

## In This Issue

Interior Rule Thrown Out by  
District Court . . . . . 1

### Congress

Bankruptcy Reform Bill  
Moves Forward . . . . . 8

### Regulatory Agencies

HCFA Rules Stifle Home  
Health Care Industry . . . . . 4

Gasoline Retailers Would  
Benefit from EPA Rule . . . . . 5

FCC Deadline for Reserving  
"888" Numbers Nears . . . . . 5

Fastener Manufacturers  
Concerned About NIST  
Rules . . . . . 6

### Economic News

Small-Business Sectors Showed  
Gains in 1997 . . . . . 2

Research Proposals Sought on  
Small Business Topics . . . 12

### Special Report

Model of Excellence:  
Washington State Governor's  
Conference . . . . . 7

### Technology Talk

The SBIR Program Gets a  
Report Card . . . . . 10

## Major Court Decision Strengthens Regulatory Flexibility Act

The Office of Advocacy's recent amicus filing helped score a big win under the Regulatory Flexibility Act (RFA) of 1980 for the whole universe of U.S. small businesses, trade associations, and rational rule-making. On May 13, the United States District Court for the District of Columbia ruled in favor of small mining interests and sent the Dept. of the Interior's Bureau of Land Management (BLM) back to the drawing board with orders to comply with the RFA regarding the agency's final bonding rule. It was the first case in which the Office of Advocacy exercised its right to file a brief with the court to address agency non-compliance with the RFA.

In the matter of *Northwest Mining Association v. Babbitt*, the United States District Court for the

District of Columbia granted the plaintiff's Motion for Summary Judgment and remanded the rule to the BLM.

"This case marks a significant victory for small businesses and their trade associations," said Jere W. Glover, the SBA's chief counsel for advocacy. "We believe the outcome is a watershed decision for small business protections under the RFA and the Administrative Procedures Act (APA)."

The RFA granted the chief counsel the authority to intervene as *amicus curiae* (that is, "friend of the court") in regulatory appeals. The Small Business Regulatory Enforcement Fairness Act of 1996 expanded that authority, allowing the chief counsel to address agencies' compliance with the RFA, the adequacy of the rulemaking record,

*Continued on page 3*

## One Touch of Venus



This balloon, made of a special polymer film, was designed to carry instruments to explore the surface of Venus for NASA. It has the strength and high temperature resistance required to survive the Venusian atmosphere. It was manufactured by Foster-Miller Inc., of Waltham, Mass., a multiple award winner in the SBA's Small Business Innovation Research (SBIR) program. For more information, turn to the story on page 10. (Photo courtesy of Foster-Miller, Inc.)

### Small-Business Sectors Made Major Employment Contributions in 1997

Between December 1996 and December 1997, the aggregate economy created 2.9 million new jobs, expanding 2.9 percent, exceeding the growth in 1996. Small-business-dominated industries were big contributors. Unlike 1996, however, every major industry had positive employment growth in 1997, including mining, manufacturing, and agricultural services.

In 1997, the narrowly defined service sector contributed 1.4 million new jobs — 45 percent of all new jobs. Retail trade added 568,000 new positions (19 percent); manufacturing, 229,000 (7.7 percent); and construction, 220,000 (7.4 percent).

The six industries making the largest contributions were in small-business-dominated sectors: engineering services added 189,000 jobs; special trade construction, 158,000 jobs; wholesale trade — durable goods, 152,000 jobs; eating and drinking places, 138,000 jobs; amusement and recreation services, 101,000 jobs; and assorted social services, 93,000 jobs.

The largest creators of new jobs during 1997 — business and health services — have become sectors no longer dominated by either large business or small business, but both sectors contain rapidly growing sub-industries. For example, within the business services category, management and public relations (a small-business-dominated industry) added 81,000 new jobs. Similarly, within the health services sector, the offices of doctors, dentists, and other health practitioners (all small-business-dominated sectors) added more than 100,000 new slots.

The fastest growing small-busi-

ness-dominated sectors included automobile dealers (8.6 percent), used merchandise stores (8.6 percent), and landscape companies (8.4 percent). Computer programming services (still a small-business-dominated sector) grew 15 percent in 1997, adding 43,000 new jobs.

#### For More Information

Requests for copies of the tables from which these data are derived should be sent by fax to Advocacy's Office of Economic Research, (202) 205-6928.

Technical questions about the data may be addressed to Bruce D. Phillips, director, Office of Economic Research at *bruce.phillips@sba.gov*.

#### The Small Business Advocate

**Editor** Sarah Fleming

**Managing Editor** John Ward

**Contributing Editor** Kathryn Tobias

**Production Assistant** Darlene Moyer-Mahmoud

**Director, Office of Public Liaison**  
Anita Drummond

**Deputy Chief Counsel, Public Liaison**  
Jody Wharton

*The Small Business Advocate* (ISSN 1045-7658) is published monthly by the U.S. Small Business Administration's Office of Advocacy and is distributed to Small Business Administration field staff and members of the U.S. Congress. *The Small Business Advocate* is available without charge from the Office of Advocacy, U.S. Small Business Administration, Mail Code 3114, Washington, DC 20416. Back issues are available on microfiche from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

Send address changes to: The Small Business Advocate, Mail Code 3114, U.S. Small Business Administration, Washington, DC 20416. Include your current address label.

