably Achievable) audits, process laboratory design, and data evaluation.

Some of Ms. Garling's specialties are project engineering, construction management, equipment and supply procurement, marketing, interpretation of environmental programs, radiation safety compliance, Department of Transportation's Transportation Safety Institute certification for hazardous goods transportation, and DOT TSI training.

Steven M. Marks
Marks Lumber
Clancy, MT

Steven Marks operated a 6,000-acre family cow-calf operation, then converted to managing a land management business leasing grazing and hunting rights as well as timber for a sawmill operation. He manages all



aspects of forest and land stewardship, including timber, wildlife, livestock, weed management, road maintenance, and fence building and maintenance.

Mr. Marks built up the family sawmill operation into a specialty sawmill and retail lumber operation of over \$3 million in annual sales and 20 employees. He was voted Montana SBA Small Business Person of the Year in 2011. His focus on constant innovation, business agility, and continuous improvement has resulted in niche market development and diversification.

Region IX

Eddy N. Kemp
E.N. Kemp & Associates, Inc.
Kaneohe, HI

Mr. Kemp is a Certified Public Accountant, Accredited Senior Appraiser, Certified Business Appraiser, Accredited

in Business Valuation and is Certified in Financial Forensics. His firm specializes in providing business appraisals and valuation consulting services for various purposes including family wealth transfers through gifts or estate, purchase or sale of business interests, divorce litigation and ESOPs. Eddy is a former registered investment advisor with U. S. Securities & Exchange Commission.



James Settlemeier
Settlemeier Ranches Incorporated
Minden, NV

James Settlemeier is a rancher in western Nevada. He served in the Nevada Assembly from 2007 to 2009 and then was elected to the Nevada Senate in 2010.



Mr. Settlemeier has been active in local and state affairs. He has served on numerous boards, commissions, and committees, including the Nevada State Conservation Commission (chair), Carson Valley Conservation District (chair), Nevada Tax Commission’s Blue Ribbon Property Tax Commission, and Farm Service Agency Community Outreach Committee.

Mr. Settlemeier has also been involved in the Western Legislative [Leadership] Academy, the Council of State Governments—West, and the Legislative Academy, National Conference of State Legislatures. He is a Leadership Douglas County Graduate and was awarded Outstanding Young Farmer for Nevada.

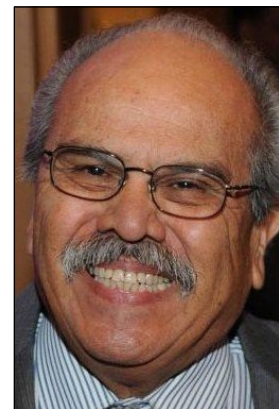
Paul C. Wright
Berkeley Policy Associates
Oakland, CA

Mr. Wright is an owner, vice president of operations and chief financial officer of Berkeley Policy Associates in Oakland, CA, a social policy research firm. He is also an attorney and a U. S. Army veteran.



Ernest J. Reyes
Network Realty
San Diego, CA

Ernest Reyes (deceased) was an accomplished entrepreneur and owner of Network Realty, in San Diego. The company was established in 1989. He was the co-founder of the National



Association of Hispanic Real Estate Professionals. Mr. Reyes was also a former school board trustee for the Hollister Elementary School Board in Hollister, California.

Ronald W. Wong
Imprenta Communications Groups,
Inc.
Alhambra, CA

Mr. Wong is President and CEO of Imprenta Communications Group, an award winning small business that provides public affairs, campaign, and ethnic marketing services. He is a recognized expert in public affairs and communications targeting a wide variety of underserved communities.



Mr. Wong has more than two decades of professional experience developing and implementing results-driven communications, community outreach, social marketing and public education campaigns for Fortune 500 companies and government entities.

Mr. Wong has been exceptionally active as an advocate for small businesses and currently serves as the Co-Chair of the Asian Business Association (ABA). Founded more than 35 years ago, ABA is the premiere association in California which works with Asian-owned small businesses to help them grow and thrive. He also was instrumental in founding

the California Asian Pacific Chamber of Commerce, and has worked closely with the California Public Utilities Commission Diversity Council.

Region X

David M. Hart
Continental Mapping Consultants, Inc.
Sun Prairie, WI

Mr. Hart has over 21 years of experience in photogrammetry and GIS. As President and co-founder of Continental Mapping, Mr. Hart manages corporate strategy and serves as principal-in-charge of many of Continental Mapping's large contracts. Continental Mapping provides authoritative geospatial data solutions that help solve business problems.



Anthony Welcher
21st Century Communications
Bellevue, WA

Anthony Welcher develops projects and investment strategies, and sources capital for large-scale development projects in the Pan Arctic, Latin, and Asian regions in cooperation with state and Federal governments. The principal goal of these projects is to create long-term stable economic development and jobs.

Mr. Welcher also has more than a dozen years of experience as an active real estate entrepreneur, including establishing and managing a series of family real estate holding companies. These have acquired, sold, and currently own and manage, multi-family residential buildings.



Previously, Mr. Welcher served as a presidential appointee and Director of Intergovernmental Affairs at the U. S. State Department. In this role he served as the Secretary of State's representative to U. S. governors, mayors, and local, regional, and state officials, and he was responsible for all aspects of the Department's management of U.S. territories and insular areas.

Mr. Welcher also served as Director of External and Congressional Affairs at the United States Export-Import Bank (Ex-Im Bank).

Richard G. Gaspar
Gaspar's Construction
Seattle, WA

Rich Gaspar founded Gaspar's Construction Inc. four decades ago. Gaspar's is a family owned and operated residential design/build and handyman construction company based in Seattle. Currently, Gaspar's owners, Rich and his wife Cathy, are transitioning the business to the next generation, their daughter

Sarah Henry. Two other family members work at the company.

In 2000 Gaspar's was recognized as one of the top 50 remodeling companies in the nation. Gaspar's has 25 employees with annual sales of three to four million dollars.



Mr. Gaspar works with his local Rotary and with veterans suffering from post-traumatic stress disorder.

Wilfred P. Ryan
Ryan Air, Inc.
Anchorage, AK

Wilfred Ryan is president of Ryan Air, Inc. He is responsible for the risk management and financial performance of this company of seven bases of operation and 65 employees. He stabilized the company during a period of major change in the rural bypass mail system.



