

**2010
Fiscal Year
National Ombudsman
Report to Congress**



**Office of the National Ombudsman:
The Regulatory Enforcement Fairness
Voice for Small Business**



“Leveraging Our Strengths through Cooperation, Alliances and Partnerships”

National Ombudsman's 2010 Report to Congress

Karen G. Mills

Administrator

Esther H. Vassar

National Ombudsman and

Assistant Administrator, Regulatory Enforcement Fairness



Contents

The ONO Mission	v
ONO Regional RegFair Board Members, FY 2010	vii
Message from the SBA Administrator	xi
Introduction by the National Ombudsman	xiii
I. FY 2010 Highlights	1
II. Agency Ratings Encourage Enforcement Fairness	5
The Agency Questionnaire	5
Federal Agency Rating Criteria for 2010	6
III. Mission Accomplished: Small Business Success	
Stories	17
A Forum for Fairness	17
Giving Small Business a Voice	19
IV. RegFair Boards and Outreach: Fostering Community	
Connections	27
RegFair Board Offers Peer-to-Peer Support	27
<i>On the Road to Regulatory Fairness</i>	32
SBA Partners Enhance ONO's Mission	33
Agency Outreach Promotes Prevention Before Penalty	33
V. Looking Ahead: Building Bridges; Making a Difference	37
Appendix: Media Outreach	39
Appendix: ONO Organizational Chart	41

The ONO Mission

The National Ombudsman's mission is to assist small business owners when they experience excessive or unfair Federal regulatory enforcement actions.

The Office of the National Ombudsman (ONO), an office within the U.S. Small Business Administration (SBA), was created by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The law's provisions pertain to all small businesses that receive or are subject to any enforcement-related communication or contact by Federal agency personnel, including audits, on-site inspections, and agency compliance assistance.

SBREFA fosters a small business-friendly enforcement environment by authorizing the National Ombudsman to:

- Work with each Federal agency that has regulatory authority over small businesses to ensure that entrepreneurs have a means to comment on compliance and enforcement activities. ONO encourages agencies to address small business concerns promptly.
- File an annual report with Congress in which ONO evaluates agencies' compliance assistance and enforcement activities. ONO bases these evaluations on substantiated comments received from small business owners and input from the 10 Regional Regulatory Enforcement Fairness (RegFair) Boards.
- Establish a process for ONO to receive comments from small businesses about excessive or unfair regulatory enforcement and/or compliance actions by Federal agency personnel. The National Ombudsman refers these comments to the Inspector General of the affected agency in appropriate circumstances.
- Provide affected Federal agencies with an opportunity to comment on the draft version of the annual report to Congress.
- Conduct public events in conjunction with RegFair Board members in each SBA region to listen to and record comments from small business owners and representatives of small business. These public forums provide an opportunity for entrepreneurs to comment on Federal regulatory enforcement and/or compliance activities without fear of retaliation.

What is an unfair enforcement action?

It can be repetitive audits or inspections; unreasonable fines or penalties; threats by a Federal agency; and/or acts of retaliation by a Federal agency.

ONO Regional RegFair Board Members, FY 2010

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) authorizes creation of 10 Regional Regulatory Enforcement Fairness (RegFair) Boards to:

- Meet at least annually to advise the National Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies.
- Report to the National Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the board as to agency enforcement policy or practice.
- Prior to publication, provide comment on the annual report of the National Ombudsman.



RegFair Board members are appointed by the SBA Administrator. All members are small business owners, officers, or operators and serve on a voluntary basis. Achieving diversity is a major goal in selecting RegFair Board members so that they are truly representative of the small business communities in which they operate.

There is an ONO RegFair Board in each of SBA's 10 regions:

Region I

Andrew E. Markowski, Esq.
Gara & Markowski, LLC
Government Relations
West Hartford, CT

Kathryn M. Weare
The Cliff House Resort & Spa
Ogunquit, ME

Bernard Featherman
Intergroup
Kennebunkport, ME

Rob Kane
KarTele
Waterbury, CT

Deborah Osgood
Knowledge Institute
Exeter, NH

Region II

Howard Horowitz
Elite Marketing Group
New Hyde Park, NY

Jonathan Weiss
Intermedia Group, Inc.
West Hempstead, NY

Don Perry
Shiva's Kama, LLC
Warwick, NY

Region III

Seward Hulitt
Drexel Hamilton, LLC
Philadelphia, PA

Louis Hutt
Bennett, Hutt & Co.
Columbia, MD

Dona Storey
Quality Technical Services, Inc.
Virginia Beach, VA

Timothy R. Rupli
TR Rupli & Associates, Inc.
Washington, DC

Frank E. Williams, Jr.
Williams Enterprises of Georgia, Inc.
Merrifield, VA

Marilyn Landis
Basic Business Concepts, Inc
Pittsburgh, PA

Region IV

Robert S. Latham, III
LIST Company, Inc.
Piedmont, SC

R. Bruce McCrory
Kiker Corporation
Mobile, AL

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

William Jackson Patton
DEI Services Corporation
Winter Park, FL

Region V

Stephen L. Becher
Apple Valley, MN

Joseph J. Montel
Coleman Stevenson & Montel
Indianapolis, IN

Robert Kulp
Kulp's of Stratford, LLC
Stratford, WI

Craig Freedman
Freedman Seating Company
Chicago, IL

Region VI

Jim R. Newell
Newell Agency
Little Rock, AR

Anna Muller
NEDA Business Consultants, Inc.
Albuquerque, NM

John Michael
Naismith Engineering, Inc.
Corpus Christi, TX

Beth Sturgeon
AusTex Development Group
Canadian, TX

Grant C. Humphreys
Humphreys Real Estate Investments
Oklahoma City, OK

Regina N. Hamilton
Jones, Walker, Waechter, Poitevent,
Carrère and Denègre, LLP
Baton Rouge, LA

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

Region VII

Scott R. Perkins
Wilson & Company, Inc.
Overland Park, KS

Joseph Jindra
KNCK, Inc.
Concordia, KS

Joe P. Balsarotti
Software To Go
Saint Peters, MO

Carisa McMullen
Landworks Studio
Olathe, KS

Region VIII

Michael J. Stransky
GSBS Architects
Salt Lake City, UT

Harold Jackson
Buffalo Supply, Inc.
Lafayette, CO

Alison Brown
NAVSYS Corporation
Colorado Springs, CO

Danton B. Rice
PrintingForLess.com
Livingston, MT

Region IX

James Settelmeyer
Settelmeyer Ranches Incorporated
Menden, NV

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

Cynthia Wrasman
Winning Sales Worldwide
Paradise Valley, AZ

Ernest J. Reyes
Network Realty
San Diego, CA

Paul Wright
Berkeley Policy Associates
Oakland, CA

Region X

John Bradshaw
Portland Transmission Warehouse
Portland, OR

Anthony Welcher
Capital Park, LLC
Bellevue, WA

Message from the SBA Administrator

On behalf of the SBA, I'm pleased to present our Office of the National Ombudsman's 2010 Report to Congress.

The report details how the National Ombudsman helps ensure fair and effective regulations that provide an environment where small businesses can grow and create jobs. These efforts play an important role in helping the SBA – as a whole – serve as the strongest voice for America's entrepreneurs and small business owners.

Over the past year, the National Ombudsman held more than 20 public hearings, roundtables, and other events where SBA gathered candid advice and input from small business leaders. In addition, the office responded to more than 1,000 public inquiries. The Ombudsman's Regional Regulatory Enforcement Fairness Boards also continue to serve as conduits for suggestions and new ideas from communities across our 10 regions.

To complement these efforts, I'm pleased that President Barack Obama ordered a government-wide review of rules and regulations, with a special focus on those that impede small businesses' ability to drive innovation and competitiveness. In line with that, the SBA is also conducting a series of "Reducing Barriers" events in key cities where we have the opportunity to listen first hand as entrepreneurs describe the challenges they have encountered.

All of these efforts are leading toward better access to regulatory information, removal of unfair barriers, and a more powerful partnership between the Federal government and America's biggest job creators. Working closely with the Office of the National Ombudsman, Congress, and others, I look forward to finding more ways to foster an environment where small firms can continue to move our economy forward in the 21st century.



Karen G. Mills
SBA Administrator



Introduction by the National Ombudsman

It has been an inspiring and gratifying year to serve as SBA's National Ombudsman. Small business remains the driver of our nation's economic recovery and the source of most new jobs. President Barack Obama continues his commitment to providing entrepreneurs with new resources and opportunities for growth. The President signed into law the Small Business Jobs Act to provide small firms with better access to capital, Federal contracts, export opportunities, training, and tax relief.

These positive measures support and amplify our mission at the Office of the National Ombudsman (ONO), under the leadership of SBA Administrator Karen Mills, to foster an atmosphere in which small businesses can thrive, not just survive.

Even with these encouraging developments underway, I continue to hear daily from small business owners describing their struggle with excessive or unfair Federal regulatory enforcement actions. Entrepreneurs often lack the resources to seek a solution and are at a loss as to where they can turn for help. As I travel across the country leading Regional Regulatory Enforcement Fairness Board Hearings and Roundtables, I have the privilege of listening in person to these challenges and spreading the word to the small business community that ONO is their "friend in high places." We can present their situation to the Federal agency officials who have the information and clout to address the regulatory dilemmas.

One of the biggest concerns that small business people face is being overwhelmed by Federal enforcement penalties and fees. Entrepreneurs want to play by the rules and comply with Federal regulations, but businesses are often reluctant to tell their stories because they fear agency retaliation. ONO can step in and build bridges of communication and understanding between small businesses and the Federal agencies that regulate them. We encourage Federal regulators to assist business owners with compliance rather than go straight to the penalty stage. This is our message: *education versus penalty; prevention rather than punishment.*

No small business should struggle because it is unaware of our office. I carry our message wherever I go, taking every opportunity to discuss mutual goals



with Federal, state, and local government officials; increase Federal agencies' understanding of the ONO mission; and strengthen communication among our small business constituents, community groups, and partner organizations.

The Obama Administration's commitment to the small business community is strong, is reflected in the programs and policies set forth by Administrator Mills, and serves as the inspiration for our work at ONO every day. The ingenious, diligent spirit of entrepreneurship is not only part of the American dream, but the practical economic engine driving our country's prosperity. This report details how ONO, under the authority of the Small Business Regulatory Enforcement Fairness Act of 1996, is improving our programs, strengthening and expanding communication between the business and regulatory communities, and sending our message to entrepreneurs across the country: small business has a voice in the regulatory process.



Esther H. Vassar

National Ombudsman and

Assistant Administrator for Regulatory Enforcement Fairness

I FY 2010 Highlights

Congress enacted the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) to create a more cooperative environment between Federal regulators and their small business constituents. Legislators understood then what the current economic recovery underscores every day: entrepreneurs are taking the lead with new jobs and bright ideas (see sidebar). While navigating a challenging market is tough, struggling to keep up and comply with all relevant Federal rules can strain a small company's resources to the point that its economic survival is at risk. Agency regulations and enforcement actions can look excessive or unfair through the eyes of a small business person operating with the narrowest of profit margins.

SBREFA created the position of the National Ombudsman as a resource for small firms to turn to for help when facing Federal compliance and regulatory enforcement issues.