All of the SBA's programs and services are extended to the public on a nondiscriminatory basis.



Federal Recycling Program  
Printed on recycled paper.

## our URL . . .

# sbaonline

# http://www

# Internet

*http://www.sba.gov/ADVO/news/*

is where you can find the online version of "The Small Business Advocate" on the Internet's World Wide Web. Look here to find the full text of the current and previous editions.

# Advocate

*http://www.sbaonline.sba.gov/*

## Court Decision, from page 1

and the effect of the rule on small entities.

"The issues in this case were sufficiently important that we believed we had to file as *amicus*," Glover said.

The case arose when Northwest Mining Association (NWMA) challenged BLM's final rule (published in the *Federal Register* on Feb. 28, 1997, at 62 FR 9093, and effective March 31, 1997), that imposed bonding requirements on hardrock mining operations to ensure that land was restored once mining operations ceased. The bonding requirements of the final rule were significantly different from those in the proposed rule. Specifically, the final rule required mining operations to post a bond for 100 percent of the estimated reclamation costs. (The original proposed rule required a \$5,000 bond for each claim in mining operations with less than five acres or, for operations with more than five acres, a bond of \$1,000 per acre for explorational operations and \$2,000 per acre for mining operations.) The final rule also required operators to employ an independent engineer to certify estimated reclamation costs.

In the suit, the NWMA alleged non-compliance with the APA and the RFA. In its *amicus* filing, the Office of Advocacy challenged BLM's failure to use the proper size standard for defining a small mining company and to provide a rational economic basis for the certification of "no significant economic impact." Advocacy argued that by using the inappropriate size standard, the BLM may have underestimated the effects of the rule on small businesses and that this rendered BLM's certification of economic impact invalid under the RFA.

Of particular interest to small business trade associations is the court's ruling on whether the association could bring the appeal on

---

**"the Court . . . recognizes the public interest in preserving the rights of parties which are affected by government regulation to be adequately informed when their interests are at stake. . . ."**

---

behalf of its members. The NWMA argued that not only did it have standing as a representative of its members, but also had standing because it was a small entity as defined by the RFA. The court agreed, finding that the RFA extends standing to sue to small entities. ("Small entity," as defined in the RFA, includes the term "small organization," which means any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. Since the NWMA is a small not-for-profit organization, it was a small entity and, therefore, met the requirements for standing to sue under the RFA.)

Once the court found that the BLM had violated RFA procedures, and that the NWMA was entitled to sue, it had to determine whether the bonding rule would be in effect while the BLM complied with the court's order. The BLM argued that continued enforcement was necessary to assure the restoration of the land. The court, however, was not convinced and found that the agency need only exercise its existing powers between the remand and the next final rule promulgation to protect the environment.

Chief Counsel Glover said, "The court reaffirmed for small business the safeguards of the Administrative Procedures Act and the Regulatory Flexibility Act when it wrote, 'The new rule's requirement concerning the amount of regulation on the

smaller notice level mining operations, the dollar amounts the BLM can require for all bonds, and the additional procedural expenses incurred by miners when obtaining the bonds appear to have a large impact on the small miner. Effects on small businesses and industry-wide changes in regulatory expenses, however, are precisely what the procedural safeguards of the RFA and the APA are set in place to address. A claim that the public interest requires an exception to the RFA and the APA because of the very interests they protect requires a better showing of threatened societal harm than the BLM has produced here."

In concluding that the proper remedy required remand, the court stated, "While recognizing the public interest in preserving the environment, the Court also recognizes the public interest in preserving the rights of parties which are affected by government regulation to be adequately informed when their interests are at stake and to participate in the regulatory process as directed by Congress."

## For More Information

For more information on this topic, or to receive a copy of the text of Advocacy's *amicus* filing, contact Jennifer Smith, assistant chief counsel for economic regulation in the Office of Advocacy, at (202) 205-6943. For a related article on this matter, see the January 1998 issue of *The Small Business Advocate*. To see the text of the chief counsel's testimony on this same issue, visit the Office of Advocacy's Web site at <http://www.sba.gov/ADVO/laws/testimony/hardrock.html>.

## Regulatory Agencies

### HCFA Rules Stifle the Home Health Care Industry

If you think you're hearing the sound of doors closing, you may be near a home health care agency. Regulatory changes issued by the Department of Health and Human Services' Health Care Financing Administration (HCFA), which went into effect April 28, impose stifling capitalization and bonding requirements that threaten extinction of the small-business-dominated industry.