Mr. Ryan is the chief pilot for two separate companies, supervising as many as 30 pilots. He is also the travel manager and pilot for a school district serving an area of more than 26,000 square miles.

chapter III

Reaching America's Small Business Community

Federal regulation and Federal agency enforcement actions impact small businesses around the country. To help bridge the gap between Federal regulators and the full spectrum of the small business community, the Office of the National Ombudsman, together with SBA Resource Partners and RegFair Board members, convenes Public Forums — Roundtables and Hearings — in all ten SBA regions each year.

These Public Forums bring together RegFair Board members, small business owners and operators, and representatives of Federal regulatory agencies and provide a

channel for small business owners to air and discuss hurdles for their businesses that could be relieved by different regulatory approaches or tactics.

In addition, ONO and SBA use the opportunity of Public Forums to disseminate information about their missions and resources for the small business community.

During FY2013, the Office of the National Ombudsman held 17 small business Roundtables and two Hearings, in addition to other outreach engagements with small business representatives



Former Acting National Ombudsman Yolanda Swift (center left); Associate Administrator for Native American Affairs Chris James (center right); Region VI Regulatory Fairness Board Member Anna Muller (far left); and SBA New Mexico District staff members hear small business concerns during a Regulatory Fairness Roundtable in Albuquerque, NM.