The Office of the National Ombudsman (ONO):

- Provides a variety of channels through which companies can file comments describing their enforcement dilemmas.
- Delivers these comments to the appropriate Federal agency officials, who are requested to respond promptly.
- Files an annual report to Congress that rates how well each Federal regulatory agency is addressing small business enforcement concerns.

This "National Ombudsman's 2010 Report to Congress" provides a narrative of how ONO is improving communication and understanding between Federal agency staff and the small firms they regulate. ONO continues to fulfill its SBREFA mandate of helping entrepreneurs resolve their regulatory dilemmas so that companies can return their focus to job creation.

Numbers Tell the Story: Small Business Is Vital to Economic Resurgence

SBA defines a small business as one that is independently owned and operated, is organized for profit, and is not dominant in its field.

Depending on the industry, size is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. There are 27.5 million small businesses in the United States and they play an indispensable role in all aspects of our continuing economic recovery, from job creation to high-tech innovation. Small businesses create more than half of the nation's non-farm private gross domestic product. They also:

- ✕ *Represent 99.7 percent of all employer firms.*
- ✕ *Employ about half of all U.S. workers and 43 percent of high-tech workers, including scientists, engineers, and computer programmers.*
- ✕ *Accounted for 65 percent (or 9.8 million) of the 15 million net new jobs created between 1993 and 2009.*
- ✕ *Produce 13 times more patents per employee than large patenting firms.*
- ✕ *Made up 97.5 percent of all identified exporters and produced 31 percent of export value in FY 2008.*

Source: SBA Office of Advocacy, Frequently Asked Questions, <http://www.sba.gov/sites/default/files/files/sbfaq.pdf>

FY 2010 ONO Accomplishments

The Office of the National Ombudsman continued its mission in 2010 to ensure that small businesses have a voice in the Federal regulatory arena. The agency:

- ❏ *Processed 250 small business cases with varying degrees of complexity.*
- ❏ *Responded to at least 1,040 public inquiries via email and telephone.*
- ❏ *Administered and/or participated in 22 public events, including hearings, roundtables, panel presentations, and speeches.*
- ❏ *Produced and submitted the FY 2009 Annual Report to Congress.*
- ❏ *Recruited/added at least 16 Regional RegFair Board members.*
- ❏ *Conducted 12 high-level Federal agency meetings/briefings.*
- ❏ *Held the legislatively-required annual RegFair Board meeting in Washington, DC.*

Chapter II. Agency Ratings Encourage Enforcement Fairness

ONO's annual evaluation of Federal agency compliance and enforcement activities is an important means for encouraging a fair and effective regulatory environment for small business. ONO rates agencies using criteria designed to measure enforcement fairness throughout the regulatory process:

1. Timeliness in responding to small entity comments
2. Quality of response to small entity comments
3. Agency non-retaliation policy (from agency questionnaire)
4. Agency regulatory enforcement compliance assistance (from agency questionnaire)
5. SBREFA notice (from agency questionnaire)



In FY 2010, ONO noted:

- Continued overall improvement in Federal agency ratings.
- Strengthened non-retaliation measures that incorporate regulatory fairness for small businesses into Federal agencies' general policies for all constituents.
- Federal agencies' innovative use of technology combined with traditional print and face-to-face contact to emphasize small business compliance education rather than penalties and fees.
- Federal agencies leveraging partnerships with business representatives to deliver more effective small business compliance assistance.

Chapter II presents examples of agency best practices that meet or exceed ONO's rating criteria.

Chapter III. Mission Accomplished: Small Business Success Stories

ONO's comment process offers a forum where entrepreneurs can present their compliance and enforcement concerns, then work with regulatory agency staff toward a resolution. The National Ombudsman stands ready to act as a liaison between entrepreneurs and Federal agencies through the Regulatory Enforcement Fairness Comment Process.

A small business person initiates the process by filing a comment with ONO that describes the compliance or enforcement challenge. The National Ombudsman then contacts the Federal

agency official(s) with the authority to address the situation. The goal is to encourage a resolution that leads to effective regulation, taking into account both small business concerns and the agency's regulatory obligations under the law.

Chapter III describes ONO's comment process, followed by real-life success stories gleaned from case files of the regulatory issues most frequently addressed by the National Ombudsman in FY 2010:

- Compliance costs and requirements
- Communication challenges
- Errors and oversights
- Regulatory impasse

Chapter IV. RegFair Boards and Outreach: Fostering Community Connections

Outreach is a critical component of ONO's mission. Outreach activities help ONO connect with entrepreneurs at the local level throughout the United States to let them know that they have an ally to turn to when faced with excessive or unfair Federal regulatory enforcement actions. Meeting face-to-face with business constituents also enriches the National Ombudsman's understanding of current regulatory challenges.

ONO strengthens and extends its outreach efforts through partnering with the business community and other Federal government entities:

- ONO's 10 Regional Regulatory Enforcement Fairness (RegFair) Boards serve in local communities and make contact with entrepreneurs where they live and work.
- U.S. Small Business Administration (SBA) resource partners collaborate with ONO to enhance its mission of seeking compliance and regulatory enforcement fairness for small businesses.
- ONO teams with national trade groups to better understand and resolve members' enforcement issues and open communication channels among small firms, government and elected officials at all levels, and partner organizations.
- ONO continues to increase Federal regulatory agencies' understanding of its mission and partners with them to take action on small business issues.



Chapter IV describes these and other outreach efforts, including agencies' new and improved national campaigns to promote "prevention over penalty" in the Federal regulatory arena.

Chapter V. Looking Ahead: Building Bridges; Making A Difference

The National Ombudsman continues the agency's bridge-building work of opening lines of communication between small businesses and Federal agencies to promote a fair and effective regulatory environment.



To that end, the National Ombudsman has raised the bar on ONO's response time as an example to Federal agencies across government. ONO has set a goal of submitting small business comments to Federal agencies within two business days of receipt, then sharing the

Federal agencies' responses with small businesses no more than two days after the agencies submit their responses.

A more rapid response time is a single example of ONO's commitment to living our slogan: "It is not enough to just listen to small businesses—what we do must make a difference."

II

Agency Ratings Encourage Enforcement Fairness

The Office of the National Ombudsman's (ONO) annual evaluation of Federal agency compliance and enforcement activities is an important means for encouraging a fair and effective regulatory environment for small business. ONO rates agencies using criteria designed to measure enforcement fairness throughout the regulatory process.

The Agency Questionnaire

The rating process begins with a questionnaire asking Federal agencies about their regulatory policies and interactions with small business constituents. ONO determines letter ratings based on agencies' answers to the following questions and information requests:

- Do you have a written non-retaliation policy available to all employees?
 - How is it disseminated throughout your agency? Please provide a copy.
- Do you have an online and/ or published non-retaliation policy available for viewing by small business concerns?
 - Please provide the specific web address or a copy of the published policy.
- Does your agency have a compliance assistance website or any published guidance or information available for small business?
 - Please provide hard copy samples and/or pertinent website addresses.
- Do you publish small entity compliance guides in conjunction with publication of a final rule that will impact small businesses per Section 212 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) as amended in 2007?
 - Please explain how your agency implements this section.
- Do you inform small business concerns about their rights under SBREFA and the availability of the National Ombudsman to receive their comments?
 - How will a small business concern come by the information?
- Does your agency provide written notice to small business concerns at the specific time a citation, notice of regulatory violation, charge of violation, or any equivalent or like notification is issued?

"We are the National Ombudsman for the entire Federal government. It's important that we work with other agencies and see them as partners rather than antagonists."

*Esther H. Vassar,
National Ombudsman*

■ Please include samples of the form, document, charging instrument, or similar communication mechanisms that are issued to inform small business concerns about SBREFA rights.

Federal Agency Rating Criteria for 2010

ONO issues agencies a rating of A through F based on five criteria:

1. Timeliness in responding to small entity comments
2. Quality of response to small entity comments
3. Agency non-retaliation policy (from agency questionnaire)
4. Agency regulatory enforcement compliance assistance (from agency questionnaire)
5. SBREFA notice (from agency questionnaire)

ONO also issues each agency a composite rating for the year (see Table II-1).

Timeliness of Response— Criterion 1

- 30 days or less = A
- 31-60 days = B
- 61-90 days = C
- 91-120 days = D
- Over 120 days = F

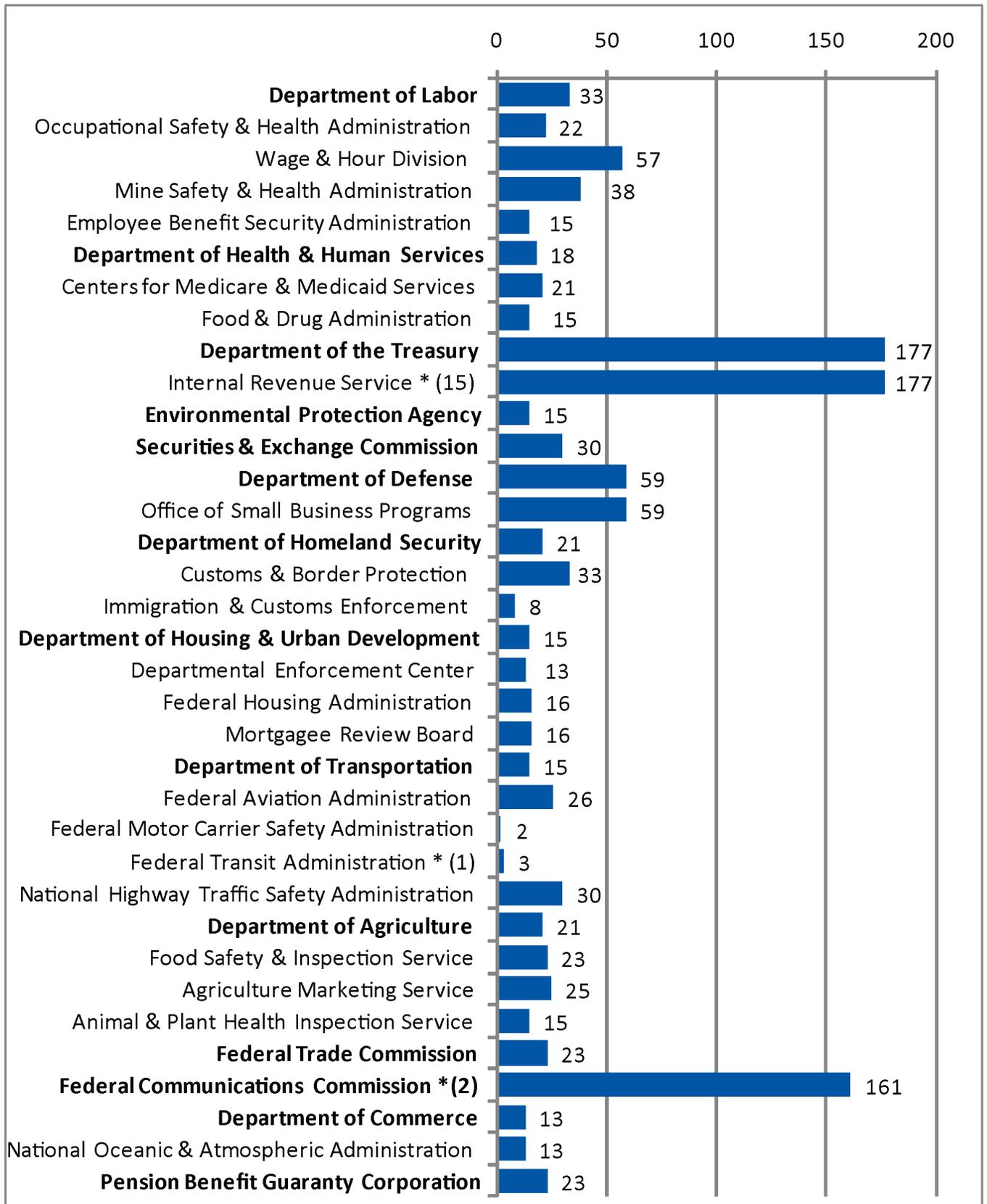
ONO calculates response time from the day a specific comment is forwarded to an agency until the day ONO receives a response. For rating purposes, “days” are defined as business days. If no response is received after 120 days, ONO assesses a grade of “F” for “Timeliness.” Figure II-1 depicts the average number of days that agencies took to respond to small business comments in FY 2010.

