

Testimony of Dr. Winslow Sargeant

6th Chief Counsel, SBA Office of Advocacy

Before the

**U.S. Senate Committee on Small Business and
Entrepreneurship**

in conjunction with the

**Senate Homeland Security and Governmental Affairs
Subcommittee on Regulatory Affairs and Federal
Management**

Hearing titled “Reauthorization of the SBA Office of
Advocacy”

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Dr. Winslow Sargeant
Former Chief Counsel SBA Office of Advocacy

Chairman Rubio, Ranking Member Cardin, Members of the Small Business Committee as well as Chairman Lankford and Ranking Member Sinema and Members of the Homeland Security and Government Affairs Subcommittee on Regulatory Affairs and Federal Management, I am honored to be here today to present testimony to you as a former Chief Counsel for the Office of Advocacy of the U. S. Small Business Administration.

As I look back upon my time at the Office of Advocacy, I reflect on the importance of this institution. To truly be the advocate for small business, it takes all three pillars: outreach, regulatory oversight, and research. By monitoring federal regulations, advocating on behalf of small business, conducting research to help facilitate small business growth, and reaching out to small businesses across the country to hear concerns and learn about the best practices, the office proves it is not only a necessity, but also invaluable.

By reauthorizing the SBA Office of Advocacy, you are standing behind government's most important office for the American small business owner. Congress created Advocacy in 1976 to give a voice to small businesses that were not being considered during the rule-making process. As small businesses advance into the 4th Industrial Revolution, so too must the laws that come from Congress. While I know there are numerous pieces of legislation from many of the members sitting here today, Congress must not only craft legislation that provides flexibility for small business and considers the impacts, but also, it must pass these important building blocks of the Office of Advocacy.

There are a number of legislative changes that would strengthen the support that small businesses receive in the regulatory process as well as Advocacy's ability to represent them. I would encourage lawmakers to modify section 609 of the RFA to require more detailed notification in advance of a SBREFA panel and also allow for judicial review when a panel is not convened. In addition, I support adding a section to the RFA analysis to include indirect effects by broadening the definition of "impact" in Section 601. And finally, I would recommend that agencies

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do a mandatory follow up on section 610 to ensure that post-review necessary changes are made in a timely manner. Hindsight is 20/20 and waiting ten years to look at a rule could be five years too late.

During my time at Advocacy, we began to look at the role of small businesses in the international economy, representing the views and interests of small businesses before foreign governments and international entities. I believe Advocacy's representation of small business in trade initiatives should be codified.

Rule writing authority for the Office of Advocacy has been a topic that has been often discussed, and on the surface of it, the proposal has merit. This authority would offer the ability for qualified Advocacy staff to use their expertise to help facilitate better rules. Rule writing does require additional resources, extra personnel (attorneys, economists, and other staff) and a re-tweaking of the relationship Advocacy would have with OMB. As a rule writer, Advocacy would be subject to the annual publishing of its regulatory agenda.

Let me be clear—Advocacy would have to follow the same rules that it currently oversees. The watchdog would no-longer be an honest broker but the initiator of rules with no independent party, besides Congress, to oversee it. This monumental change must be vetted by experts and explored if this powerful new tool is to be properly implemented.

As I continue to follow the regulatory landscape of our country, it is imperative that we continue to promulgate rules that are clear, transparent, and predictable, and so should the Office of Advocacy be: a clear voice for small business, transparent in receiving and delivering the small business point of view, and predictable, knowing precisely the action the office should take on behalf of small business.

So, while I sit here before you today supporting the Reauthorization of the Office of Advocacy, I would caution you to not take this opportunity lightly. To put it bluntly, I and many other experts have been talking about these same concerns: changes to the RFA, expansion into

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international matters, and rule-writing authority, for close to a decade.
On behalf of small business, we must take action.

Thank you and I look forward to your questions.