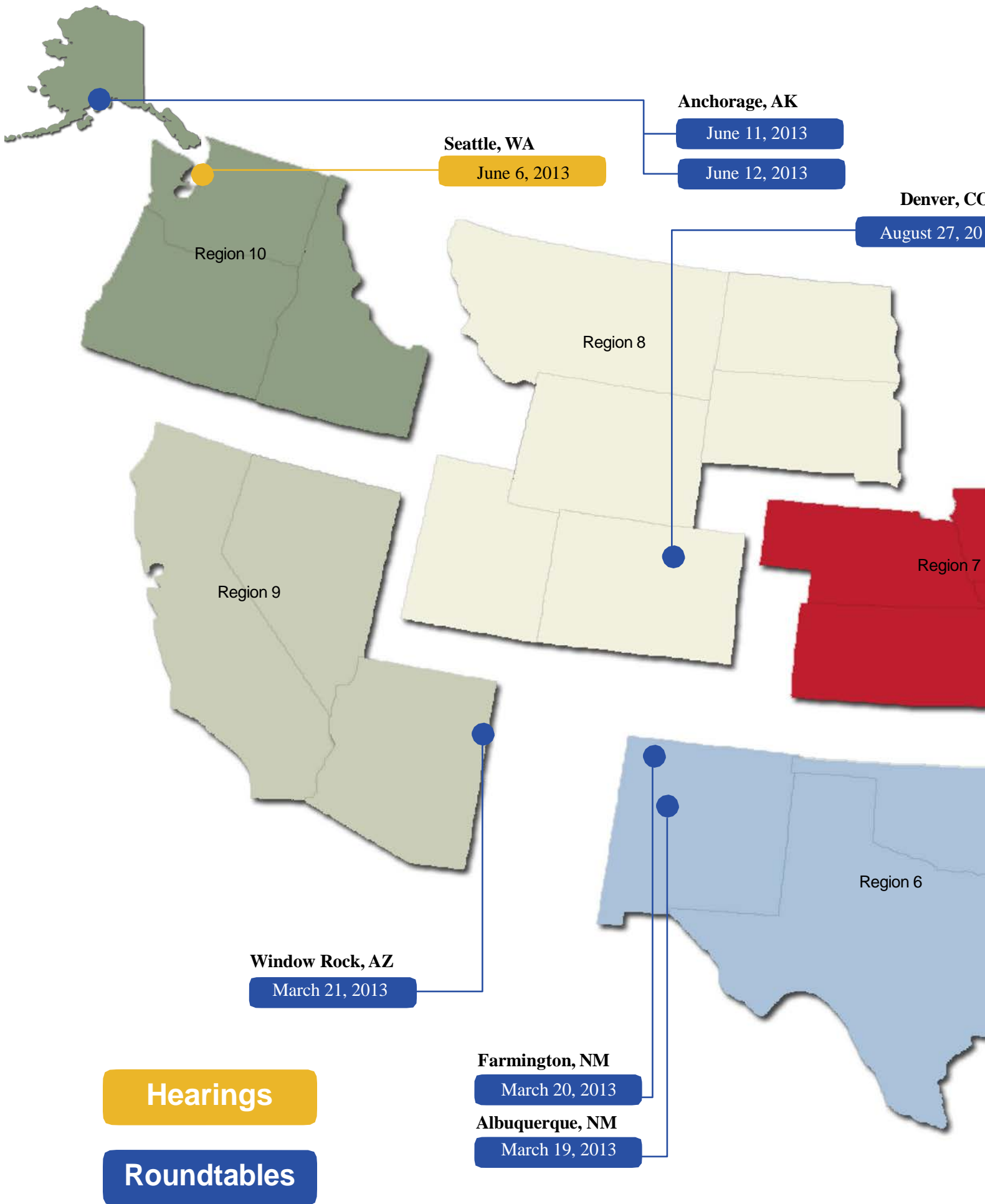


FIGURE III-1. 2013 HEARINGS AND ROUNDTABLES

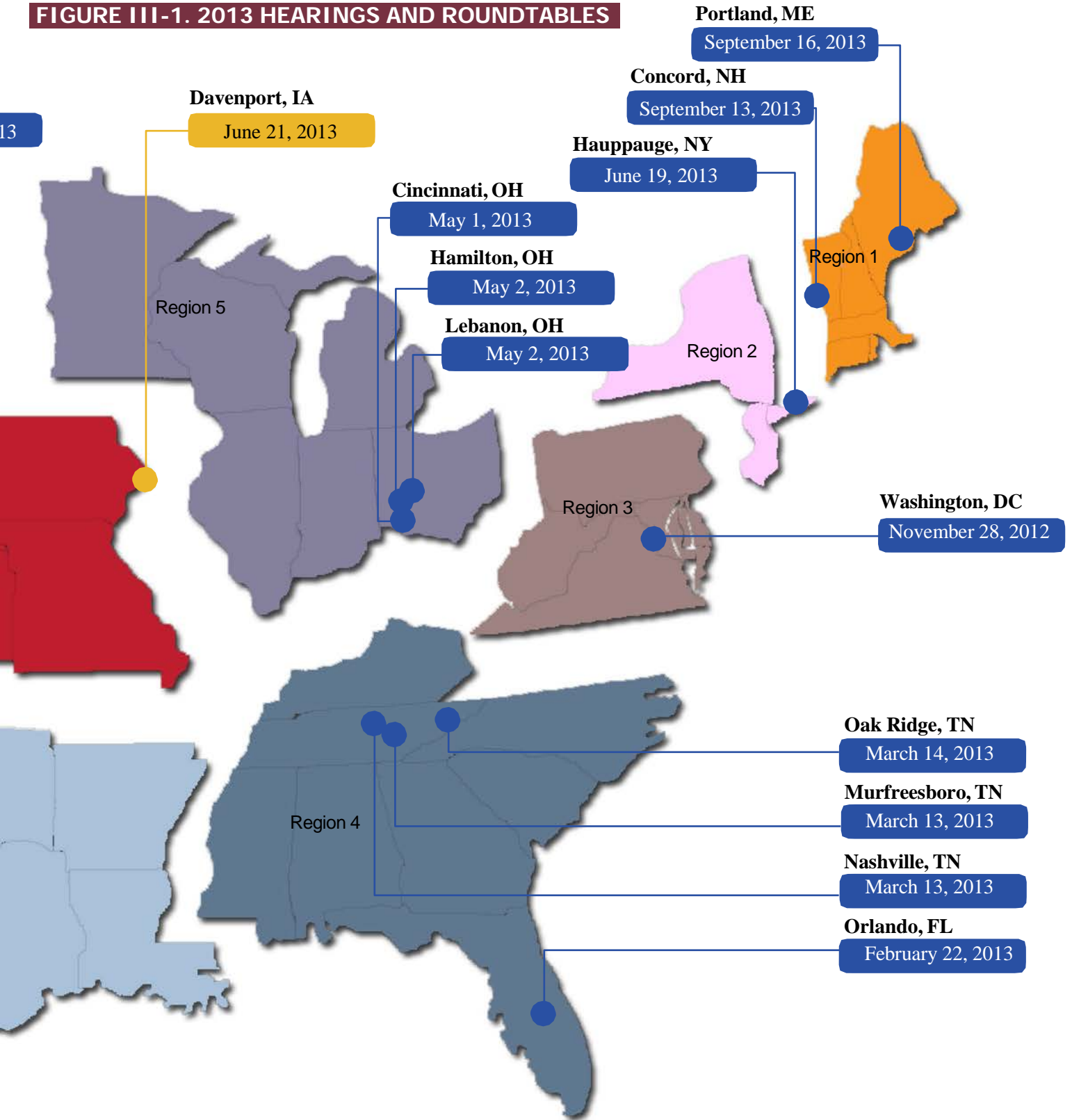


TABLE III-1. 2013 HEARINGS AND ROUNDTABLES

SBA Region	Location	Date	Type
3	Washington, DC	November 28, 2012	Roundtable
4	Orlando, FL	February 22, 2013	Roundtable
4	Murfreesboro, TN	March 13, 2013	Roundtable
4	Nashville, TN	March 13, 2013	Roundtable
4	Oak Ridge, TN	March 14, 2013	Roundtable
6	Albuquerque, NM	March 19, 2013	Roundtable
6	Farmington, NM	March 20, 2013	Roundtable
9	Window Rock, AZ	March 21, 2013	Roundtable
5	Cincinnati, OH	May 1, 2013	Roundtable
5	Hamilton, OH	May 2, 2013	Roundtable
5	Lebanon, OH	May 2, 2013	Roundtable
10	Seattle, WA	June 6, 2013	Hearing
10	Anchorage, AK	June 11, 2013	Roundtable
10	Anchorage, AK	June 12, 2013	Roundtable
2	Hauppauge, NY	June 19, 2013	Roundtable
7	Davenport, IA	June 21, 2013	Hearing
8	Denver, CO	August 27, 2013	Roundtable
1	Concord, NH	September 13, 2013	Roundtable
1	Portland, ME	September 16, 2013	Roundtable

and other stakeholders (see **Figure III-1** and **Table III-1**).

Regulatory Fairness Hearings in Seattle, Washington, on June 6, 2013, and in Davenport, Iowa, on June 21, 2013 explored the unintended consequences of Recovery Audit Contractor (RAC) audits on Medicare patients and small medical providers in underserved and rural communities. Present at the Seattle hearing were the Acting National Ombudsman Yolanda Swift, Region X RegFair Board Members Richard Gaspar and Anthony Welcher, and SBA District Director Nancy Porzio. Witnesses at the Seattle Hearing included the American Orthotic & Prosthetic Association (AOPA), orthotic and prosthetics (O&P) providers, and durable medical equipment suppliers.

Witnesses offered testimony that the RAC audits:

- force O&P providers to choose between a patient’s immediate needs and providing a less sophisticated device;
- involve a lack of consideration by the Centers for Medicare & Medicaid Services (CMS) for prosthetists’ notes owing to CMS’ position that a prosthetist has a financial interest in offering a device and a claim;
- often seek to recoupe entire claims rather than line items;
- involve a long appeals process;
- instigate lengthy paperwork;
- place financial strain on O&P companies;
- require costly time and attention of O&P companies;



National Ombudsman Brian Castro provides an overview of the mission and role of the SBA's Office of the National Ombudsman at a Regulatory Fairness Roundtable in Concord, New Hampshire.

- cause practitioners to leave the field;
- eliminate jobs; and
- result in poor patient care.

The Davenport Hearing examined these issues further through the testimony of 30 witnesses whose testimony detailed similar experiences. In addition, witnesses testified that they experienced an increase in the number and intensity of audits after the award of ZPICs (zone program integrity contractor) contracts to for-profit companies.

Witnesses stated that many of these audits had the result of denying patients legitimate care.

Present were the Acting National Ombudsman Yolanda Swift the Iowa 2nd District Congressional Representative David Loeb sack, SBA Regional Advocate Rebecca Greenwald, SBA District Director Joseph Folsom and Branch Manager Dennis Larkin. Problems arising from the regulation of the home medical equipment

industry predominated, but the Hearing also elicited testimony concerning the Internal Revenue Service, Farm Service Agency, and financial regulations.

ONO Hearings and Roundtables are announced beforehand in the media and often then reported, both in the general and trade media outlets so that awareness of the ONO and SBREFA missions are disseminated among other small businesses and entrepreneurs.