If circumstances warrant, ONO may accept justified requests from an agency for additional time to respond and/or to submit an interim response. In these rare instances, ONO will take into consideration the specific circumstances when calculating “Timeliness.”

ONO is sensitive to the fact that agencies need adequate time to thoroughly evaluate compliance and enforcement actions in a way that meets legal requirements. Meanwhile, a small business may be facing hardship as a result of regulatory proceedings that strain its limited resources. A prompt resolution of the enforcement issue can benefit both parties and foster mutual understanding between the entrepreneur and the Federal agency personnel who administer the regulation.

Figure II-1. Response of Federal Agencies

**Response of Federal Agencies to Comments
Average Number of Days - FY 2010**



* As of February 1, 2011 – (# of cases awaiting response)

Quality of Response—Criterion 2

When the National Ombudsman receives a comment from a small firm concerning a regulatory enforcement or compliance issue, the comment is forwarded along with its supporting documentation to the Federal agency(ies) involved. ONO may also include correspondence with questions such as, “Why and how did you take the enforcement action?” and “Did your agency consider alternatives, such as waiving penalties or reducing fines?” The answers assist ONO in assessing the responsiveness of agency personnel, how thoroughly they considered the effects of their actions, and whether any follow-up occurred.

The National Ombudsman addresses this correspondence to a high-level official within an agency and may refer any comments to the agency’s Inspector General in appropriate circumstances. ONO considers the level of specificity and detail provided in each agency’s response and determines ratings according to the following criteria:

- The agency addresses all of the applicable questions posed in the National Ombudsman’s correspondence and responds to the specific comment made by the small entity.
- The response provides sufficiently detailed information to demonstrate that the agency looked into the facts of the specific comment as well as into the actions of the individual agency

personnel involved in the enforcement or compliance activity.

- The agency response comes from a high-level representative (i.e., someone from the agency with SBREFA responsibilities or someone from the program office with oversight responsibilities related to the comment).

Agency Non-Retaliation Policy—Criterion 3

ONO defines “non-retaliation” policies as those designed to prevent acts that punish small business people for complaining or commenting about an agency action. An agency will receive a letter rating of “A” if it demonstrates that all of the following elements exist:

- The agency has adopted a formal written non-retaliation policy that is available to all agency employees.
- Small business operators have access to the non-retaliation policy at a specific publicly available web address on the agency’s website and/or other readily available public places.

Well-enforced non-retaliation policies are critical if entrepreneurs are to feel free to offer feedback on how Federal enforcement and compliance activities affect business operations, including perceived negative impacts. ONO encourages agencies to establish non-retaliation policies that specifically reference small businesses rather than rely on generalized ethics codes or standardized anti-discrimination rules.

Many agencies routinely distribute copies of non-retaliation policies during enforcement actions and outreach events to remind both agency personnel and small businesses that entrepreneurs may not be punished for raising objections to perceived unfair treatment.

The Federal Trade Commission

(FTC), for example, informs all businesses under investigation of the limits on agency staff powers. Every staff recommendation for an enforcement action must be reviewed by the director of the relevant bureau (Bureau of Consumer Protection or Bureau of Competition) and voted on by the commissioners. Before the FTC imposes a remedy, a small business has the opportunity to discuss its concerns with the bureau director and commission members. Also, although the commission may request a civil penalty (one type of remedy) only a Federal court may impose a civil penalty.

In addition to relying on a written non-retaliation policy, the **Drug Enforcement Administration** (DEA) within the Department of Justice also has procedural safeguards in place to limit retaliatory behavior. These measures include:

- Mandatory review by management officials and agency legal counsel of proposed enforcement actions.
- The opportunity for small businesses and others to communicate concerns and complaints to DEA managers through industry associations rather

than through direct interaction with investigative personnel.

- Strictly enforced standards of conduct that spell out what constitutes improper behavior by DEA personnel and the consequences of such behavior. DEA employees must read and sign this document.

Many producers who fall under the Fruit and Vegetable Program at the **U.S. Department of Agriculture** (USDA) are small businesses.

This means that the department's non-retaliation policy is a key part of operations for the agency that administers the program, the **Marketing Order Administration Branch** (MOAB). MOAB distributes the written policy to both staff and regulated small businesses and emphasizes non-retaliation rules during the orientation of committee appointees who oversee produce marketing orders.

The **Federal Railroad Administration** (FRA) at the **Department of Transportation** is exploring a new way to turn non-retaliation enforcement into a win-win prospect for the agency and the businesses that it regulates. The Close Call Project is a pilot safety program that encourages the employees of participating companies to voluntarily and anonymously report "close call" incidents that could have resulted in an accident. FRA then analyzes these close call reports to uncover areas of potential risk and develop solutions to prevent or minimize the hazards.

Agency Regulatory Enforcement Compliance Assistance— Criterion 4

Congress amended SBREFA in 2007 by adding stronger, more specific requirements for agency compliance assistance to small businesses. The purpose of compliance assistance is to educate small business owners about regulatory requirements and address concerns before enforcement actions become necessary.

A Federal agency must demonstrate that all of the following elements exist to receive a letter grade of “A”. Ratings are reduced accordingly for missing and/or non-existent elements:

- The agency provides compliance guides and assistance as described in Section 212 of SBREFA as amended in 2007.
- The agency provides small entities with a compliance assistance telephone number, compliance assistance website, and/or a compliance assistance contact.
- The agency provides and is able to document compliance assistance education.

With the National Ombudsman’s encouragement, agencies are finding that prevention is the best prescription for heading off small business compliance and enforcement problems. When entrepreneurs understand compliance expectations, regulatory enforcement becomes both fair and effective.

The FTC works to pre-empt enforcement problems with its revolving regulatory review program. As part of its continuing 10-year review plan, the commission examines the effect of rules and guides on small businesses and on the marketplace in general. The agency periodically considers whether each rule or industry guide is still necessary, should be simplified to reduce burdens and duplications, or should be adjusted to encompass new circumstances. As a result of the program, the FTC has reviewed nearly all of its rules and industry guides. Since the early 1990s, the commission has rescinded 37 rules and guides promulgated under the FTC’s general authority and updated dozens of others.

In September 2010, the FTC debuted its Business Center, a multi-media web information portal for entrepreneurs. Small businesses can access statutes, rules, and guides enforced by the FTC; plain language brochures on complying with the law; how-to videos and podcasts that companies can incorporate into their own in-house training; and articles that small business owners can drop into their own newsletters or websites. An FTC blog covers topics of interest to small businesses and encourages reader comment. The FTC also continues to launch and update “microsites” on its website dedicated to specific issues that cut across different types of businesses, such as credit and finance, privacy and security, advertising and marketing, and

franchise and business opportunities. There are also web sites for business professionals in specific industries like alcohol, appliances, automobiles, clothing and textiles, human resources, non-profits, real estate and mortgages, and tobacco.

With a strengthened SBREFA in mind, the **Employment Benefits Security Administration (EBSA)** simultaneously published an interim final rule on retirement funds in July 2010 and released a fact sheet for small businesses online and in print. EBSA updated all relevant informational publications before the interim rule's July 2011 effective date and will continue to make updates as the regulation moves toward finalization.

Entrepreneurs now have an easier time searching for industry-specific information thanks to the **Occupational Safety and Health Administration's (OSHA's)** updated Small Business Web Page. OSHA created a Quick Link to a search function that allows business owners to list the most frequently cited Federal or state OSHA standards by North American Industry Classification System (NAICS) code in a specified fiscal year. The function can also list NAICS classifications having the most occurrences of a specified OSHA standard.

The **Environmental Protection Agency (EPA)** publishes both a print and web version of its Small Entity Compliance Guide (SECG) for every

rule that may impact a small business. SECGs appear on topic-specific web pages, in the online summary listing of SBREFA compliance guides, and through the online Small Business Gateway. EPA also distributes SECGs to Federal agencies, state small business and technical assistance programs, and the trade associations and leaders of affected industries.

EPA has put preemptive compliance assistance to work at the Port of Huntington, a large tri-state inland shipping facility serviced by hundreds of small businesses. Port-related operations—which take place in West Virginia, Kentucky, and Ohio—are a main cause of neighboring communities registering some of the worst air quality in the nation. EPA has distributed sector-specific compliance materials to more than 800 businesses that may contribute to air pollution, such as unloading operations, scrap and recycling, ship repair, coal processing, and auto salvaging. The agency also sponsored a free workshop on environmental compliance and saving money through waste reduction.

The **Food Safety and Inspection Service (FSIS)** at USDA supplements its regulatory compliance guides with "AskFSIS," a web-based service to help plant owners and operators get answers to specific questions. Popular guidance topics include controlling or eliminating hazards such as *E. coli* O157:H7, *Salmonella*, and *Listeria monocytogenes*.

"It is EPA's policy to minimize the direct adverse impact of every rule on small entities, to the extent feasible, regardless of the magnitude of the impact or the number of small entities impacted."

*SBREFA Section 212
policy of the Environmental
Protection Agency*

Agencies continued in 2010 to leverage industry partnerships for more effective delivery of compliance assistance. The **Department of Labor** (DOL) and the American Institute of Certified Public Accountants jointly launched the website “Choosing a Retirement Solution for Your Small Business” to help entrepreneurs and their accountants pick appropriate retirement plans for employees.

At USDA, the **Perishable Agricultural Commodities Act Branch** (PACA) has partnered with Red Book Credit Services to present three nationwide educational webinars to the fruit and vegetable industry. PACA also resolved some 2,000 contract dispute claims in 2010 involving \$30 million, and assisted 1,509 hotline telephone callers needing immediate transactional assistance.

SBREFA Notice—Criterion 5

ONO issues a rating based on whether a Federal agency has established a policy to inform small entities of their SBREFA rights at the same time that the agency issues a citation, notice of regulatory violation, charge of violation, or similar action:

- If an agency provides specific written notice of SBREFA rights to small business concerns when a citation or notice of regulatory violation is issued, it will receive an “A” rating.
- If an agency generally informs small business concerns about their right to comment about the enforcement/

compliance process to the National Ombudsman’s office but the agency provides no specific notification at the time of citation or notice of regulatory violation or similar action, it will receive a “C” rating.

