

**Testimony of
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Before the

**U.S. House of Representatives
Committee on Small Business**

On

Strengthening the Office of Advocacy

**March 20, 2002
10:00 A.M.**

Chairman Manzullo and Members of the Committee, good morning and thank you for the opportunity to appear before you today to discuss ways to strengthen and improve the Office of Advocacy, a concept I have been supportive of, even before coming on board as Chief Counsel for Advocacy.

First, let me say that I am committed to working with this Committee, the Congress, and the President both to ensure the Office of Advocacy's independence well past my tenure and to make sure the government is accountable to small businesses through compliance with the provisions of the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act.

I believe these two goals—strengthening the independence of the Office of Advocacy and enhancing the effectiveness of the Regulatory Flexibility Act (RFA)—are best addressed separately because each by itself deserves the full attention of both the Congress and the

Executive Branch. I have already had an opportunity to appear before this Committee on the RFA, and as I said in my March 6 testimony, the RFA and the Small Business Regulatory Enforcement Fairness Act (SBREFA) are beginning to make a difference in the culture of some federal regulatory agencies. These agencies are learning what this Committee has known for some time: that the earlier the agencies implement the RFA's principles by involving small businesses and the Office of Advocacy in the regulatory process, the more effective their regulations will be in achieving their purposes without straining small businesses' ability to compete.

Later this week our office will be releasing the annual report on agency compliance with the RFA for fiscal year 2001. This report will detail successes and failures and will help frame the debate on how we can all work together to ensure greater attention to the unique needs of small businesses early in the regulatory process (the tenet of the RFA).

With respect to the issue of strengthening the Office of Advocacy—the focus of our discussion today—I want to express my appreciation to the Committee and staff for their willingness to look carefully at various options. Thanks in large part to the historic vision of the Small Business Committees and the Congress, the Office of Advocacy already has many strengths that can be built upon.

I am aware of at least two bedrock principles that underlie the Office of Advocacy's ability to represent small businesses effectively: one is independence and the other is flexibility. One of the original ideas behind the Office of Advocacy was that small businesses needed a voice both to articulate their contributions to the economy and to represent their unique needs to

policy makers in Washington. To be effective, the office had to have the ability to speak within the Administration in a voice that did not always echo Administration policy, hence the need for independence. At the same time, the wisdom of putting the Chief Counsel in the Executive Branch, where the Chief Counsel could insert the “small business voice” into discussions with policymakers on the same team—before proposed policy became law—has been borne out over the years.

A second bedrock principle that is important to keep in mind is flexibility—the flexibility to adapt Advocacy’s day-to-day mission and resources to the changing circumstances and needs of the small business community. This flexibility is reflected in the Public Law hiring authority, which allows the Chief Counsel to hire specialists quickly in the fields where expertise is most needed. It is reflected in our ability to work with various legislative, trade association, and other partners to determine and present the facts about the issues affecting small businesses. And flexibility is a key principle for us as we listen carefully and respond to the insights of small businesses through processes like the White House Conference on Small Business and the small business advocacy review panel process.

So, in crafting legislation to strengthen the Office of Advocacy’s role as a voice for small business within the federal government, it will be important to keep in mind preserving both the Chief Counsel’s independence and the flexibility to respond to new concerns as they arise.

A number of ideas have been proposed for strengthening the independence of the Office of Advocacy. With the March 12 discussion draft of the Small Business Advocacy Improvement Act, I think we are moving in the right direction. I am fully supportive of the concept behind the

Senate bill, S. 395, and have been working with majority and minority staff of the Senate Committee on Small Business and Entrepreneurship to articulate that concept through an appropriate legislative vehicle. What follows is some of the thinking I have already expressed orally in meetings with Senate staff.

Line item approach to the Office of Advocacy budget.

I believe that if legislation is needed to improve the Office of Advocacy's independence and ability to carry out its mandate, it should be done as cleanly and simply as possible. S. 395 uses a line-item approach to bolster the office's budgetary independence. I prefer this approach, as part of the President's budget submission, over legislative language that would create a separate budget process specific to the Office of Advocacy. The SBA Administrator and the President should be able to assert their commitment to the Office of Advocacy as part of the annual budget submission. The Congress's subsequent support and this Committee's support will play a constructive role in acknowledging the good work Advocacy is capable of.

I should also note, for the record, that the Administration and, in particular, Administrator Barreto's team have been fully supportive of my office. Discussion of legislative options that seek greater independence for the Office of Advocacy should not, in any way, imply an immediate need to exercise that budgetary independence. Legislation, if needed at all, should be framed in the context of an Office of Advocacy that does not necessarily have the luxury of having such an accommodating landlord as I have in Hector Barreto.

Whether to transfer certain SBA procurement functions to the Office of Advocacy.

Under discussion in this process are proposals to give the Office of Advocacy certain procurement-related tasks, such as preparing the annual reports on agencies' efforts to meet the contracting and subcontracting goals for participation in procurement by small business and taking over the contract bundling database, analyses, and annual report. In the past, the Office of Advocacy has a positive record of involvement with procurement policies and reforms, troubling issues for many small businesses. On specific occasions in the past, Advocacy has intervened in major bundled contracts and has had some success in expanding small business participation. The office has also funded some research on bundling. However, with respect to transferring these program responsibilities to the Office of Advocacy, my questions center on what problem we are trying to solve and whether this approach would solve it. Would such a transfer strengthen or weaken SBA's overall program responsibilities under the laws it administers? While Advocacy has had a role from time to time in evaluating procurement policy through independent research, it has never been asked to take over the management responsibility of an SBA program.

Working with the National Ombudsman.

Along similar lines, some earlier legislative drafts proposed merging the functions of the SBA's Office of the National Ombudsman into the Office of Advocacy; the current March 12 draft does not contain this proposal and I think the Committee was wise to lay this idea aside. The question again was what problem are we trying to solve? In a few minutes we'll hear from Mike Barrera, the SBA's current National Ombudsman. I know he shares my vision of our complementary roles in support of small business. Mike and I met to discuss our respective

offices even before I came on board, and we continue to meet regularly about our mutual concerns in support of small business. I am proud to announce that today we signed a memorandum of understanding that will help both of our offices work together to benefit small business, while at the same time recognizing the independence of the Office of Advocacy.

Mandating what the Office of Advocacy reports, researches, and advocates.

There have been some legislative proposals to require Advocacy to report on specific subjects. While these provisions may be well intentioned, such a legislative mandate sets a precedent that contradicts the flexibility inherent in the Office of Advocacy's role. Laws that specify exactly how and what the Office of Advocacy should research leave open the question of how the Office of Advocacy is to deal with new issues that come along two years, or even two months down the road.

The Office of Advocacy has a strong history of listening to small business owners and working with our legislative partners, trade associations, membership organizations, and others in the small business community to develop the research and action agenda that makes the best use of Advocacy's resources. I fully intend to build on that tradition and capacity. For that reason, I am reluctant to endorse legislative provisions that constrain our research flexibility.

I am encouraged by the Committee's dedication to the Office of Advocacy's success—and the benefits that obviously are realized by the small business owners themselves. I pledge my full cooperation and the resources of Advocacy to work towards solutions that will help our country's economic engine, small business.

This concludes my prepared testimony. Thank you again for inviting me here today, and I am pleased to answer any questions you may have.