For example, the Hearing in Seattle was reported in the newsletter of the American Orthotic and Prosthetic Association (AOPA) in an article discussing the content of the Hearing, the purpose of ONO, and issues that new regulations out of the Centers for Medicare & Medicaid Services (CMS) pose to members of AOPA. The newsletter also noted issues stemming from CMS' Competitive Bidding Program for Durable Medical Equipment and publicized the Hearing to come later in the month in Davenport, Iowa.

TABLE III-2. 2013 ADDITIONAL OUTREACH

SBA Region	Location	Date	Outreach Participants
3	Washington, DC	November 8, 2012	Meeting with a Russian Delegation.
3	Washington, DC	December 6, 2012	Meeting with a Delegation of Government Officials from South Korea.
4	Orlando, FL	February 21, 2013	African-American Chamber of Commerce – Provided information to President Dr. Robert Spooney & staff.
4	Orlando, FL	February 21, 2013	SBDC – Provided information to the Director, Eunice Choi & staff.
4	Orlando, FL	February 21, 2013	Hispanic Business Initiative Fund – Provided Information to President Augusto Sanabria & staff.
3	Washington, DC	February 28, 2013	Quad Cities Chamber of Commerce at DOC – Room# 4830.
4	Knoxville, TN	March 15, 2013	Meeting w/Jane Jolley, Field Director & Senator Bob Corker of TN
6	Albuquerque, NM	March 19, 2013	District Director John Woosley, Chris James, President of the American Indian Chamber of Commerce NM
6	Albuquerque, NM	March 19, 2013	Small Business – Sacred Power Corporation.
6	Albuquerque, NM	March 19, 2013	Small Business – Exhibit Solutions.
6	Albuquerque, NM	March 19, 2013	Small Business – Rock Gap Engineering.
6	Farmington, NM	March 20, 2013	Meeting w/Tim Hale – Secretary, NM Dept. of Veterans’ Services & Joseph Long – Veterans’ Business Director, NM Dept. of Veterans’ Services.
9	Window Rock, AZ	March 20, 2013	Division of Economic Development - Arranged by Chris James, AA for Native American Affairs.
9	Window Rock, AZ	March 21, 2013	Navajo CDFI & Shareholder Reps - Arranged by Chris James, AA for Native American Affairs.
3	Washington, DC	April 16-19, 2013	Meeting with representatives from the Mexican Government.
5	Cincinnati, OH	April 30, 2013	Meeting w/Mina Jones Jefferson, Esq., Asst. Dean for Professional Development at Univ. of Cincinnati, OH Coll. of Law and Dean Bilonis.
5	Columbus, OH	May 3, 2013	Meeting w/Columbus, OH District Office Personnel.
3	Washington, DC	May 9, 2013	Meeting with Counterparts at the US Postal Service and Regional Advocate T. Coaxum.
3	Washington, DC	May 10, 2013	Meeting with Staffers for Congressman Pierluisi of Puerto Rico and Regional Advocate T. Coaxum.
3	Washington, DC	May 10, 2013	Meeting with Pedro Acevedo from the Puerto Rico Industrial Development Company.
3	Washington, DC	May 23, 2013	Meeting with Olen Clybourn, CMS – Follow-up meeting with HHS Hqs Staff.
10	Seattle, WA	June 6, 2013	Meeting regarding 8(a) Application Process with L. French of French & Associates.
10	Seattle, WA	June 6, 2013	Meeting with RegFair Board Members Anthony Welcher & Richard Gaspar.

SBA Region	Location	Date	Outreach Participants
10	Seattle, WA	June 7, 2013	Meeting with Regional Advocate Jennifer Clark – regarding 8(a) issues and other issues.
10	Seattle, WA	June 7, 2013	Meeting with Perkins Coie Partner L. Walton, Esq.
10	Anchorage, AK	June 11, 2013	National 8(a) Association 2013 Summer Conference in Alaska
3	Washington, DC	August 15, 2013	Arranged by the SBA Office of International Trade – Meeting with Mexican Small Business Agencies & the Nat'l Entrepreneurship Institute.
3	Washington, DC	August 18-21, 2013	Annual Board Meeting

chapter IV

Promoting Accountability and Regulatory Fairness

In accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA), ONO rates Federal agencies on responsiveness to small business concerns and on SBREFA compliance. The annual rating of Federal agencies is central to the Office of the National Ombudsman's objective of ensuring a fair and effective regulatory environment for small business. ONO's ratings are based on each agency's responses to small business comments and on facts reported via a brief questionnaire from the Office of the National Ombudsman.

Responsiveness to Small Business Regulatory Concerns

Each Federal agency earns a letter grade in these areas based on its responsiveness to small business concerns:

- Timeliness of agency responses
- Quality of agency responses

SBREFA Compliance

Each agency also earns a letter grade on the SBREFA compliance of its policies governing:

- non-retaliation against small business commenters

- provision of regulatory compliance assistance to small businesses
- provision of notice to small businesses of their rights under SBREFA, including the right to comment with the Office of the National Ombudsman

Overall Rating

Based on the letter grades noted above, each agency earns an overall grade.

The ratings in these categories are presented in **Table IV-1**.

Questionnaire

ONO's Federal Agency Questionnaire asks Federal agencies three two-part questions:

1. Non-Retaliation Policies

A. Internal: Does the agency have a written non-retaliation policy available to all employees? If yes, please provide a hard copy and indicate how the policy is disseminated and what if any related employee training or education is provided.

Yes _____ No _____

B. Public: Does the agency have a published non-retaliation policy widely available to small entities?

If yes, please provide a copy and indicate how the policy is disseminated (include web link if applicable).

Yes _____ No _____

2. Compliance Assistance

A. Does the agency provide small businesses with regulatory compliance assistance in the form of generally-applicable, written compliance guidance or similar written information? If yes, please provide copies and indicate how that assistance is disseminated (include web link(s) if applicable.).

B. Yes _____ No _____

Does the agency provide small business compliance assistance (e.g., training or counseling) other than generally-applicable, written guidance? If yes, please describe this assistance, how it is provided (in writing or otherwise), and indicate whether individually-tailored compliance assistance is provided to small businesses.