- If an agency makes no mention of SBREFA and the National Ombudsman, the agency will receive an “F” rating.

Despite ONO’s commitment to outreach, many small business owners do not know about the National Ombudsman until they receive written notice of their SBREFA rights during an enforcement action. The SBREFA requirement is an important means of informing entrepreneurs that the National Ombudsman stands ready to assist them with overwhelming regulatory enforcement and compliance complications.

The **Food and Drug Administration** (FDA) is in the process of adding SBREFA notification to the form the agency provides to small businesses at the end of a facility’s inspection. The form spells out for small business owners the items that the FDA inspector believes are not in compliance with agency regulations.

Some agencies choose to go beyond the SBREFA enforcement requirement to include notification as a regular part of small business outreach. In addition to including SBREFA information on each Notice of Penalty describing agency enforcement action, the **U.S. Customs and Border Protection**

Table II-1. Rating of Agencies According to FY 2010 Criteria

Cabinet Level Agency (# of comments)	Comments		Non-Retaliation Policy	Compliance Assistance	Informs about SBREFA	Overall	Additional Complaints/Comments Referred
	Timeliness	Quality					
AGRICULTURE							5
Food Safety & Inspection Service (1)	A	A	A*	A	C	A	3
Animal & Plant Health Inspection Service (1)	A	A	A*	A	C	A	2
Agriculture Marketing Service (1)	A	A	A*	A	C	A	
COMMERCE							2
National Oceanic & Atmospheric Administration (1)	A	A	A	A	A	A	
DEFENSE (6)	B	A	No response to ONO's questionnaire				9
EDUCATION	N/A	N/A	A	A	A	A	
ENERGY	N/A	N/A	No response to ONO's questionnaire				1
HEALTH & HUMAN SERVICES							1
Food & Drug Administration (5)	A	A	A	A	C	A	2
Centers for Medicare & Medicaid Services (3)	A	A	A	A	C	A	29
HOMELAND SECURITY							
Coast Guard	N/A	N/A	A	A	A	A	2
Customs & Border Protection (3)	B	A	A	A	A	A	2
Immigration & Customs Enforcement (1)	A	A	A	A	A	A	1
HOUSING & URBAN DEVELOPMENT (2)	A	A	A	A	A	A	1
Federal Housing Administration (3)	A	A	A*	A*	C	A	1
Departmental Enforcement Center (1)	A	A	A*	A*	C	A	
Mortgage Review Board (3)	A	A	A*	A*	C	A	
INTERIOR	N/A	N/A	A	A	C	B	3
JUSTICE	N/A	N/A	A	A	C	B	1
LABOR							
Occupational Safety & Health Administration (9)	A	A	A	A	A	A	1
Wage & Hour Division (8)	B	A	A	A	A	A	
Mine Safety & Health Administration (11)	B	A	A	A	A	A	
Employee Benefits Security Administration (1)	A	A	A	A	A	A	
STATE	N/A	N/A	A	B	C	B	
TRANSPORTATION							1
Federal Aviation Administration (2)	A	A	A	A	A	A	3
National Highway Transportation Safety Administration (1)	A	A	A*	A	A	A	1
Federal Motor Carrier Safety Administration (1)	A	A	A*	A	C*	A	
Federal Transit Administration (1)	A	N/A	A*	A	C*	A	
TREASURY			No response to ONO's questionnaire				
Internal Revenue Service (17)	B***	N/A	A	A	A	A	
VETERANS AFFAIRS	N/A	N/A	No response to ONO's questionnaire				

Non-Cabinet Level Agency (# of comments)	Comments		Non-Retaliation Policy	Compliance Assistance	Informs about SBREFA	Overall	Additional Complaints/Comments Referred
	Timeliness	Quality					
Commodity Futures Trading Commission	N/A	N/A	A	A	A	A	
Consumer Product Safety Commission	N/A	N/A	A	A	F	B	
Environmental Protection Agency (8)	A	A	A	A	A	A	
Equal Employment Opportunity Commission	N/A	N/A	A	A	A	A	
Federal Communications Commission (2)	F	N/A	A	A	C	B	
Federal Deposit Insurance Corporation	N/A	N/A	A	A	C**	B	1
Federal Energy Regulatory Commission	N/A	N/A	A	A	A	A	
Federal Reserve Board	N/A	N/A	A	A	C**	B	
Federal Trade Commission (1)	A	A	A	A	A	A	5
General Services Administration	N/A	N/A	No response to ONO's questionnaire				
National Credit Union Administration	N/A	N/A	A	A	C**	B	
National Labor Relations Board	N/A	N/A	A	A	A	A	
Pension Benefit Guaranty Corporation (1)	A	A	A	A	A	A	
Small Business Administration	N/A	N/A	A	A	A	A	45
Securities and Exchange Commission (1)	A	A	A	A	A	A	

FY 2010 Department and Agency Rating Notes

Cabinet departments have a number of distinct, subordinate organizational units within their area of responsibility. These units use a wide variety of names such as: *Administrations, Agencies, Bureaus, Service, Division, Office, and/or other unique names not listed*. In most instances, for rating purposes, if the Cabinet-level agency has a posted policy, it will apply to all of that agency's organizational units. For example, the USDA has a publicly available *non-retaliation policy* and *information about SBREFA and how to contact the National Ombudsman*. Therefore, for rating purposes, all USDA subordinate organizations will receive credit for having the information available to the public [it will be noted by a grade with an asterisk (*)]. Conversely, if the Cabinet-level agency does not have a publicly available *non-retaliation policy* and *SBREFA information on how to contact the National Ombudsman* then each organizational unit will be rated on its own. With limited exceptions, a Cabinet department's subordinate organizational unit will only be listed if it received at least one small business comment during the rating period.

The following Cabinet departments and non-Cabinet agencies did not provide answers to the National Ombudsman's FY 2010 questionnaire: Department of Defense, Department of Energy, Department of Treasury (except the IRS), Department of Veterans Affairs, and the General Services Administration.

** These three agencies are Federal Financial Institution Regulators. The agencies have established Ombudsman functions pursuant to the Riegle Community Development and Regulatory Improvement Act. To receive an "A" rating in this category from the National Ombudsman, an agency must directly make reference to the National Ombudsman at the Small Business Administration on both its public website and at the time a citation or notice of regulatory violation occurs.

*** Agency provides interim responses.

(CBP) at the Department of Homeland Security describes SBREFA rights on the CBP website, in *Federal Register* notices, and in informational publications such as “Importing into the United States.” The **Department of Housing and Urban Development** also includes SBREFA notification on its website and at monthly small business outreach events. A SBREFA notice is prominently featured by the DOL’s **Wage and Hour Division** in the agency’s “Handy Reference Guide to the FLSA [Fair Labor Standards Act]”, a copy of which the agency provides during all enforcement activities.

Agency Comments Regarding Ratings

ONO presented a draft of this report to the agencies and RegFair Board members for their comments. The Department of Defense provided the following comment:

The Department of Defense believes that it is not subject to the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) and therefore should not be included in the Report to Congress. However, we are committed to making sure that our small businesses are treated fairly.

Enforcement Fairness Conveys Benefits To All

Federal regulations are most effective when small business owners clearly understand their obligations under the law. ONO’s agency ratings are meant to help guide Federal agencies with regulatory authority toward compliance and enforcement fairness. The American people benefit each time an agency provides compliance assistance rather than resorting to enforcement actions. The agency accomplishes its legally-mandated mission and small businesses have a chance to thrive in an effective enforcement environment.

III

Mission Accomplished: Small Business Success Stories



The Office of the National Ombudsman (ONO) promotes regulatory fairness through strengthened communication and understanding between small businesses and Federal regulatory agency staff.

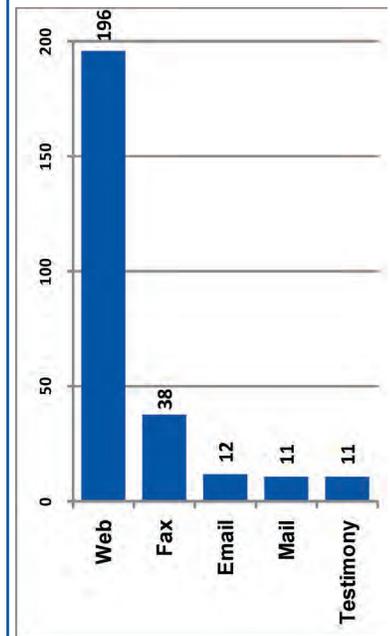
Even the most dedicated Federal officials can be unaware of the cumulative effect that multiple regulatory regimes can have on a small business. Entrepreneurs, meanwhile, focus their time and energy on growing their businesses, thereby growing their local economies. Small entities want to play by the rules, but can become overwhelmed when struggling to keep up with all relevant regulations. ONO's comment process offers a forum where entrepreneurs can present their compliance and enforcement concerns, then work with regulatory agency staff toward a resolution.

A Forum for Fairness

The National Ombudsman stands ready to act as a liaison between entrepreneurs and Federal agencies through the Regulatory Enforcement Fairness Comment Process (see Figure III-2). A small business person initiates the process by filing a comment with ONO that describes the compliance or enforcement challenge. ONO directs pertinent comments to the relevant Federal agency, appropriate U.S. Small Business Administration (SBA) office, or other governmental entity for a high-level review and requests that the agency consider the fairness of its enforcement actions. ONO sends a copy of the agency's response to the small business owner.

ONO receives comments from small entities regarding the enforcement actions of more than 35 Federal departments and agencies.

