

SMALL BUSINESS ADVOCACY IMPROVEMENTS ACT OF 2022

MARCH 7, 2022.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Ms. VELÁZQUEZ, from the Committee on Small Business,
submitted the following

R E P O R T

[To accompany H.R. 6454]

The Committee on Small Business, to whom was referred the bill
(H.R. 6454) to clarify the primary functions and duties of the Office
of Advocacy of the Small Business Administration, and for other
purposes, having considered the same, reports favorably thereon
without amendment and recommends that the bill do pass.

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I. PURPOSE AND BILL SUMMARY

The purpose of H.R. 6454, the “Small Business Advocacy Im-
provements Act of 2022,” is to make clear that the U.S. Small Busi-
ness Administration’s (SBA) Office of Advocacy has the authority

to examine international economic data, and represent small business interests in international discussions, particularly in trade negotiations.

II. BACKGROUND AND NEED FOR LEGISLATION

H.R. 6454 was introduced by Ranking Member Blaine Luetkemeyer (R–MO) and Representative Troy Carter (D–LA) on January 20, 2022.

Established in 1976, SBA’s Office of Advocacy (Advocacy) is the independent voice for small businesses within the federal government. Advocacy is also charged with overseeing the Regulatory Flexibility Act (RFA)¹ and is a source of small business statistics and research.² Advocacy’s creation was premised on the belief that small businesses need representation in the legislative, regulatory, and administrative processes of government that affect them and that good policy requires good information.³ Advocacy works to advance the views and concerns of small businesses before Congress, the White House, federal agencies, federal courts, and state policymakers.⁴

Every year, Advocacy reports to Congress and the Administration on agency compliance with the RFA and releases more than 20 research publications annually.⁵ Over the years, Advocacy’s responsibilities have expanded through the enactment of the Small Business Regulatory Enforcement Fairness Act of 1996⁶ and Trade Facilitation and Trade Enforcement Act of 2015.⁷

Since 2012, Advocacy has participated in a number of international regulatory cooperation and international trade initiatives that have impacted small businesses. Their ability to conduct outreach to small business sectors and examine the potential economic effects of agreements on small businesses can help level the playing field for small businesses, and in turn, open vast new markets for smaller firms.

III. HEARINGS

While multiple hearings have been held by the Committee over the past several years exploring the Office of Advocacy’s role in the representing the small business community, no specific hearings in the 117th Congress have been held to explore reforms to SBA’s Office of Advocacy.

IV. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session, with a quorum being present, on February 3, 2022, and ordered H.R. 6454 favorably reported to the House of Representatives. During the markup, no amendments were offered.

¹Pub. L. No. 96–354.

²About, The Small Business Administration Office of Advocacy, <https://advocacy.sba.gov/about/>.

³Small Business Administration Office of Advocacy, *Background Paper Office of Advocacy 2017–2020*, 20, (2021) <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/02/09101916/Background-Paper-Office-of-Advocacy-2017-2020-web.pdf>. [hereinafter “Advocacy Backgrounder”]

⁴About, The Small Business Administration Office of Advocacy, <https://advocacy.sba.gov/about/>.

⁵*Id.*

⁶Pub. L. No. 104–121.

⁷Pub. L. No. 114–125.

V. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee voted by voice vote to favorably report H.R. 6454 to the House at 10:49 A.M.

VI. SECTION-BY-SECTION FOR H.R. 6454

Section 1. Short title

This Act may be cited as the “Small Business Advocacy Improvements Act of 2022”.

Section 2. Amendment to primary functions and duties of the Office of Advocacy of the Small Business Administration

Subsection (a)—Primary Functions.

This subsection makes technical amendments to Section 202 of Public Law 94–305 (15 U.S.C. § 634b) and adds a requirement that the Office of Advocacy examine the role of American small businesses in the international economy.

Subsection (b)—Duties.

This subsection amends Section 203(a) of Public Law 94–305 (15 U.S.C. § 634c) to require the Office of Advocacy to represent the views and interests of American small businesses to foreign governments and international entities on any regulatory and trade initiatives.

VII. CONGRESSIONAL BUDGET COST ESTIMATE

The Committee has requested but not received a cost estimate from the Director of the Congressional Budget Office.

VIII. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, the Committee provides the following opinion and estimate with respect to new budget authority, entitlement authority, and tax expenditures. While the Committee has not received an estimate of new budget authority contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to Sec. 402 of the Congressional Budget Act of 1974, the Committee does not believe that there will be any additional costs attributable to this legislation. H.R. 6454 does not direct new spending, but instead reallocates funding independently authorized and appropriated.

IX. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in the H.R. 6454 are incorporated into the descriptive portions of this report.

X. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirements of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of H.R. 6454 is to make it easier for small business voices to be heard on the international stage.

XI. DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, no provision of H.R. 6454 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

XII. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee finds that the bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House of Representatives.

XIII. FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairwoman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

XV. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVI. CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Art. I, § 8, cl. 1 of the Constitution of the United States.

XVII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, as shown as follows: existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

ACT OF JUNE 4, 1976

(Public Law 94-305)

AN ACT To amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes.