Yes _____ No _____

3. SBREFA Notification

A. Does the agency provide public notice regarding small entities' rights under SBREFA, including the right to file a comment with the National Ombudsman? If yes, please provide a copy and indicate how the notice is disseminated (include web link(s) if applicable).

Yes _____ No _____

B. When the agency issues a citation, notice of regulatory violation, charge of violation, or the like to a particular small business, is written notice of small entities' SBREFA

rights included in the issuance? If yes, please include samples of the written notice(s) provided.

Yes _____ No _____

1. Timeliness of Responses

Response times are measured from the date ONO forwards a small business comment to an agency to the date the agency's response is received. "Days" are defined as business days.

A: 30 days or fewer

B: 31-60 days

C: 61-90 days

D: 91-120 days

F: more than 120 days

2. Response Quality

ONO considers the specificity and detail provided in each agency's response and determines ratings according to whether:

- The agency provides detailed information showing that it investigated the facts of the specific case and the actions of the agency personnel involved.
- The agency response comes from a high-level representative, such as an agency official with SBREFA responsibilities or someone from the program office with oversight responsibilities related to the comment.
- The agency addresses all applicable questions posed and responds to the specific comment made by the small entity.

When forwarding a comment, ONO may

TABLE IV-1. FY2013 AGENCY RATINGS

Agency (enforcement action-related comments)	COMMENTS ^		SBREFA COMPLIANCE			Overall	Referrals of non-enforcement action-related comments
	Response timeliness	Response quality	Non-Retaliation Policy	Provision of Compliance Assistance	SBREFA Information		
Agriculture							4
Animal and Plant Health Inspection Service (1)	A	A	A	A	A	A	
Food Safety and Inspection Service (1)	F	A	A	A	A	B	2
Commerce							
National Oceanic & Atmospheric Administration (1)	A	A	A	A	A	A	
Defense							10
Defense Contract Management Agency (1)	A	B	N/A	N/A	N/A	A	
Education	N/C	N/C	A	A	A	A	
Energy	N/C	N/C	C	A	F	C	1
Health and Human Services							
Food and Drug Administration (3)	A	B	A	A	A	A	
Centers for Medicare and Medicaid Services (98)	A	C	A	A	C	B	9
Homeland Security							21
Citizenship and Immigration Services	N/C	N/C	A	A	N/A	A	20
Customs and Border Protection (2)*	F	B	A	C	A	B	1
Immigration and Customs Enforcement (4)	B	C	A	A	A	B	1
Housing & Urban Development	N/C	N/C	A	A	A	A	
Interior	N/C	N/C	A	A	A	A	1
Justice	N/C	N/C	B	A	C	B	2
Labor							
Occupational Safety & Health Administration (12)	A	A	A	A	A	A	
Wage & Hour Division (2)	A	A	A	A	A	A	
Mine Safety & Health Administration (1)	C	B	A	A	A	B	
Employee Benefits Security Administration (3)	C	A	A	A	A	A	

Agency (enforcement action-related comments)	COMMENTS ^		SBREFA COMPLIANCE				Referrals of non-enforcement action-related comments
	Response timeliness	Response quality	Non- Retaliation Policy	Provision of Compliance Assistance	SBREFA Information	Overall	
Employment & Training Adminis- tration (1)	A	A		N/A		A	
Small Business Administration							28***
8(a) Business Development (1)	A	A	A	A	A	A	16
HUBZone (5)	C	A	A	A	A	B	11
State	N/C	N/C	B	A	A	A	
Transportation							1
Federal Aviation Administration (1)	B	A	A	A	A	A	
Pipeline and Hazardous Materials Safety Administration (1)	A	A	A	A	A	A	
Treasury							
Internal Revenue Service (7)	B**	A	A	A	A	A	1
Veterans Affairs	N/C	N/C		X			2
Consumer Product Safety Commission	N/C	N/C	A	A	C	B	
Environmental Protection Agency	N/C	N/C	A	A	A	A	1
Equal Employment Opportunity Commission	N/C	N/C	A	A	A	A	
Federal Communication Commission	N/C	N/C	A	A	C	B	
Federal Deposit Insurance Corporation	N/C	N/C	A	A	N/A	A	
Federal Energy Regulatory Commission	N/C	N/C	A	C	A	A	
Federal Reserve Board	N/C	N/C	A	A	N/A	A	
Federal Trade Commission	N/C	N/C	A	A	A	A	2
General Services Administration	N/C	N/C	A	A	N/A	A	8
National Credit Union Administration	N/C	N/C	A	A	C	B	
National Labor Relations Board	N/C	N/C	A	N/A	N/A	A	
Pension Benefit Guaranty Corporation	N/C	N/C	A	A	A	A	
Security and Exchange Commission (2)	A	A	A	A	A	A	

Department and Agency Rating Notes

Note: A Cabinet Department's subordinate organizational unit is listed separately only if it received at least one enforcement action-related comment during the fiscal year.

N/C: No comments relating to an agency enforcement action were filed with ONO; consequently, there is no basis for scoring the timeliness or quality of responses provided to such comments.

^: Comment timeliness and quality ratings are based on agency responses, if any, provided to ONO as of 2/3/14, which is 120 days following the close of FY13 (120 days is the maximum time allowed for a response to receive a timeliness grade other than "F").

X: The agency failed to provide the information necessary for this statutorily mandated report pursuant to 15 U.S.C. § 631, et. seq.

N/A: Not applicable; the agency asserts that it is not subject to this aspect of SBREFA due to the nature of its charter.

* U.S. Customs and Border Protection continues its commitment for an efficient and streamlined process to ensure timely and quality responses to the small business community.

** Due to the average time for substantive responses from the IRS, which in FY2013 was 132 days, this is a qualified grade. Based on past practice, until the IRS provides a full response and report on the resolution of a comment, it sends "interim updates" to ONO every 30 days, indicating that the matter requires additional time. This practice evolved from the unique nature and posture of issues raised in IRS-related comments ONO receives, which the IRS describes below.

The SBREFA cases usually represent complicated issues generally referred to the Taxpayer Advocate Service (TAS) after the IRS has made an adverse decision. To help a small business obtain relief, TAS analyzes the case to identify if the taxpayer could present or the IRS should consider related issues or arguments, helps the taxpayer develop the issues, requests documentation to support the taxpayer's arguments, and where appropriate, advocates that the IRS erred or should change its position. These steps typically require multiple back-and-forth interactions with both the taxpayer and the IRS. As such, the IRS requests wide latitude with respect to the timeliness measure.