Figure III-1. How Comments Were Received



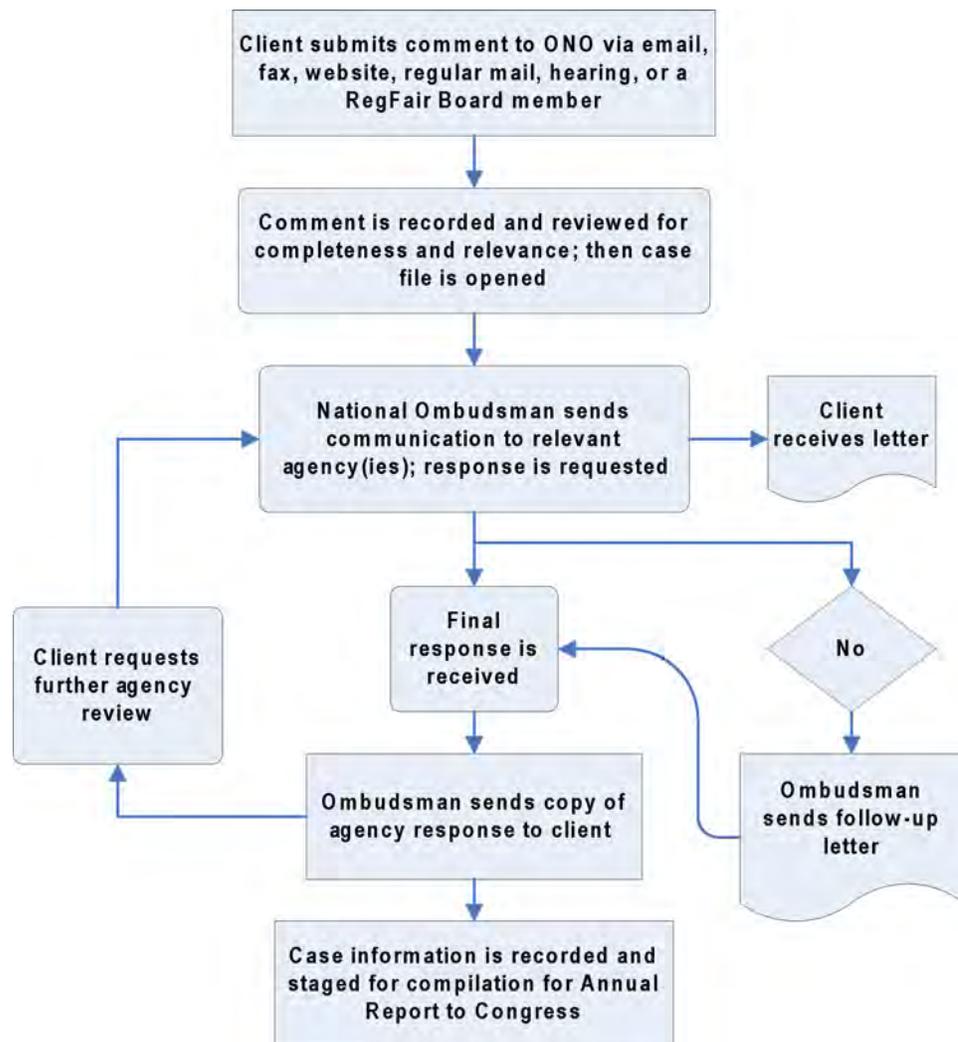
Entrepreneurs have multiple avenues for submitting their comments, with online filing generating the largest number in FY 2010 (see Figure III-1). The National Ombudsman's website

(www.sba.gov/ombudsman) is the most popular online filing venue, allowing small business owners to begin the process simply by clicking on "How to File a Complaint or Comment."

The National Ombudsman assists businesses with their compliance and regulatory challenges, but ONO and RegFair Board members cannot:

- ❑ *Serve as a small entity's attorney. ONO does not legally represent the organization filing the comment.*
- ❑ *Guarantee a positive outcome.*
- ❑ *Overrule, stop, or delay a Federal action (such as halting an IRS audit). The agency involved is the only one that can change a regulation.*

Figure III-2. The ONO Regulatory Enforcement Fairness Comment Process



Giving Small Business a Voice

“Unfair and excessive regulation” has a variety of meanings for the small business constituents of Federal agencies. Busy entrepreneurs and diligent agency officials each have their own perspectives on regulatory issues. The comment cases presented in this chapter represent the regulatory dilemmas most frequently addressed by ONO in fiscal year (FY) 2010. These cases illustrate how the National Ombudsman acts as small business ambassador for fair and effective Federal treatment.

Compliance Costs and Requirements

Requests for assistance with overwhelming regulatory compliance costs and requirements is one of the most frequent issues brought before ONO. Federal agencies put fines and inspections in place to foster responsible business behavior and protect the public. When regulators enforce the rules, however, they may not realize that the same requirements that large companies take in stride as a normal cost of doing business can represent a crushing burden to a small firm.

Comment: A seafood purveyor, for example, contacted ONO after the Internal Revenue Service (IRS) imposed a \$15,000 late filing penalty for the company’s benefits plan. The commenter maintained that the penalty was unfair, excessive, and

unaffordable for a small company.

► **Outcome:** ONO involvement resulted in the IRS informing the company that the late filing penalty had been abated in full.

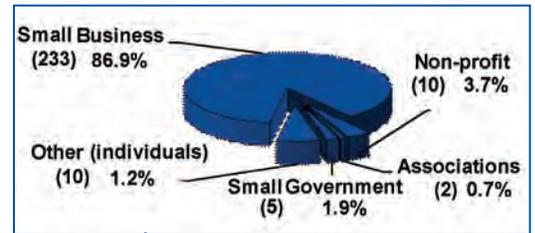
Comment: A small mining company wrote to ONO protesting the alleged unprofessional behavior of an inspector from the Mine Safety and Health Administration (MSHA) in the Department of Labor. The company also expressed concern over three citations issued by MSHA:

“New regulations are being created all of the time, not all of which make much sense to us. We definitely do not want to see anyone injured in our mining operation, but feel some of these rules and regulations get carried a bit too far.”

► **Outcome:** ONO elicited a response from Joseph Main, Assistant Secretary of Labor for Mine Safety and Health, indicating that the MSHA inspector involved apologized to the commenter and received a reminder from a supervisor to exhibit professional conduct at all times. Assistant Secretary Main also noted that one citation had been paid by the commenter and the remaining two were scheduled for a conference.

Comment: A commenter brought before ONO a concern over the high cost of obtaining Environmental Protection Agency (EPA) certification to convert vehicles from gasoline to

Figure III-3. Breakdown of Who Filed Comments



“We need to support small businesses, not just to get our nation out of the recession, but going forward. Who is going to be creating the jobs for America’s future? Both the traditional businesses on Main Street and the innovative, high growth/high impact businesses.”

Karen G. Mills, SBA Administrator

alternative fuels. The commenter’s company installs compressed natural gas and/or liquid propane gas bi-fuel and dedicated systems on vehicles. The company was in the midst of negotiations with a taxi cab corporation to improve the propane system for 550 taxis as well as convert approximately 150 vehicles per year from gasoline to propane. The cab corporation was reluctant, however, to pay for EPA certification.

► **Outcome:** The commenter reported that after the National Ombudsman conveyed the company’s concerns to EPA’s Office of Small Business Programs, the commenter has been able to work with the agency on the certification issue.

Comment: Borrowers met their payment schedule for an SBA disaster loan until the family’s sole support became unemployed. When an opportunity arose to pay off a large portion of the loan, the borrowers did so. When they moved, they provided SBA with their new address as well as a loan payment. Despite their efforts, the borrowers alleged that SBA harassed them about the loan balance.

► **Outcome:** After conferring with the National Ombudsman, SBA advanced the borrowers’ due date, brought their loan current, and offered the family a loan deferment.

Burdensome compliance costs do not always manifest as dollars and cents for a small business. A rule that appears reasonable to regulators can result in

frustrating hurdles for businesses with small staffs that lack the resources or know-how to navigate a regulatory process.

Comment: A company was caught in a quandary because it needed a drug registration number from the Food and Drug Administration (FDA) in order to manufacture a product for the military that would be shipped to the Middle East. The commenter told ONO that company staff did not have the skills or personnel to use the FDA’s electronic submission method.

► **Outcome:** Prompted by the National Ombudsman, a senior FDA administrator discussed the issue with the official overseeing the agency’s electronic drug establishment and listing initiative. The official agreed to create electronic files on a one-time-only basis to meet the commenter’s immediate need. The FDA official also agreed to continue assisting the company in permanently complying with statutory requirements.

Comment: An automotive association was unsuccessful in its attempts to meet with officials at the National Highway Traffic Safety Administration (NHTSA) in the Department of Transportation (DOT). The association needed clarification on material presented in a NHTSA webinar that would soon serve as the basis for inspections that could result in citations or fines.

► **Outcome:** At the request of the National Ombudsman, NHTSA

officials met with association representatives to clarify the issues raised.

Communication Challenges

Another common dilemma brought before the National Ombudsman is a breakdown in communication between a regulatory agency and a small business constituent. When accurate, complete information fails to flow between small entities and their regulators, the consequences can be magnified for a business with slim profit margins and limited resources. ONO intervention can help reopen channels of clear communication. A case from SBA's own archives serves as one example:

Comment: A borrower with an SBA disaster loan prepared for active military duty by arranging for continuing loan payments and reporting a change of address through www.pay.gov. The borrower also called SBA to verbally file a change of address. Despite these arrangements, the borrower received a letter stating that the loan was being turned over to a collection agency. The individual made several payments to clear up the matter but discovered later, in the process of refinancing a mortgage, that the SBA disaster loan was in default, a situation that could affect the commenter's security clearance. The borrower left multiple voice mail messages with SBA but received no return call.

► **Outcome:** The National Ombudsman contacted SBA, which verified that documented issues with

www.pay.gov had been reported and corrected. SBA also verified that the borrower had been up to date with loan payments until scheduling them through www.pay.gov. The agency corrected the loan history to reflect a "current" status.

Comment: A commenter received notice from FDA that a shipment of organic sesame seeds was flagged for a hold designation because the Peruvian supplier was on an import alert list for *Salmonella*. The commenter requested a 30-day extension to sample the seeds and seek negative results for *Salmonella*. The FDA instead refused entry and directed that the container be destroyed or returned to the supplier in Peru. The commenter petitioned for removal of the supplier from the *Salmonella* alert list, but received no final response from FDA.

► **Outcome:** When presented with the case by ONO, the FDA Ombudsman contacted the commenter with step-by-step instructions on how to appeal the refusal. The FDA Ombudsman also followed up with the agency's New York Compliance Director and a senior official in the FDA Division of Import Operations and Policy. The commenter contacted ONO with case results.

"Today we learned that FDA has considered our appeal and they have rescinded the refusal. This is a tremendous achievement and we could not have done it without the guidance from SBA and [the FDA Ombudsman]. This is greatly appreciated. As a small business owner, it is satisfying to know that we have a voice in a large community."

"I don't know that any small businessman can be certain that we are complying with every regulation. There are just so many out there. We accept a lot of risk; we do a lot of work to create these things because we're entrepreneurs at heart. It's what we want to do. But literally every day it becomes more difficult for us."

*Witt Baldwin, Owner,
HeloAir, at Region III
RegFair Hearing*

Comment: A fraternity chapter asked for ONO's assistance when issued an IRS notice of penalty for late filing that the commenter attributed to poor communication between transitioning officers.

► **Outcome:** The IRS looked into the matter at the National Ombudsman's request and informed the commenter that the penalty was abated in full.

Comment: A commenter sought out the National Ombudsman when the entrepreneur's company was repeatedly unsuccessful in collecting on an unpaid invoice issued to the Department of the Army. Although the \$450 balance was modest, the commenter emphasized that the small company depends on its customers to make timely payments.

► **Outcome:** The Army responded by promptly paying the invoice balance in full.

Several examples from the Center for Medicare and Medicaid Services (CMS) within the Department of Health and Human Services illustrate how communication blocks can result in a serious financial threat to a small entity:

Comment: When a prosthetics and orthotics company changed hands, the new owner provided all information requested by the CMS agent, according to the comment filed with ONO. The CMS agent claimed that it never received the commenter's information and as a result, deactivated the company's Medicaid provider number for three of five offices.

► **Outcome:** After bringing the matter to the attention of CMS, the National Ombudsman received the following email from the commenter:

"We are so appreciative of your quick response on our behalf. For a small business in our field, this deactivation could have created tremendous hardship for our company. It is great to know that there are people out there working on behalf of the little guy."

Comment: In a similar case, a commenter received a letter from its CMS agent informing the company that its Medicare provider number was deactivated because the agent had not received the company's re-enrollment application. The agent requested a new application and told the commenter that reactivation of the provider number would take 45-60 days. The commenter replied that such a delay would put the company out of business.

