

## APD Alert



# Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

## Background

The Office of the National Ombudsman (ONO), an office within the U. S. Small Business Administration (SBA), was created by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The law's provisions pertain to all small businesses that receive or are subject to any enforcement-related communication or contact by Federal agency personnel, including audits, on-site inspections, and agency compliance assistance.

Many Federal regulations are written with large corporations in mind. Small businesses without the human and financial resources of larger corporations often become impeded by regulations that make little sense when applied to small firms or that entail crippling rather than corrective penalties. Under these circumstances, the ONO can step in to help small businesses deal with Federal agencies for working out reasonable paths forward.

The National Ombudsman's mission is to assist small businesses when they experience excessive or unfair federal regulatory enforcement actions, such as repetitive audits or investigations, excessive fines, penalties, threats, retaliation or other unfair enforcement action by a federal agency.

## USDA Small Business Non-Retaliation Policy

The USDA Small Business Non-Retaliation Policy is published and can be accessed by USDA employees and small business entities at:  
[http://www.usda.gov/wps/portal/usda/usdahome?navid=SMALL\\_BUSI&parentnav=LAWS\\_REGS&navtype=RT](http://www.usda.gov/wps/portal/usda/usdahome?navid=SMALL_BUSI&parentnav=LAWS_REGS&navtype=RT).

## Statement of Rights

The following statement shall be included in the written notice of SBREFA rights to small business concerns when a citation or notice of regulatory violation is issued:

“In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act, the Small Business Administration has established a National Small Business and Agriculture

Regulatory Ombudsman to receive comments from small businesses about excessive or unfair federal regulatory enforcement actions. If a small business wishes to comment on the enforcement actions of the USDA Research, Education, and Economic Agencies , it may do so via the internet at [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman), email at [ombudsman@sba.gov](mailto:ombudsman@sba.gov), mail (Small Business Administration, Office of the National Ombudsman, 409 Third St. SW, Washington, D.C. 20416), or by calling 1-888-REG-FAIR.

PLEASE NOTE: The right to file comments with the Ombudsman is independent of the rights afforded every respondent, including the right to contest the assessment of a civil monetary penalty or permit sanction. If you wish to exercise any of your rights as a respondent, you must do so in accordance with the procedures described in 15 C.F.R. Part 904, and separately from any comments you may provide to the Ombudsman.”

## **Responsibilities**

### A. Contract Specialist/Contracting Officers (CS/CO)

1. Upon receipt of a comment (inquiry, request for assistance, citation or notice of regulatory violation), from a small business entity, determine whether or not the comment falls within the scope of SBREFA;
2. If determined to be within the scope of SBREFA, the CS/CO shall immediately forward the comment to the REE Small Business Coordinator and direct the small business to the Small Entity Compliance Guide located at <http://www.afm.ars.usda.gov/acquisitions/OSDBU-programs.htm>; and,
3. Be familiar with the USDA Small Business Non-Retaliation Policy and the Small Entity Compliance Guide.

### B. REE Small Business Coordinator

1. Provide responses to the ONO and/or Small Business Entity;
2. Ensure responses to a Small Business Entity include the Statement of Rights; and,
3. Track all Requests for Assistance (see Attachment).

## **APD Point of Contact**

USDA  
Research, Education, and Economics  
Agricultural Research Service  
Acquisition Programs and Oversight Branch  
Acquisition and Property Division  
George Washington Carver Center  
5601 Sunnyside Avenue, Mailstop 5118  
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