Response quality rating is based on responses to FY2012 cases received in FY2013.

*** Number does not include comments referred to 8(a) Business Development or HUBZone.

include questions necessary to assessing agency responsiveness. The answers shed light on aspects of responsiveness, including how thoroughly the agency considered the effects of its actions and whether appropriate follow-up occurred. Examples include: “Why and how did you take the enforcement action?” and “Did your agency consider alternatives such as waiving penalties or reducing fines?”

3. Agency Non-Retaliation Policy

“Non-retaliation” policies are defined as those designed to prevent acts that punish a small business for complaining or commenting about an agency action. An agency will receive a letter rating of “A” if it demonstrates that:

- The agency has a written non-retaliation policy that is available to all agency employees.
- Small entities have access to the non-retaliation policy at the agency’s public website and/or other readily available source.

Examples of agency non-retaliation policies follow:

The **Federal Deposit Insurance Corporation** (FDIC) has a written Non-Retaliation Policy it started in 1995 and amended in both 2004 and 2008. Known as the Guidelines for Appeals of Material Supervisory Determinations (Guidelines), it holds that “any retaliation, abuse, or retribution by an agency examiner or any FDIC personnel against an institution that appeals a material supervisory determination constitutes unprofessional conduct and will subject the examiner or other personnel to appropriate disciplinary or remedial action by the appropriate Division Director.” Employees of the enforcement and compliance staff receive training on the prohibition of retaliation,

and on the regulatory fairness rights of small businesses. Employees are counseled that retaliation in any form will not be tolerated. The guidelines are posted on a news section of the FDIC website.

The **Employee Benefits Security Administration** of the Department of Labor posts on its website for all employees and public to see a statement about non-retaliation. In part it reads:

“The Employee Benefits Security Administration (EBSA) is committed to fair regulatory enforcement practices, supports the right of the regulated community to raise concerns about regulatory enforcement actions without the fear of retaliation, will investigate such concerns, and will take corrective action, if appropriate. A comment to the Ombudsman will not affect EBSA’s authority to investigate, enforce, or otherwise seek compliance as part of its ongoing responsibility to enforce Federal laws. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA), small business entities regulated by EBSA may direct comments regarding regulatory enforcement actions to the Small Business Administration’s Office of the National Ombudsman in writing at 409 3rd Street SW, MC 2120, Washington, DC, 20416 or by calling 1.888.REG.FAIR (1.888.734.3247).”

The **Department of the Interior** has a written non-retaliation policy it has published in the *Federal Register*. The Department has instructed key persons in each of its Bureaus to publicize the policy and makes the policy a regular topic in its monthly meetings of these key Bureau persons. The Department’s **Fish and Wildlife Service**, for example, publishes a manual as the primary source of information for its employees and makes a chapter in the manual “Non-retaliation Against Small Entities.” The manual is made available to employees both as hard copy and online.

4. Regulatory Compliance Assistance

To receive a letter grade of “A” for providing compliance assistance resources to small business, the agency must demonstrate the availability of:

- Compliance guides and assistance as required under SBREFA as amended;
- A compliance assistance telephone number, website, or other compliance assistance contact for small entities;
- Documented compliance assistance education.

Ratings are reduced for deficient elements. Examples of agency compliance assistance initiatives follow:

The **Equal Employment Opportunity Commission** (EEOC) publishes fact sheets, brochures and compliance guidance both as hard copy and through its website. It publishes “Get the Facts: Small Business Information” specifically for small business owners and makes it available in more than seven languages. Other fact sheets have titles such as “Small Employers and Reasonable Accommodation” and “Questions and Answers for Small Employers on Employer Liability for Harassment by Supervisors.” In addition, the EEOC makes available in its field offices a “compliance assistance employee,” who can help small businesses with consultation and training. It makes outreach and education programs available both for free and fee-based. Last year free oral presentations and meetings reached 25,000 small business representatives; more than a thousand participated in fee-based training. These efforts have been part of the EEOC’s “Small Business Initiative,” which it has placed within its Strategic Plan.

The **Environmental Protection Agency**

(EPA) posts compliance assistance information for small business online. It also reaches out to small business through person-to-person meetings, hard copy publications, free training, site visits and responses to emails and hotlines. It disseminates information specific to industries in each of its 10 regions, for example, auto body shops in New England. It funds a Compliance Assistance Centers program by which 17 centers disseminate compliance information specific to, and in the language of, targeted industries — from metal finishers to construction companies. Because states have been granted authority to implement some Federal environmental laws, the EPA has sponsored the Assistance Centers Platform, which helps small business deal with the links between Federal regulation and state enforcement.

5. SBREFA Notice

Compliance with SBREFA’s notice requirements remains critical to reaching all entities eligible for assistance through the Office of the National Ombudsman.

Accordingly, the fifth rating evaluates whether an agency has established a policy to inform small entities of their SBREFA rights and whether notice of that policy is distributed generally or only when the agency issues a citation, charge, notice of regulatory violation, or the like.

- If an agency provides specific written notice of SBREFA rights to small businesses when a citation or notice of regulatory violation is issued, it will receive an “A” rating.
- If it does not, but the agency provides general notice to small businesses of the right to comment with the National Ombudsman’s office, it will receive a “C” rating.

- If the agency provides no notice regarding SBREFA rights or the Office of the National Ombudsman, the agency will receive an “F” rating.

Examples follow:

The **Consumer Product Safety Commission** (CPSC) posts information about SBREFA on its website. One paragraph of that information is:

Small businesses regulated by the Commission may direct comments regarding regulatory enforcement actions to the SBREFA point-of-contact. The Commission’s contact is the Small Business Ombudsman. Alternatively, small businesses may choose to contact the SBA/ONO directly by calling 1-888-REG-FAIR (1-888-734-3247), or visit the Small Business Administration’s Office of the National Ombudsman.

When the **Internal Revenue Service** (IRS) sends a written notice to taxpayers, it includes a copy of *Publication 1, Your Rights as a Taxpayer*, which is printed in both English and Spanish. This publication informs small businesses that they can comment on IRS enforcement actions by calling the SBA’s free hotline. The IRS also includes its Publication 4689, *Your Rights as a Small Business Owner under the Small Business Regulatory Enforcement Fairness Act*.