The final rule, published Jan. 5 in the *Federal Register*, implements the surety bond requirement for such agencies established in the Balanced Budget Act of 1997 (BBA). The goal of the rule is to reduce fraud relating to Home Health Care Agencies (HHAs) that do not reimburse Medicare/Medicaid for overpayments. Despite its noble intention, the rule is troubling for a number of reasons, which the Office of Advocacy emphasized in a now much celebrated letter submitted April 15 to the agency.

In the letter, the Office of Advocacy asserts that the rule, although probably within HCFA's regulatory and statutory authority, goes far beyond the requirements contemplated by Congress when they enacted the BBA. The legislation calls for a surety bond of not less than \$50,000 or a "comparable" bond. However, the HCFA regulation imposes additional minimum capitalization requirements on the agencies and a 15 percent surety bond requirement not contained in the BBA. Without any opportunity for public comment, a Feb. 27 deadline was set for all HHAs to obtain the surety bond.

The rule was met with protest not only from representatives of the HHA industry but also from mem-

#### The home health care industry is being hard hit by new bonding requirements that went into effect in April.

bers of the surety bonds industry who complained about the potentially unlimited liability of sureties under the final rule. In response, on March 4, the HCFA published the final rule with a revised April 1998 deadline for obtaining the bonds, and announced HCFA's intent to limit the surety's liability under certain circumstances. HCFA claims that the changes will help smaller, reputable HHAs, like non-profit visiting nurse associations, to obtain surety bonds.

Chief Counsel for Advocacy Jere W. Glover holds the view that the HCFA never prepared an analysis of the rule's impact on small enti-

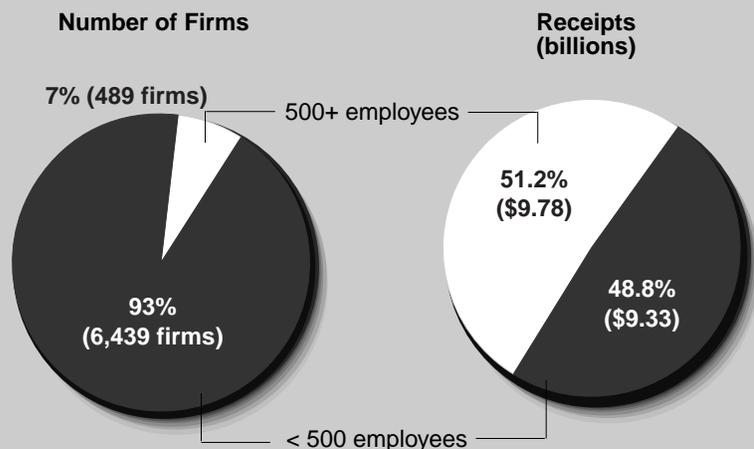
ties, as required by the Regulatory Flexibility Act (RFA). Under the RFA, all federal agencies are required to analyze the impact of proposed regulations on small entities and consider flexible regulatory alternatives that reduce the burden on small firms, without abandoning the agency's regulatory objectives. The chief counsel wrote, "The HCFA never demonstrated why the \$50,000 bond was insufficient or would not accomplish the objective of discouraging bad actors from entering the Medicare program. The agency did not demonstrate why the 15 percent rule would not cause a significant economic impact — particularly when the \$50,000 bond amount changed from a maximum level to a minimum level. There is no evidence that HCFA attempted to find less costly alternatives."

Additionally, the affected community had no real opportunity to

*Continued on page 5*

#### Small and Healthy

Number and receipts of firms in the home health care industry (SIC 8082) in 1993, by employment size of firm.



Source: SBA, Office of Advocacy, from data collected by the Bureau of the Census.

## Gasoline Retailers Would Benefit from New EPA Rule

The filing of duplicative reports with the Environmental Protection Agency (EPA) results in unnecessary costs to small businesses estimated at more than \$16 million per year. But hopes are high that a new EPA rule, scheduled to have been issued in May, will mark the end of a 10-year campaign undertaken by the Office of Advocacy and others to eliminate duplicative reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986.

The proposed rule would significantly revise current reporting requirements concerning gasoline at retail gas stations — affecting about 400,000 gasoline outlets nationwide. The Office of Advocacy believes that the annual paperwork savings could easily exceed 400,000 paperwork hours.

Since 1987, the Office of Advocacy has maintained that the existing reporting regulations that

require owners of petroleum underground storage tanks (UST) containing over 10,000 pounds to file annual EPCRA inventory reports are burdensome and unnecessary. Currently, small business owners are responsible for submitting basically the same information to three separate regulatory entities: state and local emergency planning commission offices (as well as local fire departments), state UST offices, and the EPA. The information provided on the EPA forms is similar and comparable to information submitted to state UST offices, as required by the Resource Conservation and Recovery Act.

Under the agency's new proposal, these same small business owners who store gasoline and diesel fuel entirely underground and in compliance with UST regulations, would not be required to file EPCRA reports unless they had more than 75,000 gallons of gaso-

line or 100,000 gallons of diesel fuel on site. In other words, only a small minority of gasoline outlets will be required to report.

