



October 23, 2007

Mr. Jason Dick, Managing Editor, AM Edition
CongressDaily
National Journal Group, Inc
600 New Hampshire Ave, NW
Washington, DC 20037

Letters to the Editor

Dear Mr. Dick:

On behalf of the National Small Business Association (NSBA) and Small Business Technology Council (SBTC), we would like respond to your October 23 article, "Firms Wary of Venture Capital Rule" by Anna Edney. This article is heavily slanted in providing only the arguments from the biotechnology industry, and fails to fully comprehend the aim of the Small Business Innovation and Research (SBIR) program.

Last Thursday, the Senate Small Business and Entrepreneurship Committee held a roundtable discussion about the SBIR program—and a wide-range of interested parties were involved, including SBTC and NSBA. Had the reporter in question attended the roundtable, she would have realized that it was not a meeting between Sen. Kerry and the Biotechnology Industry Organization (BIO), and perhaps gained a better understanding of the issue. The article goes on to erroneously report that "small biotechnology firms were kicked out" of the SBIR program four years ago. In reality, four years ago SBA discovered that a large-business' affiliated small-firm was taking advantage of a small-business R&D set-aside through the SBIR program. SBA defines a small business as "independently owned and operated," and at that point clarified that even R&D small-business set-asides MUST go to true small businesses.

Ms. Edney failed to do any analysis on the claim patient-groups made that the current rule is causing "work on life-saving and life-enhancing technology [to be] postponed." What she missed is that ALL of the NIH funding applications involve some form of potentially life-saving research—the only question is which of them get funded. Furthermore, in a letter sent to SBA on the matter, some small biotech companies are critical of VC's preference for "blockbuster" medications, and the lack of VC interest in medications for "orphan diseases" (too few consumers), vaccinations (patients take the medication only once) and bioterrorism defenses (lack of broad-based clientele as primary customer tends to be the federal government). Given this, diverting funds from the SBIR program for large VCs would lead to fewer, not more, medical and scientific breakthroughs.

The article uses BIO's data that SBIR applications within the National Institutes of Health (NIH) have dropped, but fails to note that in recent years, as GAO has fully documented, the agency far exceeded the SBIR program guidelines on award sizes. Awards as large as \$6 million were made in a program that is supposed to have a cap of \$750,000, limiting the number of truly small companies able to bid on such large projects.

Perhaps the biggest error in this article is the factually-incorrect description of the current rule. Contrary to what the article proclaimed, VCs with 500 or fewer employees were NOT excluded from the SBIR Program after 2003. In reality, independently-owned VCs with fewer than 500 employees, including affiliates, can own up to 100 percent of a SBIR company. VCs with more than 500 employees are still allowed to participate by controlling up to 49 percent of a SBIR company. The claim that "...SBA ruled that companies 51 percent owned by private investors were not eligible to apply for grants during early

phases of research,” is also incorrect. SBA has made no ruling regarding the percentage of companies that may be owned by private investors. Most small companies are owned by private investors.

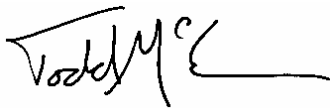
Instead of doing the proper research into NIH’s position, the article paints NIH Director Elias Zerhouni as critical of SBIR’s requirements. The actual text of Dr. Zerhouni’s two-page letter calls for all “applicable small business affiliation standards” to be observed in making SBIR awards—on this important question, Dr. Zerhouni agrees with the position taken by SBTC, NSBA and SBA.

In describing the House-passed Small Business Investment Expansion Act (H.R. 3567), this article leaves out the fact that ALL federal small business programs—not just SBIR—would be significantly and negatively impacted under the proposed law. Title V of H.R. 3567 would enable a federally-certified small business to be owned by multiple VC firms so long as no firm owned a majority of the company. Given the media attention to the problem of large companies getting federal contracting dollars intended for small-business set-asides, one would think this kind of sweeping-change would garner more scrutiny than was given in this article.

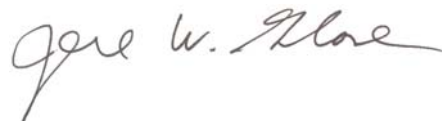
Not once did Ms. Edney attempt to examine how the language in Title V of H.R. 3567—a change biotech and VCs have been clamoring for—would upend any program or regulation that is bound by SBA’s small-business definition. Such broad implications are why the bill was opposed by the Bush Administration, NSBA, SBTC and other prominent, large and small business groups.

We implore you to take a more careful and balanced look at this issue and provide the high-level of integrity people are accustomed to with CongressDaily.

Sincerely,



Todd McCracken
National Small Business Association



Jere Glover
Small Business Technology Council

cc: Richard H.P. Sia, Senior Editor