► **Outcome:** A CMS investigation found that the agent had in fact received a re-enrollment application from the commenter. CMS directed the agent to process the document as quickly as possible and apologized to the commenter for the inconvenience.

Comment: A volunteer ambulance organization with \$40,000 in outstanding Medicare payments was informed by its CMS agent that payments were suspended because the organization did not list its post office box number in its application. The group told ONO that the CMS agent had not only failed to disclose this discrepancy, but claimed that correcting

it would take as long as 90 days. The ambulance organization said that it would have to shut down if forced to wait even 30 days for the payments.

► **Outcome:** ONO involvement resulted in CMS contacting the agent, which resolved the mailing address issue, lifted the payment suspension, and sent payments to the commenter via paper check.

Comment: A medical doctor also commented to ONO about a provider enrollment and back payments, which were approved but not released by CMS. After completing and returning all requested documents to CMS and being assigned a representative, the commenter was told by the agency that identifying numbers had been taken out of the CMS system, the doctor could not contact a representative, and the commenter would have to wait 60 days while the case was reviewed.

► **Outcome:** Prompted by the National Ombudsman, CMS discovered that the commenter had been placed on “do not forward” (DNF) status by the CMS agent after one of its mailings to the doctor was returned. CMS has released the commenter from DNF status and reissued the payment checks.

Comment: A medical doctor received a Medicare remittance notice for payment with no check attached. After having unsatisfactory results with the CMS agent, the commenter contacted ONO to assist with getting a reissued check.

► **Outcome:** CMS found that the commenter’s check had “stale-dated” after not being cashed within the one-year time limit. The CMS agent confirmed that the original check was not returned as undeliverable. CMS reissued the check to the commenter.

Errors and Oversight

Despite the best intentions and strong quality control, Federal agency officials can make errors during the compliance and regulatory enforcement process that may threaten a small operation’s ability to stay in business. ONO can help bring these oversights to light.

Comment: A laboratory alleged that the Food Safety and Inspection Service (FSIS) in the U.S. Department of Agriculture (USDA) issued an inaccurate report about a company test procedure. The laboratory said it would suffer a serious negative economic impact if the information was not corrected.

► **Outcome:** FSIS discussed the matter with the National Ombudsman and as a result, retracted the inaccurate information in the report and sent the laboratory an official letter of apology.

Comment: A commenter won a USDA Small Business Innovation Research grant and received approval for the local USDA Natural Resources Conservation Service (NRCS) to design projects using the company’s product. The NRCS did not list the product as an alternative, however, and rejected customers’ requests to use it in project designs.

► **Outcome:** ONO involvement resulted in the NRCS incorporating the commenter's product into state specifications, including it in a payment schedule, making it available to program participants, and providing technical assistance to interested parties. The NRCS also issued a statewide bulletin announcing that the product is an acceptable alternative and agreed to distribute product literature to state field offices.

Comment: A commenter spent substantial time and money joint testing and consulting with the Federal Aviation Administration (FAA) in DOT, which resulted in winning agency support for the company's technology. The FAA subsequently denied an application from a second company seeking approval to use the commenter's technology.

► **Outcome:** The FAA met with the commenter at the National Ombudsman's behest to explain that an internal directive had notified FAA employees that the company's technology meets agency specifications. Requests to use the technology will be reviewed on a case-by-case basis, according to FAA, and the agency agreed to approve the commenter's technology for a specific project.

Comment: A computer consultancy contacted ONO after initially being denied the opportunity to compete for a U.S. Immigration and Customs Enforcement (ICE) procurement because ICE misclassified the company's proposal as late.

► **Outcome:** ICE attributed its mistake to an incorrect time stamp on a contract specialist's computer. The commenter's submission was deemed timely and ICE reviewed the proposal according to the agency's solicitation.

Comment: A home health service was denied a claim for dispensing hemophilia medication after being misclassified by its CMS agent as a radiation therapy provider and mass immunizer.

► **Outcome:** CMS contacted its agent at the National Ombudsman's urging and confirmed the commenter's misclassification. The home health service's provider type has been corrected, its claims are moving through the system, and the CMS agent has kept the commenter updated on the claims' status.

Regulatory Impasse

Small business operators often contact ONO when progress has stalled in resolving a regulatory dilemma and the entrepreneur is at a loss for navigating through the next step. The National Ombudsman can assist the parties in moving past the challenges that block their progress.

Comment: FAA denied a consulting company's supplemental type certificate (STC) application, which is needed for a contractor to make major aircraft modifications and repairs. The FAA deemed the company's project too minor to require an STC. The commenter disagreed and argued for a deviation to the order. FAA stated

"The comment process at ONO is a real conversation between the agency and the public. This is the feedback loop. It is a huge benefit to get feedback from regular folks that is not filtered by the lobbying process."

Michael A. Chodos, Former Deputy General Counsel, SBA Office of the General Counsel

that the company had other paths to performance of its statement of work, but the company, its customers, and its operators countered that an STC was the only viable option.

► **Outcome:** The FAA reviewed similar projects at ONO's urging and concluded that the commenter's work constituted a major change in type design. The FAA reconsidered its decision and permitted the commenter's application to move forward as an STC.

Comment: A successful contract winner was scheduled to provide security caging for the Department of the Army when the company received a "Cure Notice" for allegedly failing to adhere to contract requirements. The contracting officer rejected the commenter's Oklahoma worker's compensation insurance because contract work was to be performed in New York. The commenter countered that the company is prohibited by law from purchasing an additional workman's compensation policy in New York because the Oklahoma insurance already covers employees wherever they work.

Outcome: The Army reviewed the situation at ONO's request and determined that while the company's subcontractor is required to have a New York state workmen's compensation policy, the commenter is in compliance with the insurance terms of the contract. The Army informed ONO that the Cure Notice would be revoked.

Comment: A kidney center maintained that its CMS agent refused to comply with guidelines for appealing claims decisions. The commenter asserted that in denying the claims, the CMS agent made confusing statements about whether or not additional documentation was required. The agent refused to clarify these statements, according to the commenter.

► **Outcome:** The National Ombudsman encouraged the CMS agent to work with the CMS Appeals Department, which determined that the commenter's appeals were incorrectly handled. The department reopened and reviewed the claims, made a favorable decision on all of them, and sent corrected letters to the commenter.

Comment: A commenter maintained that a Provider Transaction Access Number (PTAN) application had languished at CMS for more than 90 days without the commenter receiving a provider billing number.

► **Outcome:** After communicating with ONO, CMS discovered that the commenter's application was complete and assigned the person's company a PTAN.

Comment: A physical therapy center contended that its CMS agent violated its contract by refusing to settle service claims, citing a policy on caps on physical therapy payments. The CMS agent informed the commenter that the status of certain claims would

"I've learned that a lot of businesses are running into the same hardships that our company has had. The cost that I may have to endure doesn't matter as long as someone hears what we have to say and this matter is changed to benefit the companies that come after us."

Rosa Holmes-Turner, Senior Vice President, Operations for Graysmith Construction at Region III RegFair Hearing

remain classified as “pending” until Congress resolved the capping issue. The pending status could last between two weeks and one year, according to the agent.

► **Outcome:** At the urging of the National Ombudsman, CMS

sorted through the commenter’s pending claims, directing its agent to release payments unaffected by the capping issue and provide an updated explanation of those that must remain on hold.

IV

RegFair Boards and Outreach: Fostering Community Connections

Outreach is a critical component of the Office of the National Ombudsman's (ONO) mission. Outreach activities help ONO connect with entrepreneurs at the local level throughout the United States to let them know that they have an ally to turn to when faced with excessive or unfair Federal regulatory enforcement actions. Meeting face-to-face with business constituents also enriches the National Ombudsman's understanding of current regulatory challenges.

ONO strengthens and extends its outreach efforts through partnering with the business community and other Federal government entities:

- ONO's 10 Regional Regulatory Enforcement Fairness (RegFair) Boards serve in local communities and make contact with entrepreneurs where they live and work.
- U.S. Small Business Administration (SBA) resource partners collaborate with ONO to enhance its mission of seeking compliance and regulatory enforcement fairness for small businesses.
- ONO teams with national trade groups to better understand and resolve members' enforcement issues and to open communication channels among

small firms, government and elected officials at all levels, and partner organizations.

- ONO continues to increase Federal regulatory agencies' understanding of its mission and partners with them to take action on small business issues.

RegFair Board Offers Peer-to-Peer Support

RegFair Board members are also small business operators and can view a Federal regulatory enforcement issue from the entrepreneur's perspective. They can encourage small business people to speak out about unfair compliance and regulatory actions without fear of retaliation. As part of their duties, the National Ombudsman and RegFair Boards host and participate in several types of public activities, including hearings and roundtables.

Hearings are open forums focused on collecting comments and listening to testimony from individual entrepreneurs and/or small business service associations (see Table IV-1 and Figure IV-1), as well as educating the community on the Federal regulatory hurdles that small businesses face. Federal agency

"The economy's resurgence is depending on what small businesses do. SBA is working to take what you hear in the field and integrate that in SBA works. We count on you to be the eyes and ears not only for the entire Federal government but particularly the SBA as to what the concerns of small businesses are so that we can make sure they are addressed."

Marie Johns, SBA Deputy Administrator, addressing RegFair Board members at their annual meeting

“That’s what these meetings are all about— not just complaints but collaboration among Federal agencies.”

Esther H. Vassar, National Ombudsman at Region III RegFair Hearing

representatives are invited to attend hearings to keep abreast of small business regulatory issues, particularly when they directly concern an agency’s enforcement responsibilities.

Roundtables bring together entrepreneurs along with business and trade associations for an information exchange. Sometimes Federal agencies participate and explain their regulatory and compliance assistance programs. Business representatives discuss enforcement concerns and the impact of government rules from a small company’s point of view.

The National Ombudsman and RegFair Board members often capitalize on publicity surrounding these forums to give speeches,

presentations, and media interviews that carry ONO’s message to a larger audience.

Outside of hearings and roundtables, RegFair Board members continue to monitor Federal agency enforcement issues that arise in their region and use their network of business contacts and affiliations with trade associations to deliver the message that entrepreneurs can call on the National Ombudsman to voice their concerns as they cope with compliance and regulatory challenges.

RegFair Board members also brief Congressional small business liaisons and local and state elected officials to keep government representatives informed about small business enforcement challenges.