The EPA acknowledged that community right-to-know interests are still protected in this proposal. Everyone in the community knows that gasoline stations sell gas; they usually advertise the fact that they have gas on site. Additionally, both local and state authorities are well aware of the hazards associated with gasoline, and know how to respond in the case of an emergency.

For more information about this topic, contact Damon Dozier, policy advocate for environmental issues in the Office of Advocacy, at (202) 205-6936 or by e-mail at [damon.dozier@sba.gov](mailto:damon.dozier@sba.gov).

---

### Health Care, *from page 4*

provide meaningful input or comment because the HCFA waived notice and comment requirements. "Law-abiding home health care agencies . . . are now faced with additional burdensome requirements effective almost immediately — with no true recourse (since the agency waived the notice of proposed rulemaking and the 30-day interim effective date)."

Inasmuch as the rule is now final and in effect, the Office of Advocacy petitioned the HCFA to amend the final rule to exclude the provisions concerning the 15 percent bond requirement and the capitalization requirement until such time as a proper and adequate analysis can be prepared to determine the impact on small entities.

### Attention "800" Subscribers: FCC Deadline Nearing for "888" Numbers

If you are an 800 toll-free number subscriber that set aside the corresponding "888" number according to instructions previously issued by the Federal Communications Commission (FCC), the commission has recently granted you right of first refusal to reserve the 888 number. You must be notified by your carrier or responsible organization by August 21, 1998, which is an extension of the previous deadline of April 25, 1998. A written request from the 800 subscriber is required to release or reserve the number.

The Office of Advocacy suggests that you take the initiative and contact your carrier or responsible organization directly. Call the FCC's Common Carrier Bureau, Network Services Division, for additional information: (202) 418-2320.

## Fastener Manufacturers Express Concerns About NIST Rules

Two final rules issued by the National Institute of Standards and Technology (NIST) are raising serious concern among the small manufacturers that comprise the fastener industry. Confusion and frustration abound. Small businesses don't know how to comply with the regulations implementing the Fastener Quality Act (FQA) of 1990. The Office of Advocacy is strongly urging the agency to take steps to ensure that comprehensive compliance assistance is made available to small businesses as the July 26 effective date approaches.

The regulations would require that certain steps be taken to ensure that the industrial fasteners conform to manufacturing specifications. To accomplish this, the regulations provide for the accreditation of laboratories that test fasteners and establish a process by which the fasteners are inspected, tested and certified during manufacturing.

The intent of the FQA is to provide increased public safety by eliminating faulty industrial fasteners (for example, screws, nuts, bolts, studs, and washers used in heavy equipment, bridges, and airplanes) from commerce.

In comments submitted to NIST on Nov. 25, 1997, the Office of Advocacy urged the agency to extend the act's May 1998 implementation date to give small companies sufficient time to comply. Advocacy also recommended that NIST consider fully the cost of the regulations on small manufacturers.

While NIST made some concessions in the final rule, small fastener manufacturers still need compliance assistance. In a letter submitted April 20, 1998, to the director of NIST, Chief Counsel for Advocacy Jere W. Glover acknowledged that the process for developing the regulations had been long and arduous, and commended NIST

---

### Manufacturers of industrial fasteners still face a lot of unanswered questions when it comes to compliance with the Fastener Quality Act's upcoming deadlines

---

for making some accommodations, including:

- further extension in the implementation date to allow more accredited laboratories to come on line;
- accommodation for products manufactured prior to the implementation date to claim FQA compliance under certain circumstances;
- permission for quality assurance systems facilities to self-certify and to be included in the requisite facilities list if certain information is provided to NIST within 210 days, with the full registration process to be completed by May 25, 1999.

Despite these compromises, Glover stated that his office continues to receive calls from small companies "concerned about how to comply with the overall regulatory and statutory scheme of the fastener quality program."

Some small businesses believe that the number of approved laboratories, as well as the geographic distribution of these labs, is insufficient to meet demand. Some companies are finding that the approved laboratories may fail to provide the full range of services needed to accommodate fastener manufacturers. Also, according to some firms, only limited information is being provided regarding the regulations' applicability, interpretation and enforcement.

To lessen the confusion, the Office of Advocacy strongly encouraged NIST to increase its outreach efforts to small businesses through compliance guides and other means, as required by the Small Business Regulatory Enforcement Fairness Act.

### For More Information

To read the full text of the chief counsel's April 20, 1998, letter to NIST, visit the Office of Advocacy's home page at <http://www.sba.gov/ADVO>.

For more information on this topic, contact Sarah Rice, policy advocate for industrial safety, Office of Advocacy, at (202) 205-6955; or by e-mail at [sarah.rice@sba.gov](mailto:sarah.rice@sba.gov).