Agency and Board Input

The Federal agencies and members of the Regulatory Fairness Boards were provided the opportunity to comment on a draft of this Annual Report. This final Report incorporates any substantive input provided.

TABLE IV-2. AGENCY RESPONSE TIME

AGENCY	Number of Days
Department of Labor	
Occupational Safety and Health Administration	15
Wage and Hour Division	29
Mine Safety and Health Administration	79
Employee Benefit Security Administration	81
Employment & Training Administration	26
Department of Health & Human Services	
Centers for Medicare & Medicaid Services	27
Food and Drug Administration	13
Department of Homeland Security	
Customs and Border Protection	274
Immigration and Customs Enforcement	59
Department of Transportation	
Federal Aviation Administration	38
Pipeline and Hazardous Materials Safety Administration	16
Department of Agriculture	
Food Safety & Inspection Service	165
Animal and Plant Health Inspection Service	16
U. S. Small Business Administration	
8(a) Business Development	21
HUBZone	64

chapter V

Leveling the Playing Field for America's Small Businesses

Throughout fiscal year 2013, the SBA's Office of the National Ombudsman assisted hundreds of individual small business owners facing a vast range of Federal regulatory fairness issues. These interventions by the National Ombudsman team directly benefited small businesses through:

- Refunds of erroneous fines
- High-level review of enforcement actions taken against small businesses and the bases for those actions
- Payment of overdue invoices for work done by small government contractors
- Correction of inconsistently applied rules and clarification of ambiguous regulatory requirements
- Reductions of disproportionate penalties

While dollars and cents alone cannot capture the full measure of these impacts, a review of the financial outcomes achieved in even a few cases demonstrates the outsized benefits delivered by ONO for America's small businesses. For example, ONO's interventions meant hundreds of thousands of dollars for small entities, capital that enabled small business owners throughout the country to invest in expanded operations, workplace safety, and new employees.

This chapter illustrates these direct impacts through examples of several cases resolved by the Office of the National Ombudsman in FY 2013.

Red Tape, Bureaucratic Delays, and Administrative Errors

Database Error Corrected, Allowing Medicare Provider to be Paid

Issue: A Connecticut medical practitioner was precluded from enrolling in the Medicare Electronic Data Exchange due to the CMS Medicare Administrative Contractor (MAC) having entered an incorrect address for the practitioner. As a result, his two offices in different states were not properly recorded in the system and the practitioner was unable to bill for health care services provided to Medicare beneficiaries.

Outcome: ONO contacted the CMS Office of Strategic Operations and Regulatory Affairs, which worked with the MAC to correct the error and thus enable the practitioner to readily bill for services provided at both office locations.

After Continued Delays, Work Permits for Critical Employees were Approved

Issue: A small company applied to the U. S. Citizenship and Immigration Service (USCIS) for legal status for three employees needed to grow the business. After 8 months the applications were denied due to “abandonment,” despite the company supplying the required information and meeting with USCIS.

Outcome: Following review, USCIS confirmed that the small business previously had supplied the required information and reopened the applications. The appreciative business owner wrote to ONO: “I would like to thank you and everyone in your office for assisting me in getting these permits approved.”

Issue Precluding Payment to Medicare Provider Resolved

Issue: CMS incorrectly removed a Tennessee health care provider from the Medicare and Medicaid payment system after a member of the practice died suddenly. As a result, the practice was denied reimbursement for services rendered prior to the death.

Outcome: CMS’ s Office of E-Health Standards and Services contacted the practice and worked with the practice to assemble the necessary documentation to be paid under the circumstances.

Red Tape Cut, Enabling Small Business to Pursue Grant Funding

Issue: A small, medical imaging company contacted ONO on August 9, 2013 regarding its inability to submit a three-year, \$6-million CMS grant application, which was due August 15, 2013. CMS required

“ I would like to thank you and everyone in your office for assisting me in getting these permits approved.”

applicants to be registered on SAM (System of Award Management) and have a CAGE (Commercial and Government Entity) code. The owner, however, had been advised that CAGE validation would be delayed due to an address change by the small business two years earlier. The delay threatened the company with missing the application deadline.

Outcome: Working with the General Services Administration and ONO, DoD cut through red tape to enable the company to obtain the necessary CAGE code in time for the business to meet the grant application deadline.

Revocation of Medicare Supplier Number Reversed

Issue: A small family business in central Pennsylvania supplied orthotic medical supplies to Medicare patients. For two days the office was closed due to the sudden hospitalization of the owner and her daughter’ s illness. Finding the office closed on those days, the CMS MAC, National Supplier Clearinghouse (NSC), revoked the company’ s Medicare supplier number, cutting off the company’ s ability to serve Medicare patients. Following an administrative appeal, the business reached out to ONO.

Outcome: Noting the impact on access to healthcare in the community served and the exigent circumstances underlying the office's two-day closure, ONO sought relief from the Office of Strategic and Regulatory Affairs at the Centers for Medicare and Medicaid Services (CMS). CMS worked with NSC and the small business to reinstate the supplier's number retroactive to the day of the initial revocation.

GSA Schedule Anomaly Addressed

Issue: A small business in California offering sign language interpreting services was listed on the GSA schedule, allowing it to compete for government contracts. At the time it became listed there was a single category that included both translating and interpreting services. When GSA later split the category, the business was assigned to the "translating" category, even though it provided interpreting services. As a result, revenues for the company dropped dramatically; then, when the small business owner sought to be reassigned to the more appropriate "interpreting" category, her request was denied due to low revenue.

Outcome: ONO reached out to GSA which worked with the business owner to make the changes needed to accurately list the company on the GSA schedule.

Overdue or Disputed Contract Payments

Colorado Defense Contractor Paid \$265,900 in Overdue Invoices

Issue: In August 2013, a small business owner contacted ONO regarding approx-

imately \$266,000 owed to his company by Air Force Space Command for work dating to March 2011. The contract was fully funded and there was no dispute that the work had been authorized and properly performed and that payment was due. Nevertheless, release of the funds had been stalled. Despite frequent inquiries over more than a year, the small business owner was able to learn only that the matter was "in reconciliation" and was unable to ascertain any time-frame for its resolution.

In his comment, he wrote:

Despite almost weekly calls . . . by our accounting department, we can make no progress and can't even get a date or a single point of contact with whom we can work. The total owed is \$266,603.47 and for a small business, that is a lot of money.

