

USDA
Research, Education, and Economics
Agricultural Research Service

Small Entity Compliance Guide

Small Business Administration (SBA) Office of the National Ombudsman

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.

Informal Guidance/Request for Assistance

If a small business entity is unsure how to meet the requirements, or doesn’t fully understand the language, of a rule or relevant statute, it may submit in writing a request to the REE Small Business Coordinator at SmallBusinessCoordinator@ars.usda.gov for assistance. The REE Small Business Coordinator will work in conjunction with the ONO to formulate an appropriate response. REE will make every effort to respond within 30 days from the receipt of the request for assistance.

In accordance with Section 212 (a)(4)(B)of the SBREFA, the explanation:

1. shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and,
2. if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements, except

that, compliance with any procedures described does not establish compliance with the rule, or establish a presumption or inference of such compliance.

Complaints or Comments

The National Ombudsman receives comments from small business concerns and acts as a liaison between them and federal agencies. Comments received from small businesses, are forwarded to federal agencies for a high level review and federal agencies are requested to consider the fairness of their enforcement action.

A copy of the agency's response is sent to the small business owner by the Office of the National Ombudsman. In some cases, fines have been lowered or eliminated and decisions changed in favor of the small business owner.

A comment or complaint can be filed online at: <http://www.sba.gov/ombudsman/1816>.

Statement of Rights

REE written responses shall include the following statement 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, email at 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.”

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.

Contact Information

Office of the National Ombudsman

U.S. Small Business Administration

The Internet: (www.sba.gov/ombudsman)

E-mail: (Ombudsman@sba.gov)

Telephone: (202) 205-2417

Fax: (202) 481-5719

Mail: Small Business Administration

Office of the National Ombudsman

409 Third Street, SW, Washington, DC 20416

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

Beltsville, MD 20705

Phone: 301-504-1725

E-mail: REESmallBusinessCoordinator@ars.usda.gov

Resources

Office of the National Ombudsman and Assistant Administrator for Regulatory Enforcement

Fairness: <http://www.sba.gov/ombudsman>

Small Business Regulatory Enforcement Act (SBREFA):

<http://www.sba.gov/advocacy/825/12186>

USDA Small Business Non-Retaliation Policy:

http://www.usda.gov/wps/portal/usda/usdahome?navid=SMALL_BUSI&parentnav=LAWS_REGS&navtype=RT