### Model of Excellence: Washington State Governor's Conference

*Over the next few months, The Small Business Advocate will be bringing you reports that highlight state programs and events that are "models of excellence." These state programs that are successfully advancing the growth of small business — such as the Washington State Governor's Conference on Small Business that is described in the following article — will be showcased at Vision 2000: The States and Small Business Conference to be held in Washington, D.C., Dec. 9–10, 1998. To nominate a state program or initiative for one of the "models of excellence" awards that will be given at the conference, or to receive more information about the conference, contact Barbara George in the Office of Advocacy at (202) 205-6934.*

Keeping small firms in business is the goal of Washington State's Governor's Conference on Small Business. Governor Gary Locke (D) convened the day-long event with 400 representatives from Washington's small business community to give them the opportunity to recommend ways to strengthen the state's small business climate.

"I want to hear the ideas and aspirations of emerging business leaders who are on the front lines of economic growth and technological innovation," said Governor Locke during opening ceremonies. "And I want to forge a productive partnership between state government and the small business owners who play such an important part in the economic successes of our state."

Chris Crowley, co-owner of King and Crowley, a public affairs firm, and chair of the Governor's Small Business Improvement Council, presided over the conference as co-



Washington State Governor Gary Locke.

chair. "Small business growth is a critical component of the economic strength of our nation," said Crowley. "In Washington State, the importance of small business in

terms of job creation and revenue generation is paramount."

A goal of the conference is to prioritize issues and forward recommendations to the governor and the state legislature for consideration over the next two years. To facilitate this effort, a series of breakout sessions allows small business persons to provide input on specific critical small business areas: work force; international trade; the environment; technology; regulatory reform; infrastructure; taxation; and access to capital.

Participants in each of the issue sessions raised 180 concerns and identified priority action items. The small business owners voted on priority items and selected the 10 most important issues for consideration by the governor and state legislature.

The Small Business Improvement Council plans to track and work on the implementation of the

*Continued on page 9*

#### Minding the Store

Washington's Small Business Improvement Council will be following the progress of these recommendations submitted to Governor Locke.

- Government agencies need to talk more with small businesses affected by the agencies' actions; establish a "micro business" definition for firms with 10 or fewer employees and where the business is the primary source of income for the owner, and establish programs for these businesses; become more small-business-friendly; and recognize the differences between big businesses and small businesses.
- Clarify tax laws and waive penalties if business is trying to comply.
- Provide more community and vocational college technical training opportunities. Increase the emphasis on math and science in basic education (K-12).
- Agencies should not exceed legislative authority and agencies should notify businesses affected by a new regulation about the regulation.
- Raise the business and occupation (B&O) tax exemption to \$500,000. Base B&O tax on profits, rather than gross income.

## Bankruptcy Reform Bill Threatens Small Business Protections

“If at first you don’t succeed, try, try again,” is an apt maxim for America’s entrepreneurial economy. Many business owners do indeed fail at their first attempts at business. But these unsuccessful experiments are the fertile ground on which America’s successful businesses and industries are built.

A high rate of business formation and dissolution is characteristic of a dynamic economy: last year, U.S. business owners created a record 884,609 firms with employees — and filed 54,027 business-related bankruptcies. The flexibility in the system that allows for these changes — and the small business entrepreneurs who take advantage of it—are, in large part, the mechanisms that sustain economic growth. Unfortunately, a new “one-size-fits-all” bankruptcy reform proposal threatens that critical flexibility.

In an April 22 letter to Rep. Jerrold Nadler (D-N.Y.), member of the House Judiciary Committee, Chief Counsel for Advocacy Jere W. Glover responded to a request for comments on the proposed Bankruptcy Reform Act of 1998 (H.R. 3150), currently pending before the Subcommittee on Commercial and Administrative Law of the House Committee on the Judiciary. The chief counsel noted that the legislation as proposed would “make fundamental, expansive, and potentially detrimental changes to entrepreneurship by altering bankruptcy protections for small businesses seeking to reorganize under Chapter 11 of the U.S. Bankruptcy Code.”

Currently, small business owners may file for bankruptcy protection to reorganize their businesses under Chapter 11 (for commercial enter-

---

### The Bankruptcy Reform Act of 1998, now being considered by Congress, would bring substantial change to the way small businesses file for bankruptcy.

---

prises) or under Chapter 13 (for sole proprietors) of the U.S. Bankruptcy Code. With the Bankruptcy Reform Act of 1994, small business owners were given the option of reorganizing their business in an expedited manner under Chapter 11.

The most significant proposed change under H.R. 3150, according to Glover, is that the voluntary election of the small business provisions permitted under Chapter 11 would be made mandatory for all

businesses with aggregate liabilities of up to \$5 million regardless of the industry or economic factors. According to the National Bankruptcy Review Commission’s statistics, 85 percent of commercial bankruptcies under Chapter 11 would be forced to use the small business provisions. Small businesses would have to comply with much stricter timelines for filings and submissions of plans and mandatory filing of monthly financial reports and disclosure forms. In addition, the bill would make it more difficult to receive filing extensions and would establish entirely new and untested duties for the U.S. trustees.