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TITLE II—STUDY OF SMALL BUSINESS

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STUDY

SEC. 202. The primary functions of the Office of Advocacy shall be to—

(1) examine the role of small business in the American economy *and the international economy* and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) assess the effectiveness of existing Federal subsidy and assistance programs for small business and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) measure the direct costs and other effects of government regulation on small business; and make legislative and non-legislative proposals for eliminating excessive or unnecessary regulations of small businesses;

(4) determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) determine financial resource availability and to recommend methods for delivery of financial assistance to minority enterprises, including methods for securing equity capital, for generating markets for goods and services, for providing effective business education, more effective management and

technical assistance, and training, and for assistance in complying with Federal, State, and local law;

(7) evaluate the efforts of Federal agencies, business and industry to assist minority enterprises;

(8) make such other recommendations as may be appropriate to assist the development and strengthening of minority and other small business enterprises;

(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to **complete** *compete* effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures;

(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

(11) advise, cooperate with, and consult with, the Chairman of the Administrative Conference of the United States with respect to section 504(e) of title 5 of the United States Code; and

(12) evaluate the efforts of each department and agency of the United States, and of private industry, to assist small business concerns owned and controlled by veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)), and small business concerns owned and controlled by **service-disabled** *service-disabled* veterans, as defined in such section 3(q), and to provide statistical information on the utilization of such programs by such small business concerns, and to make appropriate recommendations to the Administrator of the Small Business Administration and to the Congress in order to promote the establishment and growth of those small business concerns.

DUTIES

SEC. 203.

(a) IN GENERAL.—The Office of Advocacy shall also perform the following duties on a continuing basis:

(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

(2) counsel small businesses on how to resolve questions and problems concerning the relationship of the small business to the Federal Government;

(3) develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies;

(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business;

(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services; **and**

(6) carry out the responsibilities of the Office of Advocacy under chapter 6 of title 5, United States Code[.]; and

(7) *represent the views and interests of small businesses before foreign governments and international entities for the purpose of contributing to regulatory and trade initiatives which may affect small businesses.*

(b) OUTREACH AND INPUT FROM SMALL BUSINESSES ON TRADE PROMOTION AUTHORITY.—

(1) DEFINITIONS.—In this subsection—

(A) the term “agency” has the meaning given the term in section 551 of title 5, United States Code;

(B) the term “Chief Counsel for Advocacy” means the Chief Counsel for Advocacy of the Small Business Administration;

(C) the term “covered trade agreement” means a trade agreement being negotiated pursuant to section 103(b) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Public Law 114–26; 19 U.S.C. 4202(b)); and

(D) the term “Working Group” means the Interagency Working Group convened under paragraph (2)(A).

(2) WORKING GROUP.—

(A) IN GENERAL.—Not later than 30 days after the date on which the President submits the notification required under section 105(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Public Law 114–26; 19 U.S.C. 4204(a)), the Chief Counsel for Advocacy shall convene an Interagency Working Group, which shall consist of an employee from each of the following agencies, as selected by the head of the agency or an official delegated by the head of the agency:

(i) The Office of the United States Trade Representative.

(ii) The Department of Commerce.

(iii) The Department of Agriculture.

(iv) Any other agency that the Chief Counsel for Advocacy, in consultation with the United States Trade Representative, determines to be relevant with respect to the subject of the covered trade agreement.

(B) VIEWS OF SMALL BUSINESSES.—Not later than 30 days after the date on which the Chief Counsel for Advocacy convenes the Working Group under subparagraph (A), the Chief Counsel for Advocacy shall identify a diverse group of small businesses, representatives of small businesses, or a combination thereof, to provide to the Working Group the views of small businesses in the manufacturing, services, and agriculture industries on the potential economic effects of the covered trade agreement.

(3) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date on which the Chief Counsel for Advocacy convenes the Working Group under paragraph (2)(A), the Chief Counsel for Advocacy shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Finance of the Senate and the Committee on Small Business and

the Committee on Ways and Means of the House of Representatives a report on the economic impacts of the covered trade agreement on small businesses, which shall—

(i) identify the most important priorities, opportunities, and challenges to various industries from the covered trade agreement;

(ii) assess the impact for new small businesses to start exporting, or increase their exports, to markets in countries that are parties to the covered trade agreement;

(iii) analyze the competitive position of industries likely to be significantly affected by the covered trade agreement;

(iv) identify—

(I) any State-owned enterprises in each country participating in negotiations for the covered trade agreement that could pose a threat to small businesses; and

(II) any steps to take to create a level playing field for those small businesses;

(v) identify any rule of an agency that should be modified to become compliant with the covered trade agreement; and

(vi) include an overview of the methodology used to develop the report, including the number of small business participants by industry, how those small businesses were selected, and any other factors that the Chief Counsel for Advocacy may determine appropriate.

(B) DELAYED SUBMISSION.—To ensure that negotiations for the covered trade agreement are not disrupted, the President may require that the Chief Counsel for Advocacy delay submission of the report under subparagraph (A) until after the negotiations for the covered trade agreement are concluded, provided that the delay allows the Chief Counsel for Advocacy to submit the report to Congress not later than 45 days before the Senate or the House of Representatives acts to approve or disapprove the covered trade agreement.

(C) AVOIDANCE OF DUPLICATION.—The Chief Counsel for Advocacy shall, to the extent practicable, coordinate the submission of the report under this paragraph with the United States International Trade Commission, the United States Trade Representative, other agencies, and trade advisory committees to avoid unnecessary duplication of reporting requirements.

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