Figure IV-1. 2010 RegFair Hearings and Roundtables



Table IV-1. 2010 RegFair Hearings and Roundtables

SBA Region	Location	Date	Type	Lead	Highlights
3	Richmond, VA	October 1, 2009	Roundtable	National Ombudsman	Meeting with Chief of Staff for Governor Tim Kaine
6	Houston, TX	February 12, 2010	Roundtable	National Ombudsman	Meeting with 8(a) Firms Approximately 15 participants
4	Miami, FL	February 18, 2010	Roundtable	National Ombudsman	Lenders/Resource Partners & Small Business Owners Approximately 25 participants
9	Las Vegas, NV	February 23, 2010	Roundtable	National Ombudsman	Las Vegas Business Owners Approximately 15 participants
3	Washington, DC	March 16, 2010	Roundtable	National Ombudsman	U.S. Environmental Protection Agency Roundtable
3	Washington, DC	March 19, 2010	Roundtable	ONO Staff Member	SBA Advocacy Environmental Roundtable Presentations
3	Washington, DC	March 26, 2010	Roundtable	ONO Staff Member	Small Business Labor Safety (Occupational Safety & Health Administration/Mine Safety & Health Administration Roundtable)
9	San Diego, CA	April 26, 2010	Hearing	National Ombudsman	Regulatory Fairness Hearing
10	Coeur d'Alene, ID	May 6, 2010	Roundtable	National Ombudsman	Event hosted by Idaho District Office
4	Columbia, SC	May 12, 2010	Roundtable	National Ombudsman	Event hosted by South Carolina District Office
7	St. Louis, MO	May 14, 2010	Roundtable	National Ombudsman	Event hosted by St. Louis District Office
3	Glen Allen, VA	May 18, 2010	Hearing	National Ombudsman	Event hosted by Richmond District Office 11 small business testifiers 70+ participants
1	Cranston, RI	June 3, 2010	Roundtable	National Ombudsman	Roundtable with Small Business Owners at Alpine County Club Roundtable event hosted by Rhode Island District Office in conjunction with local small business week
1	Wallingford, CT	June 3, 2010	Roundtable	National Ombudsman	Event hosted by Connecticut District Office
3	Washington, DC	June 4, 2010	Roundtable	ONO Staff Member	SBA Advocacy Environmental Roundtable Presentation
5	Cleveland, OH	June 16, 2010	Roundtable	National Ombudsman	Council of Smaller Enterprises 14 participants
5	Cleveland, OH	June 16, 2010	Roundtable	National Ombudsman	Greater Cleveland Area Minority Small Businesses 10 participants
5	Toledo, OH	June 17, 2010	Roundtable	National Ombudsman	Toledo Chamber of Commerce 10 participants

SBA Region	Location	Date	Type	Lead	Highlights
3	Washington, DC	August 30-31, 2010	Board Meeting	ONO Staff	Annual Board Member Training Conference 33 participants
3	Washington, DC	September 17, 2010	Roundtable	ONO Staff Member	SBA Advocacy Environmental Roundtable Meeting
3	Washington, DC	September 22, 2010	Roundtable	ONO Staff Member	Small Business Tax Roundtable
3	Washington, DC	September 24, 2010	Roundtable	ONO Staff Member	Small Business Labor Safety (Occupational Safety & Health Administration/Mine Safety & Health Administration Roundtable)

Table IV-2. 2010 Speaking Engagements

SBA Region	Location	Date	Type	Lead	Highlights
3	Hampton, VA	November 16, 2009	Speaking Engagement	National Ombudsman	Small Business Procurement Forum
3	Richmond, VA	November 17, 2009	Speaking Engagement	National Ombudsman	Small Business Informational Forum (co-sponsored by Commonwealth of Richmond) 480 participants
3	Fredericksburg, VA	November 21, 2009	Speaking Engagement	National Ombudsman	Alpha Kappa Alpha Scholarship Dinner and Program
3	Richmond, VA	December 10, 2009	Speaking Engagement	National Ombudsman	Virginia Small Business Advocacy Council Luncheon
3	Washington, DC	January 19, 2010	Speaking Engagement	National Ombudsman	Internal Revenue Service Forum
6	Houston, TX	February 11, 2010	Speaking Engagement	National Ombudsman	Houston Community College Matchmaking Event 100 participants Asian Chamber of Commerce 75 participants
6	Houston, TX	February 12, 2010	Speaking Engagement	National Ombudsman	Houston Association of Government Guaranteed Lenders 12 members
9	Las Vegas, NV	February 23, 2010	Speaking Engagement	National Ombudsman	Economic Summit 2010 & American Indian Fair
3	Washington, DC	February 25, 2010	Speaking Engagement	National Ombudsman	Presentation to U.S. Department of Agriculture staff members
2	Atlantic City, NJ	March 10, 2010	Speaking Engagement	National Ombudsman	Key Note Speaker Alliance Mid-Atlantic Conference

SBA Region	Location	Date	Type	Lead	Highlights
3	Washington, DC	March 24, 2010	Speaking Engagement	National Ombudsman	Presentation to Australian visitors
3	Washington, DC	April 6-7, 2010	Speaking Engagement	National Ombudsman	Internal Revenue Service Federal Intergovernmental Partnering Program
3	Fairfax, VA	April 17, 2010	Speaking Engagement	National Ombudsman	Links, Inc
9	San Diego, CA	April 26, 2010	Speaking Engagement	National Ombudsman	Key Note Speaker Occupational Safety & Health Administration Conference
9	San Diego, CA	April 27, 2010	Speaking Engagement	National Ombudsman	Presentation to San Diego Federal Executive Association
10	Spokane, WA	May 5, 2010	Speaking Engagement	National Ombudsman	Minority Business Forum & Representatives of Minority Business Enterprise Greater Spokane Incorporated Business Forum
10	Spokane, WA	May 6, 2010	Speaking Engagement	National Ombudsman	National Association of Women Business Owners Chapter GSI Federal Legislative Advisory Group
10	Coeur d'Alene, ID	May 6, 2010	Speaking Engagement	National Ombudsman	Idaho Economic Development Association Conference
10	St. Louis, MO	May 14, 2010	Speaking Engagement	National Ombudsman	St. Louis Small Businesses
1	Wallingford, CT	June 4, 2010	Speaking Engagement	National Ombudsman	Merrimack Valley Chamber of Commerce
3	Arlington, VA	June 8-10, 2010	Speaking Engagement	National Ombudsman	U.S. Environmental Protection Agency Small Business Environment Conference
3	Crystal City, VA	June 25, 2010	Speaking Engagement	Deputy National Ombudsman	Customs & Border Protection Conference
3	Portsmouth, VA	July 14, 2010	Speaking Engagement	National Ombudsman	Senator Mark Warner & City of Portsmouth, VA
3	Washington, DC	July 20, 2010	Speaking Engagement	National Ombudsman	Internal Revenue Service Forum
3	Washington, DC	August 11, 2010	Speaking Engagement	National Ombudsman	Panelist on Internal Revenue Service Stakeholder Panel
6	New Orleans, LA	August 16-18, 2010	Speaking Engagement	National Ombudsman	Mid-Atlantic Lenders Local Chambers of Commerce 8(a) Contractors

SBA Region	Location	Date	Type	Lead	Highlights
8	Denver, CO	August 18-20, 2010	Speaking Engagement	National Ombudsman	Resource Fair – Denver Public Library Local Chambers of Commerce Open Session with Members of Small Business Community Chapter of National Defense Industrial Association
3	Richmond, VA	September 13, 2010	Speaking Engagement	National Ombudsman	Senator Mark Warner’s Virginia Summit on Export Opportunities

On the Road to Regulatory Fairness

Meeting face-to-face with business constituents, civic groups, and government officials is an effective way for the National Ombudsman to increase understanding of the importance of ONO’s mission to encourage regulatory enforcement fairness for small businesses.

Along with RegFair hearings and roundtables, the National Ombudsman’s speaking engagements provide opportunities to talk about mutual goals with Federal, state, and local government leaders; increase their understanding of what actions ONO can take to assist entrepreneurs; discuss solutions to small business issues; and educate members of the media about ONO. The National Ombudsman travels across the country strengthening communication among small businesses, community groups, and partner organizations.

One such opportunity was a RegFair Roundtable in Kansas City, MO, held concurrently with the third annual Society of American Military Engineer’s (SAME) Industry Day. National Ombudsman Esther Vassar was able to brief SAME leaders on ONO’s mission as well as the new Small Business Jobs Act. Col. Anthony Hoffman, Cmdr., presented Ms. Vassar with a Commanders Coin for her service to small business, a distinct honor within the U.S. Army Corps of Engineers.



SBA Partners Enhance ONO's Mission

SBA partners support the National Ombudsman in working toward a business-friendly Federal regulatory environment:

SBA District and Regional Field Offices support RegFair Board members in publicizing hearings and serving as liaisons to small business owners. Field office staff are often those listed as points of contact for hearings, roundtables, and other ONO-sponsored events.

SBA Office of Advocacy represents the small business viewpoint as laws and regulations are formulated by Congress, the White House, Federal agencies and courts, and state policymakers. As a result:

- Advocacy saved small businesses \$7 billion in first-year cost savings and \$745 million in annually recurring savings through the office's FY 2009 efforts to help Federal agencies comply with the Regulatory Flexibility Act (RFA). The RFA requires agencies to analyze the economic impact of proposed regulations on small entities and consider less burdensome alternatives that still reach the agencies' regulatory goals.
- Advocacy continued its State Regulatory Flexibility Initiative, supporting a piece of model legislation similar to the Small Business Regulatory Enforcement Fairness

Act to which state lawmakers can refer when writing their own laws. To date, 37 state legislatures have considered regulatory flexibility legislation and 22 states have implemented regulatory flexibility via executive order or legislation. As a result of this success, Advocacy has begun working with small business communities, state legislators, and state government agencies to assist them with implementing their regulatory flexibility laws.

Small Business Development Centers and SCORE serve as rich resources when small companies make requests for start-up advice that is not within ONO's jurisdiction. These SBA resource partners can help entrepreneurs set the stage for success.

Agency Outreach Promotes Prevention Before Penalty

Federal regulations are most effective when small business owners understand their obligations under the law and are comfortable seeking agency assistance to head off compliance difficulties before they develop. ONO's ultimate partners in regulatory fairness are Federal agencies that protect the public good by emphasizing compliance education before resorting to enforcement sanctions. With ONO encouragement, agencies continue to create and improve outreach programs such as those described below to promote an effective regulatory environment:

"When my boss told me we were attending an event sponsored by a Federal government agency, I sighed. Well, you proved that my assumptions were wrong. Keep up the good work. Together we will put America back on top. What a concept that is—government and small businesses working together to rebuild America."

John G. Vasilake, Marketing Manager, Earthcare Solutions, Inc., commenting on appearance of National Ombudsman Esther Vassar at Small Business Forum in Portsmouth, VA

“What you come in to tell us matters. We really look at it as a partnership with you all. It’s a forum for small business where you can have your voices heard.”

Alex Hecht, Chief Counsel and Regulatory Counsel – Minority Staff, US Senate Committee on Small Business and Entrepreneurship

“It’s important that you know that you have a venue where you can speak to people right at the top. They will be reading the transcript and they will be seeing exactly what you said here.”

Ruben Garcia, District Director, SBA San Diego District Office, Region IX RegFair Hearing

The nation’s current economic uncertainty has prompted the **Internal Revenue Service** (IRS) to launch a national outreach campaign—“IRS Open House”—with a special emphasis on individuals who have started their own businesses or became self-employed to create new sources of income after losing a job. The Open Houses offered tax return preparation, issue resolution, payment arrangements, and information on how to prevent tax problems through proper compliance. The ONO participated in the IRS Open House in Washington, DC.