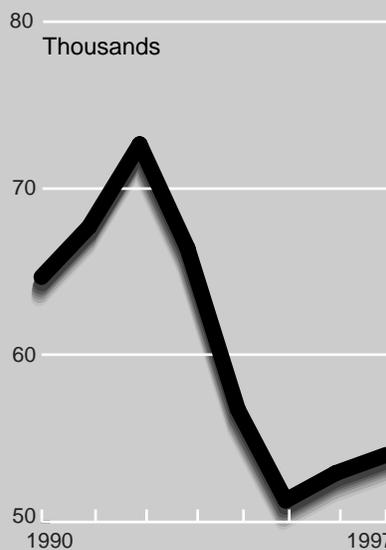
The 1994 amendments recognized that a “one-size-fits-all” Chapter 11 is not in the best interests of small business. Flexibility is needed not only with respect to the type of bankruptcy relief being sought but also based upon the different industries seeking bankruptcy protection and the different ways businesses operate in various regions of the country. Ignoring the wisdom of the 1994 amendments, H.R. 3150 would adopt a single definition for small businesses regardless of the complexity of the bankruptcy, the industry of the small business, or any regional economic factors. Moreover, it would eliminate vital judicial discretion now permitted by the U.S. Bankruptcy Code.

From experience with regulatory proposals, the chief counsel noted that blanket “one-size-fits-all” provisions typically do not target the specific problems that need to be addressed and usually have unforeseen consequences for small entities. In order to reduce the dispro-

*Continued on page 9*

### Closing Up Shop

Business bankruptcies, 1990–1997.



Source: Administrative Office of the U.S. Courts.

## Bankruptcy, from page 8

portional regulatory burden on small entities, Congress mandated under the Regulatory Flexibility Act that federal agencies prepare analyses on the potential regulatory and economic impacts on small entities.

"I believe that the same principle applied here could quantify and identify the precise problems of small business bankruptcy reorganizations and the appropriate measures to make Chapter 11 work more efficiently and effectively," stated Glover. "Any change in Chapter 11 will affect all small businesses, either as debtors or as unsecured creditors. A delicate balance must be maintained to ensure that each party receives fair and

equitable treatment, while not undermining entrepreneurship."

### For More Information

To see the full text of the chief counsel's letter to Rep. Nadler, go to the Office of Advocacy's Web site at <http://www.sba.gov/ADVO/>.

For more information about this issue, contact Gregory Dean, assistant chief counsel for banking and finance policy in the Office of Advocacy, at (202) 205-6951 or by e-mail at [greg.dean@sba.gov](mailto:greg.dean@sba.gov).

## Washington State, from page 7

top 10 recommendations adopted by the conference and provide a semi-annual report to conference attendees, the governor, and the legislature. The council was established by the Washington State legislature in 1984 and consists of 15 small business owners and ex-officio members from state agencies and business associations, and Andrew Munro, regional advocate for the U.S. Small Business Administration's Pacific Northwest Region.

"Partnerships and effective lines of communication between the public and private sectors are the keys to small business success," notes Munro. "The Governor's Conference and the Small Business Improvement Council are two important ways policymakers hear the large voice of the state's small business community."

Also a member of the council is Kay Hirai, a delegate to the 1995 White House Conference on Small Business and owner of Studio 904 hair salons.

"The 1998 Governor's Conference on Small Business provided a valuable forum for the exchange of information and ideas that will help guide future planning by state government," said Hirai.

Joe Dear, chief of staff to Gov. Locke, stated "I am pleased by the input from the small business community and look forward to working to improve the climate for our state's small businesses." Dear brings a strong familiarity with small business issues from his Washington experience as head of the Occupational Safety and Health Administration from 1993 to 1996. During that time, he worked closely with Chief Counsel Glover and the Office of Advocacy.

For more information about the Governor's Conference on Small Business, contact Andrew Munro at (206) 553-5231, or by e-mail at [andrew.munro@sba.gov](mailto:andrew.munro@sba.gov).

✓ *hold these dates:*

**December 9 and 10,  
1998, when the  
Office of Advocacy  
hosts**

## Vision 2000: The States and Small Business Conference

- ✓ Learn about programs and policies that foster small business development.
- ✓ Hear about "models of excellence" — the programs that have helped small business the most.

Hosted by the  
U.S. Chamber of Commerce  
in Washington, D.C.

*Sponsored by the U.S. Small  
Business Administration's  
Office of Advocacy.*

### GAO Report to Congress on SBIR Program: It's Just About Perfect

by Terry Bibbens

Since the inception of the Small Business Innovation Research (SBIR) program in 1982, through the end of fiscal year 1996, small high technology firms have submitted over 269,000 proposals resulting in more than 41,000 awards, worth approximately \$6.5 billion. And behind the impressive numbers are some very impressive innovations that small businesses have provided. So it came as no surprise when government and private-sector witnesses testified at an April 22 hearing before the House Committee on Small Business Subcommittee on Government Programs and Oversight that the program was healthy, on target, and in need of only minor changes.

