

SUPPORTING STATEMENT
U.S. Small Business Administration
PAPERWORK REDUCTION ACT SUBMISSIONS
SBA FORM 1993, 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, as amended, (SBREFA) established the Small Business & Agriculture Regulatory Enforcement Ombudsman, known as the National Ombudsman (ONO), in the U.S. Small Business Administration. (A copy of the pertinent legislation is attached). SBREFA requires ONO to work with the small business regulatory agencies to ensure that those small entities, including small businesses, non-for-profits and certain units of government that receive or are subject to an audit, onsite inspection, compliance assistance effort, or other enforcement type action by the regulatory agency, are provided a means to comment on the enforcement action by those agencies. ONO is also required to establish a means to receive comments on such enforcement activities, including, but not limited to, environmental, health, safety, and taxation actions. SBA Form 1993, Federal Agency Comment Form provides that mechanism.

2. 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.

Form 1993 is used by small businesses and other small entities entitled under the SBREFA to submit comments 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. The information is used by ONO to identify properly commenting small entities, as well as the Federal agency involved. It is also used as a basis for ONO's communication to the agency on the action that the small entity considers unfair. ONO ultimately evaluates the agency's responsiveness to the small entity's complaint.

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.

The form used for this information collection is available as a fillable PDF document on the ONO website (address is listed on the form) which can then be submitted online after completion. Commenters that encounter difficulty using this PDF version, or for other reason opt not to use it, can download the form from the same website and submit it by email, regular mail, (or fax) to the ONO address that is also provided on the form.

4. 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. Because of the nature of this information collection, there is no similar information already available to the Agency that would satisfy the purposes of the collection. SBREFA requires the ONO to establish means for small entities to file comments directly with the ONO. Each submission is situational and is based on the commenter's experience with a particular agency action.

5. 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. 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. In addition, by making the form readily accessible by mail, FAX, and Internet, and allowing submission through these same methods, ONO has made it easy and convenient for the commenters to provide the necessary information,

6. 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.

Failure to collect this information would adversely impact ONO's ability to fulfill SBREFA's mandate.

7. 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 to the agency more often than quarterly...

No special circumstances exist.

8. 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 record keeping, 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 December 14, 2012, at 74 FR 74544. The comment period ended on February 12, 2012; no comments were received.

9. Payment of gifts

Explain any decision to provide any payment or gift to respondents, other than re-enumeration of contractors or grantees.

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

10. 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 identity 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. 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 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.

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.

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:

The ONO receives about 350 comments annually with most entities filing one comment. The form and accompanying information take about 45 minutes to complete, resulting in an estimated annual hour burden of 262.5 hours. Assuming an hourly compensation of \$55.00 for the 262.5 hours required to generate the 350 comments to the ONO results in an annual cost of approximately \$14, 437.50 for all the respondents, or an average cost of \$41.25 each. Those who wish to submit multiple comments may duplicate the form and change the name of the Federal agency involved.

13. 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. Annualized Cost to the Federal Government

Provide estimates of annualized cost 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, monitoring agencies' responses, and preparing responses for small entities), ONO equipment and materials, the estimated cost to the agency for this collection of information is approximately \$40,000.00 or an average cost of \$114.29 per comment. This information gathering is a mandatory part of the ONO's statutory mission.

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

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

There has been a slight decrease in the number of comments received from small entities.

16. Collection of information whose results will be published.

For collection of information whose results will be published, outline plans for tabulation and publication. 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. However, the information collected will not be reported in any individually identifiable format.

17. Expiration date for collection of information

If seeking approval do 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 to not display the expiration date.

18. 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.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

N/A