

Nominate and Confirm a Chief Counsel for Advocacy

Problem:

Despite the small-business community's great need for support from the U.S. Small Business Administration (SBA), the position of SBA Chief Counsel for Advocacy remains vacant. This position is one of 10 senior openings within the Office of Advocacy, which serves as the small-business watchdog in the federal regulatory process.

The considerable latitude federal agencies have over interpreting and enforcing laws passed by Congress too often harms America's small businesses. While various regulatory reform initiatives have prevented or alleviated some of the federal regulatory burden, those reforms are only as strong as the agency dedicated to their enforcement.

Even operating without confirmed leadership, and with diminished resources, the impact of the Office of Advocacy is staggering:

- The Office of Advocacy's efforts at monitoring federal agency compliance with the Regulatory Flexibility Act (RFA) resulted in changes to 10 rules in 2019 that led to \$773 million in small-business regulatory compliance cost savings in FY2019.
- In FY2021, the Office of Advocacy hosted 20 issue roundtables (up from 17 in FY2019) to provide a forum for small businesses to express their concerns with federal regulations. They also submitted 17 comment letters to eight agencies to publicly register official comments on behalf of small businesses.

Given this enormous influence, it is critical that the Office of Advocacy is fully staffed with a strong and capable leader at its helm. This position is especially crucial now, while small businesses are struggling under the ongoing weight of a sluggish economy and lingering effects of COVID. Unfortunately, the job of Chief Counsel has been open since 2017, and this lack of leadership has contributed to the majority of small-business owners (67 percent) feeling less than fully confident their business will recover from the pandemic. Worryingly, no additional attempts to advance a nominee have been made since March 2019.

Solution:

NSBA urges President Biden and the Senate to swiftly fill the Chief Counsel for Advocacy vacancy before the end of the calendar year.

- The President should move quickly to nominate a permanent Chief Counsel for Advocacy. This role is urgently needed as the federal rule-making process continues to ramp-up, potentially creating decades of unfair regulatory burden.
 - NSBA urges the Senate Committee on Small Business and Entrepreneurship to move quickly and allow hearings on any nominee put forth for the position. Any nominee should be vetted in a transparent setting and then promptly sent to the full Senate floor for a vote.