Congress established the SBIR program to strengthen the role small businesses play in providing innovation through research and development (R&D) to the federal government. While the program is authorized through Sept. 30, 2000, Congress required the General Accounting Office (GAO) to report on SBIR. In their testimony, the GAO and others lauded the program.

Committee Chairman Roscoe G. Bartlett, Jr., (R-Md.) said, "The program draws upon the capabilities of small high-tech companies that as a group have shown an ability, unequalled by large businesses, to produce new products, processes, and technologies. With needed cash infusion, small businesses are able, where they otherwise might not be able, to contribute to this nation's leadership role in high-tech research and development. The program has created new jobs and has added to the federal and state tax bases."

As with previous GAO reports on the SBIR program (see "SBIR's

---

#### At an April 22 hearing before a House subcommittee, the federal Small Business Innovation Research (SBIR) program received favorable reviews.

---

14-Year Run: Tough Critics, Good Reviews," *The Small Business Advocate*, Sept. 1996), Susan D. Kladiwa, the GAO's associate director for energy, resources, and science issues, said that the findings were favorable, with some minor suggestions for improvement. The GAO report found:

- The companies responding to GAO and Department of Defense surveys reported that approximately 50 percent of their projects had

sales of products or services related to the research or received additional development funding after receiving SBIR funding.

- The number of multiple award winners grew from 10 companies in 1989 to 17 in 1996. The multiple-award recipients and non-multiple-award recipients commercialized their ideas at almost identical rates.

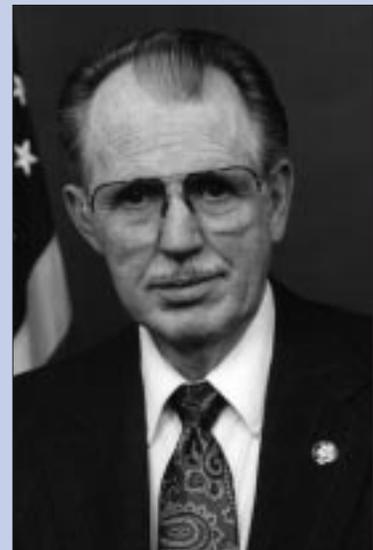
- The geographic distribution of the SBIR awards across the U.S. is related to the number of small high-tech firms in a state, its R&D resources, and venture capital.

While agencies are meeting their funding goals, the GAO recommended that the Small Business Administration provide guidance to participating agencies on how to calculate their extramural budgets. "This hearing is part of a continuing commitment to make sure the federal government gets its money's

#### Rep. Bartlett on the SBIR Program

"American researchers are the best in the world and our small businesses generate most new jobs and technology-innovative products," says Rep. Roscoe G. Bartlett, Jr. (R-Md.). "SBIR should be making sure that American workers and the American economy will get the benefits of federally-funded research advances by American scientists and engineers."

Dr. Bartlett, a highly regarded research scientist who holds some 20 patents for his invention of respiratory support and safety devices used by pilots, astronauts and rescue workers, chairs the Small Business Committee's Subcommittee on Government Programs and Oversight.



Rep. Roscoe G. Bartlett, Jr.

worth from Americans' hard-earned tax dollars," Rep. Bartlett said.

The committee also heard about small business successes and agencies' experiences with the program. Dr. Charles Kojabashian, president of the Massachusetts-based Foster-Miller, Inc., a multiple SBIR award winner, testified that his company's contributions as a result of SBIR awards include a balloon for NASA's Jet Propulsion Laboratory, made out of a special polymer film to carry instruments to explore the surface of Venus. The film is the only polymer that has the required strength and high temperature resistance required to survive the Venesian atmosphere.

Small businesses also are contributing to America's military needs, according to Susan E. Haley of the Defense Department's Office of Small and Disadvantaged Business Utilization. "The SBIR program . . . is a unique vehicle that enables [the Defense Department] to tap ideas and technologies developed by small technology companies," stated Haley, "[t]his program is making a major contribution to U.S. military strength."

Dr. Kesh Narayanan, director of the National Science Foundation's

(NSF) Industrial Innovation Program told the committee, "As we look back over the past two decades, we find that NSF has nurtured and grown a strong SBIR program. . . . [W]ith respect to private sector commercialization of technology, we find that the top 509 successful small business grantees (representing about 10 percent of all phase II grantees) account for \$2.7 billion sales and 10,000 jobs created. With NSF investment of \$350 million in the entire SBIR history, that translates to a seven-to-one return on investment! You can see that NSF has built a strong foundation for the SBIR program."

The National Institutes of Health (NIH) also enjoyed major SBIR success. Dr. Wendy Baldwin, deputy director for extramural research at NIH stated that "[NIH] has experienced the highest success rate among all federal agencies in commercializing the results of research conducted under the SBIR program. We expect the Small Business Technology Transfer (STTR) program to achieve similar results as it matures into the 21st century."

