

PAPERWORK REDUCTION ACT SUBMISSION
SUPPORTING STATEMENT
U.S. Small Business Administration
Form 1993 (~~Federal~~Federal Agency Comment Form)

A. JUSTIFICATION

1. Circumstances necessitating the collection of information

Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the applicable section of each statute and regulation that mandates or authorizes the collection of information.

The Small Business Regulatory Enforcement Fairness Act of 1996, 15 U.S.C. § 657, P.L. _____ 104-201, (SBREFA) established the Small Business & Agriculture Regulatory Enforcement Ombudsman, known as the National Ombudsman (ONO), in the U.S. Small Business Administration to receive comments from small entities, including small businesses, non-for-profits and certain units of government, on federal regulatory enforcement activities, including, but not limited to, environmental, health, safety, and taxation. The ONO uses substantiated comments from this form to evaluate and rate agency enforcement activities and responsiveness to small entities.

SBA has made ~~a one-minor~~ change to the current information collection and also added a few words of clarification to the instructions on how to complete the form. Specifically, the agency~~ies~~ has identified the particular statute and the cite reference for the provision governing submission of comments, including the disclosure and confidentiality of such comments; and made the use of the form clearer for small business concerns.

2. ~~H2.~~ How, by whom, and for what purpose information will be used:

Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

How: The information is used to identify properly commenting small entities, inform them of the effect of filing comments, allow them to choose a level of disclosure or confidentiality, identify the Federal agency involved and provide a written narrative on action that the small entity considers unfair.

By whom: The form will be used by small businesses and other small entities entitled under the Small Business Regulatory Fairness Board Act to comment to the ONO about the conduct of a particular Federal agency and what these entities consider unfair or excessive in an agency's conduct of regulatory enforcement toward the commenter.

Purpose: Provides the ONO the information it needs to provide an Agency response to the small entity on regulatory enforcement and compliance activities which, in their view, are excessive or unfair and to evaluate and rate Federal agencies on responsiveness.

3. Technological collection techniques

Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce the burden.

This form may be accessed through ONO's webpage, completed online and submitted via email by clicking on "submit" at the end of the form. The form can also be printed and submitted by facsimile or standard mail. Commenters may also request the form through an automated toll free number.

4. ~~A4.~~ Avoidance of Duplication

Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

The ONO is unique in Federal government. SBREFA requires the ONO to have established means for small entities to file comments directly with the ONO and provide them with an option to submit comments in confidence. The form is needed to accomplish the ONO's mission; no other form exists that could be used or modified to serve the purpose described in item 2 above.

5. ~~I5.~~ Impact on small businesses or other small entities

If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This information collection will not have a significant economic impact on small entities. In any event, the form requires the minimum of information needed by the ONO to identify the small entity commenting, communicate with the entity, identify the Federal agency involved, allow a small business to choose a level of disclosure or confidentiality for its comment, and authorize the ONO to review the enforcement or compliance activities commented on by the small entity. By making the form accessible by mail, FAX, and Internet, the ONO has made it easy to obtain. By allowing small entities to file comments by FAX, mail, or electronically, the ONO has made submission of the comments convenient.

6. ~~C6.~~ Consequences if collection of information is not conducted

Describe the consequence to the Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Without this form, the ONO cannot fulfill SBREFA's mandate.

7. ~~E7.~~ Existence of special circumstances

Explain any special circumstances that would cause an information collection to be conducted in a manner, requiring respondents to report information more than quarterly; prepare written responses in fewer than 30 days after receipt of the collection of information; submit more than an original and two copies of any document; retain records other than health, medical, tax, or government contract records for more than three years;— that has a pledge of confidentiality that is not supported by authority established by statute or regulation;— and to submit proprietary trade secrets or other confidential information unless the agency has demonstrated that the information will be protected to the extent permitted by law.

No special circumstances exist.

8. ~~S8.~~ Solicitation of Public Comment

If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Notice for public comment was published in the *Federal Register*, on September 18, 2006, at 71 FR 54703. No comments received.

9. ~~P9.~~ Payment of gifts

Explain any decision to provide any payment

No payment or gift of any kind will be given to the respondents.

10. ~~A10.~~ Assurance of Confidentiality

Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

A disclosure section appears on the form. Respondents are notified that pursuant to SBREFA they can keep their identifies confidential. The form also provides respondents with the option to keep their information confidential or allow disclosure. If a respondent does not make an election, ONO treats the information collected as confidential. Pursuant to SBREFA identities will be protected to the same extent as employee identities are protected under § 7 of the Inspector General Act of 1978.¹

11. ~~Q11.~~ Questions of a sensitive nature

Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the

¹ **Complaints by employees; disclosure or identity; reprisal.** The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation. § (b), 5 U.S. C.A. App. 3.

specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This form does not request any information that is sensitive in nature.

12. Estimate the hourly burden of the collection of information

Provide estimates of the hour burden of the collection of information, well as the hour cost burden. Indicate the number of respondents, frequency of response, annual hour and cost burden, and an explanation of how the burden was estimated.

Currently, the ONO receives about 400 comments annually with most entities filing one comment. The form and accompanying information take about 45 minutes to complete. Assuming an hourly compensation of \$50.00 for the 300 hours required to generate 400 comments to the ONO results in an annual cost approximately \$15,000.00 for all the respondents, or an average cost of \$37.50 each. Those who wish to submit multiple comments may duplicate the form and change the name of the Federal agency involved.

13. ~~E13.~~ Estimate the total annual cost burden for submission

Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. Do not include hour cost burden from above.

There are no additional costs to the respondents.

14. ~~A14.nn~~ Annualized Cost to the Federal Government

Provide estimates of annualized costs to the Federal Government. Also provide a description of the method used to estimate cost, including a quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

Based on the allocation of the ONO's staff time (for the intake processing and dissemination to Federal agencies of small entities' written comments – which are voluntary – monitoring agencies' responses, and preparing responses for small entities), ONO equipment and materials, the cost to process 400 comments accompanying this form is approximately \$34,000.00 or an average cost of \$85.00 per comment. This information gathering is a mandatory part of the ONO's statutory mission.

15. ~~E15.~~ Explanation of program changes in Items 13 or 14 on OMB Form 83-I

Explain reasons for any program changes or adjustments reported in Items 13 or 14 of the _ OMB Form 83-I

There have not been any changes.

16. ~~C16.~~ Collection of information whose results will be published:

For collection of information whose results will be published, outline plans for tabulation and publiaction. Address complex analytical techniques. Provide time schedules for the entire project.

SBREFA requires the ONO to report findings and recommendations annually to Congress, based on information it receives from respondents, subsequent substantiation efforts with the Federal agencies involved, enforcement and compliance analysis, and the Regulatory Fairness Boards' advice.

17. E17. Expiration date for collection of information

If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why the display would be inappropriate.

The SBA is not seeking a waiver of the requirement. ~~to display the expiration date.~~

18. E18. Exceptions to certification in block 19 on OMB Form 83-I

Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB Form 83-I

There are no exceptions.

B. - COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used.

Not applicable.