Outcome: ONO immediately contacted DoD, which reviewed the case, and within 5 weeks, payment of \$265,900 was authorized.

Overdue Payments Made to Small Contractor

Issue: A small building contractor completed construction for the General Services Administration and submitted several invoices for payment. Due to a change in management at GSA, after six months of non-payment and inquiries by the contractor, only three of the invoices had been paid. The contractor turned to ONO.

Outcome: GSA investigated, and within weeks of ONO's intervention, GSA paid the remaining invoices.

Contractor Paid \$79,679 Due for Completed Work

Issue: A digital mapping company contracted with the Naval Surface Warfare Center (NSWC) for the production of digital maps. Following delivery, NSWC rejected the maps, denied payment and attempted to cancel the contract. The mapping company sought payment in full.

Outcome: The Department of the Navy reviewed the facts of the case and the contract requirements, and within 3 months, NSWC accepted the maps and authorized payment in full of the amount due under the contract, \$79,679.

Subcontractor Assisted in Payment Dispute with Major Government Contractor

Issue: A woman-owned small business (WOSB) in Pennsylvania contracted with a large prime contractor for work on a U. S. Coast Guard installation. The prime contractor terminated the subcontract, refused to pay for work completed or materials provided under the subcontract, and refused to release the subcontractor's bond. The small business owner appealed to the Coast Guard for assistance. The Coast Guard declined to intervene on the grounds that the subcontract was between two private parties, not the Coast Guard. The WOSB sought assistance from ONO.

Outcome: ONO opened a case on behalf of the small business owner. Upon learning of ONO's involvement, the prime contractor settled with the WOSB and released its bond.

Reduced Penalties and Fees

Potential Penalty Reduced 79% to Fully Reflect Small Business' Circumstances and Corrective Actions

Issue: An OSHA inspection of an Alabama logging company site found a lack of recent safety and hazardous materials programs. Total potential penalties were \$14,000.

Outcome: Because of the logging company's small size, safety record, and participation in compliance counseling, the penalties were lowered first to \$6,000 and then to \$4,800. After the business demonstrated that corrective actions had been taken, OSHA further reduced the penalties to a total of \$2,950, payable in 12 interest-free installments.

OSHA Fine Reduced 50%

Issue: OSHA cited a Maine building supplies company for violations including lack of railings, egress signage and fire extinguishers. On account of the company's very small size, OSHA reduced the fine from \$19,000 to \$7,600. The business owner appealed to ONO for assistance, citing the disproportionate amount of the fines relative to the severity of the violations, which were easily remedied.

Outcome: In response, OSHA reviewed the matter and conducted an informal conference with the owner and further reduced the fine to \$3,800.

Recoupment Fee Refunded in Full

Issue: In December 2012, a Florida auto body shop owner sought assistance in obtaining a refund of the \$4,870 recoupment fee imposed by an SBA lender in

connection with prepayment of an SBA-guaranteed commercial loan.

Outcome: Working with ONO, the Office of Capital Access found that the borrower's prepayment had not been voluntary and authorized a refund of the full recoupment fee. After receiving the recoupment fee refund, the small business owner wrote to the Office of the National Ombudsman: "Thank you for following through on my request for a refund of the early termination fee for our SBA loan. . . . [W]ithout your help we would not have received the \$4,870 in fees we were charged."

“Thank you for following through on my request for a refund of the early termination fee for our SBA loan. . . . [W]ithout your help we would not have received the \$4,870 in fees we were charged.”

Other Payments or Refunds

\$529,369 Loan Guarantee Honored for SBA Lender

Issue: A one-location community bank in Kansas initiated and serviced an SBA-guaranteed loan that went into default after six years. Payment of the guarantee was delayed for more than four months, and the bank asked for assistance from ONO.

Outcome: The SBA's Office of Financial Programs Operations reviewed the matter, and within 3 months of ONO's intervention \$529,369 covering the default was paid to the lender.

\$39,000 in Overdue Grant Disbursements Released to Non-Profit Grantee

Issue: A regional Hispanic Chamber of Commerce had been awarded an SBA grant but was unable to obtain \$39,000 in grant monies from SBA.

Outcome: SBA resolved the matter and funds were disbursed within days.

Refund Issued for Overpayment of Guarantee Fee

Issue: A community bank and SBA lender prepared a loan application for a \$1.1 million SBA-backed loan. The bank paid a guaranty fee to SBA based on that loan amount. Ultimately, the loan amount was reduced to \$600,000, but the lender was unable to obtain a refund of the guaranty fee overpayment. After a year without being repaid, the bank contacted ONO.

Outcome: ONO worked with the Office of Capital Access to substantiate and record the amendments to the loan. The proper recordings were made and the bank was rebated \$15,375, the full amount of the overpayment.

chapter VI

The Year Ahead

In Fiscal Year 2014, the Office of the National Ombudsman will continue, and expand on, individualized assistance of small business owners and entrepreneurs. As it has since its inception, the office will individually serve every one of the hundreds of businesses that reach out to us each month.

At the same time, ONO is undertaking a broad and deep assessment of the individual cases we handle and other indicators to identify trends, recurring issues, and regulatory hot spots. Those areas – where we find recurrent problems impacting multiple small businesses — are where systemic solutions can help dozens, hundreds, and even thousands of small businesses in regulatory situations like those of the small business owners that reach out to ONO individually. Necessarily, our ability to succeed in this endeavor requires the commitment and engagement of our Federal agency partners in finding and effecting solutions of this sort. The SBA and the Office of the National Ombudsman are grateful for the commitment of our agency partners whose ongoing support for small busi-

ness is helping to level the playing field through systemic resolutions like these:

- interpretive guidance from agency leadership to compliance and inspection officials in the field to avoid recurrences of issues raised and resolved through ONO
- changes to agency policies and procedures governing the application of laws and regulations to small business circumstances
- Memoranda of Understanding and Strategic Alliances with sister agencies to promote compliance assistance and regulatory awareness initiatives

In the coming year, ONO looks forward to building even stronger partnerships with each of the federal agencies that touch small business. Working together to support regulatory fairness for all members of the small business community, we can save countless small businesses from undue regulatory hurdles and unnecessary costs that too often disproportionately impact them.



U.S. Small Business Administration

U.S. Small Business Administration
Office of the National Ombudsman
409 Third Street, S.W.
Washington, D.C. 20416