Rep. Glen Poshard (D-Ill.), ranking member of the subcommittee,

said, "Both the SBIR program and the STTR program are nurturing critical ventures that maximize the ideas of our leading researchers. I am proud of my role in creating STTR, which has built on the established success of SBIR by tapping into the vast resources of innovation that exist at our universities and non-profit institutions."

## For More Information

The GAO report to Congress that was issued in April, *Federal Research: Observations on the Small Business Innovation Research Program*, is available from GAO's Web site at <http://www.gao.gov> or by calling (301) 512-6000. Ask for document no. GAO/RCED-98-132.

For more information about the SBIR program, contact Dan Hill, Office of Technology, at (202) 205-6450, or Terry Bibbens, the Office of Advocacy's entrepreneur in residence, at (202) 205-6983. Or visit the SBIR Web site at <http://www.sba.gov/SBIR>.

## The SBIR Program: Phases Worth Going Through

The SBIR program, mandated by the Small Business Innovation Development Act of 1982, requires federal agencies with \$100 million or more of extramural research and development (R&D) obligations to set aside a certain percentage of these funds for small businesses. By law, the percentage of federal R&D contracts going to small firms increased to 2.5 percent in 1996. Ten federal agencies currently participate in the SBIR program: the Departments of Agriculture, Commerce, Defense,

Education, Health and Human Services, Transportation, Energy, and the Environmental Protection Agency, National Aeronautics and Space Administration, and National Science Foundation.

The program is designed to stimulate technological innovation and make greater use of small businesses in meeting national innovation needs. In the three-step SBIR process, small businesses can earn awards of up to \$100,000 for phase I and up to \$750,000 for phase II. Phase III looks to the pri-

vate sector for funding. Successful bidders can be awarded up to \$100,000 to perform a feasibility study as phase I. If the small firm and the federal agency then agree, the firm can be awarded a phase II contract or grant for actual R&D resulting in a model or prototype. In the third phase — commercialization — the small firm is encouraged to bring the innovation to market.

## Attention Researchers: Bids Sought for Small Business Studies

Congress recently approved the reprogramming of limited funds for economic research studies. The SBA's Office of Advocacy is soliciting proposals for applied research on a variety of small business topics (listed in the formal solicitation no. SBAHQ-98-R-0022):

- **Small business and access to health insurers, particularly HMOs.** Update information on the provisions, coverage, cost, and types of health insurance provided or offered to different categories of small firms.
- **Impact of changes in federal procurement on small business.** Identify what is being purchased from small firms by credit cards; who is doing the purchasing; how much is being spent; and what percentage of credit card purchases is going to large and small firms.
- **Cost of government regulations.** Assess progress made in reducing regulatory burden on small firms during the past five years.
- **Small business needs, access to and utilization of employee education and training programs.** Requires analysis of state education and training programs to evaluate their effectiveness in reaching small businesses.

- **Manpower shortages, needs and related issues in small business.**

Quantify available evidence of labor shortages within the small firm sector.

- **Impact of bankruptcy reforms on small business.** Analyze the proposed "small business bankruptcy statute," giving the pros and cons of changing the current regulations.

- **Growth of small business: trends and issues in rural America.**

Document, for different kinds of non-metropolitan areas, the strengths and weaknesses of non-metro small firms.

- **Impact of international monetary crises on small business.**

Assess the impact of the current crises on the small business sector, both nationally and in selected states.

- **Small business survival in competition with large multi-unit retail firms.** Assess the future for small firms in retail trade.

- **Impact of the business cycle on small business and possible buffers.** Examine the changing role of small business in mitigating business cycles.

Proposals may be prepared on any or all of the topics and must

not exceed 21 pages. Lengthier proposals will not be read. Proposals on topics not listed in the formal solicitation will only be considered if they are extremely relevant to public policy. The closing date for receipt of proposals will be on or about July 29, 1998. This acquisition is a 100-percent small business set-aside.

Completed research studies are due one year from the award-of-contract date.

### For More Information

Questions on requirements of this research solicitation or the evaluation and selection process may be addressed to Bruce D. Phillips, director of Advocacy's Office of Economic Research, (202) 205-6530.

Requests for copies of the formal solicitation, no. SBAHQ-98-R-0022, must be in writing; no telephone or fax requests will be honored. Write to Dionna Martin, U.S. Small Business Administration, Office of Procurement and Grants Management, 409 Third Street S.W., Suite 5000, Washington, DC 20416.

---

U.S. Small Business Administration  
Office of Advocacy  
Mail Code 3114  
409 Third Street S.W.  
Washington, DC 20416

Official Use  
Penalty for Private Use, \$300

*Return Service Requested*

FIRST CLASS  
POSTAGE AND FEES PAID  
U.S. Small Business Administration  
Permit No.G-82