An Overview of the Small Business Advocacy Review Panel Process

William Nickerson, Acting Small Business Advocacy Review Chair (SBAC)
Panel Outreach Meeting, June 15, 2016

Office of the Administrator
Office of Policy
Office of Regulatory Policy and Management
http://www.epa.gov/op/orpm.html

Today's Topics

- What is a Small Business Advocacy Review (SBAR) Panel?
- Your role as a Small Entity Representative (SER)
- The difference between an SBAR Panel and a proposed regulation

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What is an SBAR Panel?

- A Panel consists of representatives from the:
  - Agency authoring the regulation (i.e., EPA)
  - OMB's Office of Information and Regulatory Affairs (OIRA)
  - SBA's Office of Advocacy
- The Regulatory Flexibility Act (RFA) instructs the Panel to:
  - Review "any material the agency has prepared" related to the development of the regulation
  - Collect advice and recommendations from SERs
  - Prepare a report within 60 days of the Panel convening

See Title 5, section 609(b)(3)-(5), of the *United States Code* (USC). This is also known as section 609(b)(3)-(5) of the Regulatory Flexibility Act (RFA).

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What is an SBAR Panel? (cont'd.)

- The types of materials the Panel will review and on which you, the SERs, will provide advice and recommendations are specified by law
- Section 609(b)(4) of the RFA states that "the panel shall review any material the agency has prepared…on issues related to":
  - "a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply" (Sec. 603(b)(3))
  - "a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record" (Sec. 603(b)(4))
  - "an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule" (Sec. 603(b)(5))
  - "a description of any significant alternatives to the proposed rule which accomplish the stated objective of applicable statutes and which minimize any significant economic impact …on small entities" (Sec. 603(c))

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Your role as a SER

- EPA values this SBAR Panel process because it provides us with important small entity perspectives and information
- Your verbal and written input is considered and valued by the Panel as the Panel develops the Panel report
- Copies of your written comments will be appended to the Panel Report and a chapter in the Panel report will summarize them.
- The Panel will consider the comments you provide to us, but the findings that ultimately appear in the report are those of the Panel members: EPA, OMB, and SBA
- The Administrator will carefully consider the input we gather from the SERs and the Panel members, but is not legally bound to adopt the recommendations of the Panel

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The difference between an SBAR Panel and a proposed regulation

- SBAR Panel
  - Reviews materials related to:
    - the impacts of the regulation on small entities
    - Federal rules which may intersect with this proposed regulation
    - Alternatives to the regulation that may minimize small entity impacts
  - EPA uses the Panel report to inform our decision-making about the forthcoming proposed regulation
- Proposed regulation
  - Fully formed regulatory proposal or set of regulatory alternatives
  - You will have an opportunity to comment on the proposal, just like any other public citizen

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Thank You

- Participation is voluntary and we appreciate the time and energy you put towards this rulemaking.
- Thank you - we know it is, and has been, an intense resource commitment.
- Contact my staff:
  - Nathaniel Jutras, RFA/SBREFA staff contact
    EPA Office of Policy
    202-564-0301
    Jutras.Nathaniel@epa.gov
  - Lanelle Wiggins, RFA/SBREFA Team Leader
    EPA Office of Policy
    202-566-2372
    Wiggins.Lanelle@epa.gov

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