The **Federal Deposit Insurance Corporation** (FDIC) has created a variety of avenues to make its compliance assistance outreach as effective as possible. Structured venues include a compliance education program in FDIC Directors’ Colleges, which hold classes for both new and veteran bank directors covering their regulatory responsibilities. The FDIC also sponsors symposiums, roundtables, and conferences and provides more informal compliance assistance when senior officials meet with bankers at state association meetings and industry gatherings.

The **National Oceanic and Atmospheric Administration** (NOAA) conducts workshops nationwide on compliance with specific regulations and holds town hall meetings on a variety of regulatory and scientific subjects. In August 2010, the agency convened a one-

day NOAA National Enforcement Summit in Washington, DC to discuss the agency’s enforcement priorities and activities among regulated communities, non-governmental organizations, and subject experts.

From no-cost training and stakeholder input meetings to fee-based workshops, the **Equal Employment Opportunity Commission** (EEOC) enters outreach activities into a database to measure regulatory enforcement compliance assistance. The agency generates reports by audience type—such as “Small Business” or “Employer Association”—to determine how many events the EEOC sponsored and how many small business representatives it reached during a specific time period.

Feedback is also important to the compliance assistance efforts of the **Pension Benefit Guaranty Corporation** (PBGC). The agency makes presentations and solicits feedback at professional conferences and adds focus groups and customer surveys to its assessment endeavors. The PBGC’s RegFair Representative is also the agency’s Problem Resolution Officer for pension plan practitioners.

In-person outreach constitutes an important part of compliance assistance at the **Bureau of Ocean Energy Management, Regulation, and Enforcement** (BOEMRE) in the Department of the Interior. The agency’s Minerals Revenue Management Program conducts training courses at locations convenient

for companies leasing on Federal or Indian lands. BOEMRE assigns employees to work with each company and conducts workshops to explain complex regulations.

Agency officials distribute the **Occupational Safety and Health Administration's** (OSHA's) Small

Business Handbook at conferences, trade shows, presentations, exhibits, and on-site consultations. One of the most frequently requested agency publications, the booklet is designed to provide user-friendly information to small business owners about OSHA programs.

“Politicians say they look to help small business but they often don’t understand small businesses. We need to get small businesses and the legislators in their district to interface on a nonpartisan basis.”

*Bernard Featherman,
RegFair Board member,
Region I*

V

Looking Ahead: Building Bridges; Making a Difference



2010 was a year of optimism and commitment for both the small business community and for the Office of the National Ombudsman (ONO), which serves as entrepreneurs' voice in the regulatory process.

Optimism was fueled by hopeful signs of a continuing economic recovery as more and more entrepreneurs got back to the business of generating the jobs and innovations that drive our American economy. The Obama Administration strengthened its commitment to small business by putting new laws and policies in place that free entrepreneurs from unnecessarily burdensome regulation and help them obtain the resources they need to bring their best to the marketplace.

ONO was created to support these entrepreneurs by promoting regulatory fairness in conjunction with the U.S. Small Business Administration (SBA) mission "...to aid, counsel, assist, and protect the interests of small business concerns; to preserve free competitive enterprise; and to maintain and strengthen the overall economy of our nation."

Inspired by the SBA's mission, ONO is committed to assisting small business owners and operators when they experience excessive or unfair Federal regulatory enforcement actions in order to promote a fair and effective regulatory environment:

- ONO will continue to hold public events such as hearings, roundtables, and speech presentations and participate on panels that further ONO's mission of providing a means for small business concerns to submit comments about unfair and/or excessive Federal regulatory enforcement and compliance activities or comment about Federal agency compliance issues.

- The National Ombudsman will conduct program briefings with Federal agency liaisons to ensure that up-to-date information about the Small Business Regulatory Enforcement Fairness Act is readily available.

- ONO will produce, publish, and disseminate the 2011 Report to Congress.

- As required, the National Ombudsman will organize and conduct an annual meeting of the 10 Regional Regulatory Enforcement Fairness (RegFair) Board members.

- The National Ombudsman will continue to recruit and screen viable RegFair Board candidates as their three-year terms necessitate in order to reach and maintain a full 50-member board (five members from each of the 10 SBA regions).

- In order to be responsive and timely to small business commenters, the ONO has set a goal of submitting comments to Federal agencies within two business days of receipt, then sharing the Federal agencies' responses with small businesses no more than two days after the agencies submit their responses.

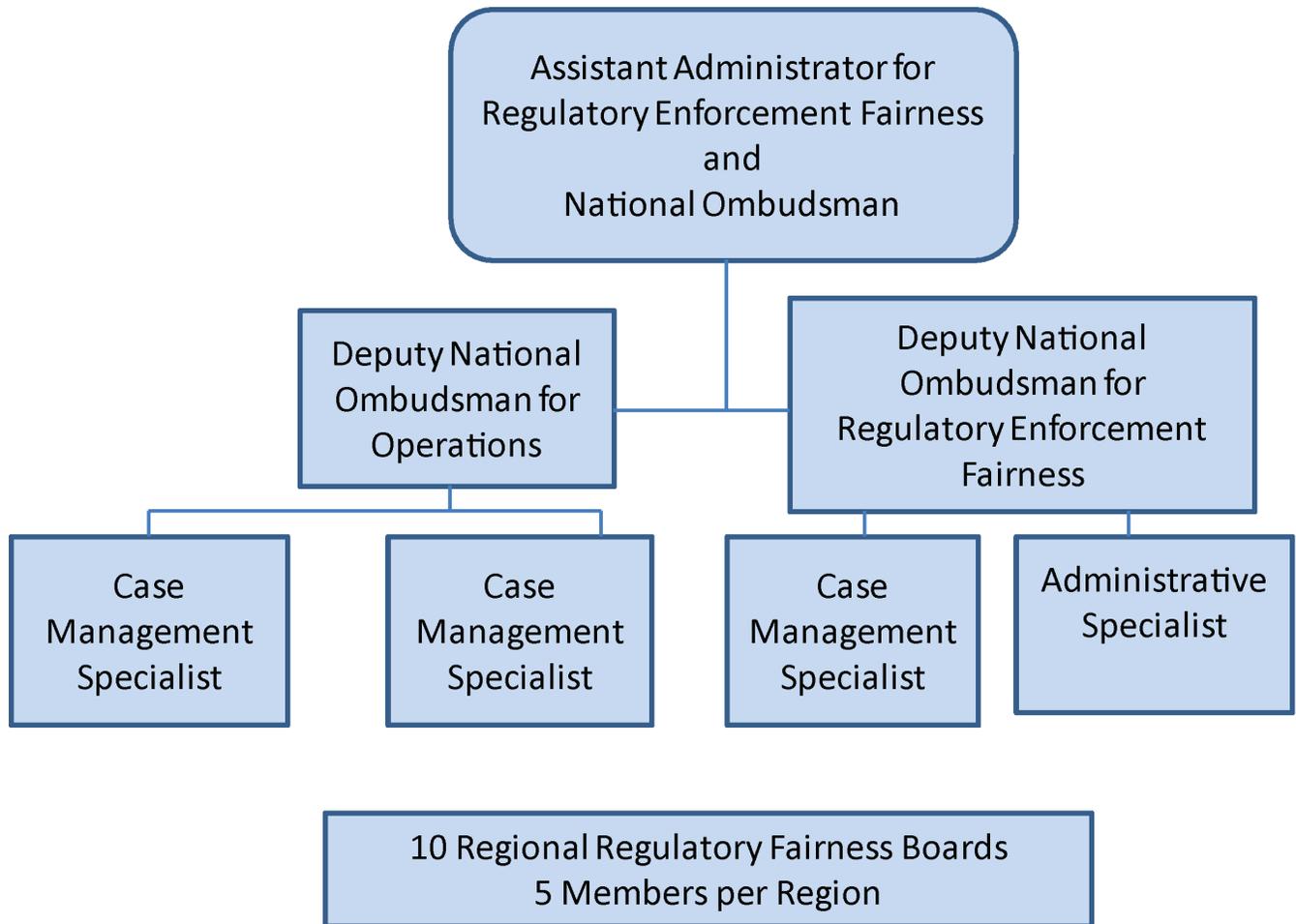
ONO will work to ensure that these steps help make positive progress toward establishing a more effective and powerful partnership between the Federal government and America's entrepreneurs.

Appendix: Media Outreach

Event	Radio/TV Interviews	Print Media Articles	Internet
Speaking Engagement Houston, TX February 11, 2010	02-11-10 Media Interviews with Telemundo	02-19-10 Haider Kazim of the <i>Voice of Asia</i> published an article about a seminar hosted by United Central Bank	
Roundtable Miami, FL February 18, 2010		02-18-10 Adriene Carrera of <i>Mercado de Dinero</i> , a Spanish language business publication 02-18-10 Bridget Carey, <i>Miami Herald</i> 03-01-10 Susan R. Miller of the <i>South Florida Business Journal</i> interviewed Esther Vassar, National Ombudsman, about the role of the National Ombudsman	02-19-10 Marcia Heroux Pounds, columnist for the <i>Sun Sentinel</i> interviewed Esther Vassar, National Ombudsman, about small business concerns and the National Ombudsman's role in resolving them Article posted on Trading Markets.com
Speaking Engagement Atlantic City, NJ March 10, 2010			03-09-10 Event schedule posted on the ShoWorks, Inc. website (www.allianceforbiz.com)
Hearing San Diego, CA April 26, 2010	04-08-10 Ruben Garcia, District Director, SBA San Diego District Office and co-host Caz Taylor interviewed Esther Vassar, National Ombudsman, on SBA Radio to promote the hearing (www.SBAradio.us)	04-26-10 Elizabeth Malloy of <i>The Daily Transcript</i> published an article on the hearing and promoting the National Ombudsman's speaking engagement at the Occupational Safety and Health Administration meeting	
Roundtable Coeur d'Alene, ID May 6, 2010		05-07-10 Rick Thomas of <i>The Press</i> interviewed Esther Vassar, National Ombudsman, and published an article on how the Ombudsman's office helps small businesses 05-15-10 Rick Thomas of the <i>Coeur d'Alene Press</i> published an article on the National Ombudsman's visits to local small businesses that have benefitted from SBA assistance	
Roundtable Columbia, SC May 12, 2010	May 11-15, 2010 Esther Vassar, National Ombudsman, interviewed by various media outlets in Columbia, SC during the local Small Business Week activities		

Event	Radio/TV Interviews	Print Media Articles	Internet
Roundtable St. Louis, MO May 14, 2010		May 2010 article to promote hearing published in the <i>Gateway E-Gazette</i> , a newsletter of the SBA St. Louis District Office	
Hearing Glen Allen, VA May 18, 2010	05-01-10 Vanessa Womack of “On Track with Vanessa Womack” (WLEE News Talk 990 - Richmond, Virginia) interviewed Esther Vassar, National Ombudsman, to promote the hearing 05-18-10 Interview with WLEE “The Jack Gravely Show”	04-29-10 / 05-01-10 <i>Richmond Free Press</i> published promotional information for the hearing 05-13-10 <i>Richmond Times Dispatch</i> published an article to promote the hearing 05-19-10 Carol Hazard of <i>The Richmond Times Dispatch</i> published an article on the hearing	
Roundtable Toledo, OH June 17, 2010		06-16-10 Interview with Arielle Kass of <i>Crain’s Cleveland Business</i>	

Appendix: ONO Organizational Chart





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