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Small Business Administration (SBA) Office of Advocacy Working to Undermine Federal Health and Safety Protections, Says CPR Report

Small Federal Office Has Become General Anti-Regulatory Advocate, Often Working on Behalf of Big Businesses

(Washington) – The U.S. Small Business Administration’s Office of Advocacy uses federal tax dollars to try to block health, safety, and environmental regulations, often at the behest of large companies, says a new report by the Center for Progressive Reform (CPR). The CPR report shows how a small and largely unaccountable office has quietly become a highly influential player in the federal regulatory system, combatting protections developed by other federal agencies.

The Office of Advocacy is an independent office within the Small Business Administration (SBA), authorized by Congress in 1976 to represent small business before federal agencies. Congress later gave the Office an explicit mandate to work for preferential regulatory treatment of small businesses. In practice, according to the CPR report, the Office has taken its mission further: blocking regulations has become its *de facto* top priority, trumpeted in press releases, and the Office’s commitment to this goal has led it to engage in matters that have little or nothing to do with advancing small business interests or with ensuring that federal policy reflects their unique needs.

“The SBA’s Office of Advocacy has lost its way,” said report co-author Sidney Shapiro, University Distinguished Chair in Law at Wake Forest University School of Law and Member Scholar of the Center for Progressive Reform. “Instead of focusing like a laser on advancing the unique interests of small business, it’s spending too much of its time, and too many taxpayer dollars, acting as a federal outpost for big business and its anti-regulatory agenda. “Rather than just trying to block health and safety standards, the Advocacy office could actually be supporting small businesses to help them be competitive with large firms without sacrificing public health and safety. The irony here is that small businesses are so often the beneficiaries of regulations, as when air pollution standards bolster the market for pollution control equipment.”

The CPR report, [Distorting the Interests of Small Business: How the Small Business Administration Office of Advocacy’s Politicization of Small Business Concerns Undermines Public Health and Safety](#), demonstrates how the Office of Advocacy has taken advantage of the overly broad standards developed by the SBA to define what counts as a small business. Congress left the SBA substantial leeway for developing these standards, and as a result they cover firms that no one would think of as “small businesses.” In dozens of industries, SBA considers companies with up to 500 employees to be small businesses; in a few areas, firms with up to 1,500 workers are deemed “small.”

In one example of big business advocacy cited in the CPR report, SBA's Office of Advocacy submitted comments to the Environmental Protection Agency (EPA) pressing the agency to water down key pending standards that limit the toxic pollutants coal power plants can release. The Office's comments did not press for special exemptions for smaller power plants; they simply called for the EPA not to put any limits at all on most of the hazardous pollutants the rule would limit (such as arsenic, fine particle pollution, and lead). The EPA pressed ahead with the rule, a key public health accomplishment of the Obama Administration; it is estimated to prevent 4,200-11,000 premature deaths each year.

The CPR report was released concurrently with a [report by the Center for Effective Government](#) that reveals specific new cases of the Office of Advocacy working at the behest of large businesses. In one example revealed in emails obtained by FOIA request, the Advocacy office worked closely with the American Chemistry Council (ACC), a trade group dominated by large chemical companies, to try to derail the EPA's work on addressing the human harms of hexavalent chromium. Advocacy sent a letter to the EPA ostensibly expressing concerns on behalf of small businesses, *using text provided to the Advocacy office by the ACC*.

The CPR report shows how Advocacy exerts much of its authority by superintending agency compliance with an expanding universe of analytical and procedural requirements – imposed by a steady stream of statutes and executive orders issued during the past three decades – that purportedly seek to ensure that agencies account for small business interests in their regulatory decision-making. The result, the report argues, is an ever ossifying regulatory process that leaves the public under-protected from health, safety, and environmental dangers.

The CPR report argues that the nominal objective of the Office of Advocacy – subsidizing small businesses through preferential regulatory treatment – is based on a needless and destructive tradeoff; the government has several policy options for promoting small businesses without sacrificing public health and safety. The report recommends that Congress:

- Amend the Office of Advocacy's authorizing statutes to focus on promoting small business "competitiveness" instead of on reducing regulatory impacts or burdens.
- Provide the SBA with additional legal authorities to establish new subsidy programs that affirmatively assist small businesses meet effective regulatory standards without undermining their competitiveness.
- Establish and fund a network of small business regulatory compliance assistance offices.
- Revise the Office of Advocacy's small business size standards so that they (1) focus on truly small businesses (those with 20 or fewer employees) and (2) prevent the Advocacy office from working on behalf of all firms, regardless of size, that work in industrial sectors that pose a high risk to public health and safety.
- Prohibit the Office of Advocacy from working with non-small businesses and establish legal mechanisms for ensuring that this prohibition is observed.
- Conduct more frequent and thorough oversight of the Office of Advocacy.

The Office of Advocacy should:

- Identify and implement regulatory solutions that will enable small businesses to meet strong public health and safety standards while remaining competitive with larger firms. At a minimum, these solutions should include regulatory compliance assistance, finding

opportunities to partner with small businesses in mutually beneficial ways, and securing subsidized loans to cover compliance costs.

- Develop new guidance that helps agencies better address small business concerns in rulemakings by working toward “win-win” regulatory solutions that promote small business competitiveness while ensuring the protection of public health and safety.

The report was written by CPR Member Scholar Sidney Shapiro and CPR Policy Analyst James Goodwin. It is available on CPR’s website at:

http://www.progressivereform.org/articles/SBA_Office_of_Advocacy_1302.pdf

The Center for Progressive Reform (www.progressivereform.org) is a nonprofit research and educational organization dedicated to protecting health, safety, and the environment through analysis and commentary. Visit CPR on the web at www.progressivereform.org and read CPRBlog at www.progressivereform.org/cprblog.

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