

Advocacy Files Comments on OMB's Request for Information on Federal Agency Use of Voluntary Consensus Standards

On June 1, 2012, the U.S. Small Business Administration's (SBA) Office of Advocacy (Advocacy) submitted comments to the Office of Management and Budget (OMB) on OMB's request for information on *Federal Participation in the Development and Use of Voluntary Consensus Standards and In Conformity Assessment Activities* that was recently published in the Federal Register [77 Fed. Reg. 19357 (March 30, 2012)]. The request for information invited comment on Federal agencies' standards and conformity assessment-related activities, as well as whether and how OMB should revise or supplement existing OMB Circular A-119, the federal government's policy with respect to using private technical standards.

The National Technology Transfer and Advancement Act (NTTAA) requires Federal agencies to use private technical standards rather than developing their own government-unique standards whenever possible, or explain why they cannot. These private technical standards are developed by a wide array of standards development organizations (SDOs), and it is difficult to generalize about their make-up. Further, many of the SDO materials are copyrighted and many SDOs fund their operations by selling these materials to the public.

A number of small entity representatives contacted Advocacy and expressed concerns with agency use of private technical standards, both in regulatory matters and in procurement. In response, Advocacy hosted a small business roundtable on this topic on May 9, 2012, and Advocacy and a group of small entity representatives also met with OMB on May 30, 2012 to discuss this issue. The following comments reflect the views expressed during the roundtable and OMB meeting, as well as in other conversations with small entity representatives.

- There is no uniform small entity perspective on the questions OMB has presented. However, there are significant risks to small entities if their interests are not adequately considered when Federal agencies use private technical standards.
- Regulated small entities want a seat at the table when the standards are drafted and easy access to the law, and SDOs want a reliable set of rules that values the service they provide to industry and the Federal government.
- OMB Circular A-119 should establish policies that will mitigate the risks to the interests of small entities. Specifically, agencies should have an affirmative obligation to consider and request comment on small entity issues with private technical standards.

A complete copy of Advocacy's letter to OMB is available at: www.sba.gov/advo/laws/comments/.

For more information, please visit Advocacy's Web page at www.sba.gov/advo or contact Bruce Lundegren (at (202) 205-6144 or bruce.lundegren@sba.gov) or David Rostker (at (202) 205-6966 or david.rostker@sba.gov).