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Proposals in Congress to Renew SBIR Signals Changes to Program Set Up in 1982

Return of companies majority-owned by venture capital firms, hedge funds, or private equity firms among key amendments.

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This past year Congress needed eight stopgap “continuing resolution” (CR) spending bills before the Senate and House of Representatives could craft a federal budget for the fiscal year that ended September 30. Already in the current 2012 fiscal year, one CR is in place through November 18 pending adoption of a budget.

Embarrassing as all that sounds, Congressional leaders have had to craft three years of temporary spending fixes for one small component of that budget that has helped startups in the life sciences and other technology fields transform their innovations into successful businesses. The Small Business Innovation Research (SBIR) program subsists on the same roughly \$2 billion annual budget as it had when its authorization ended with the 2008 fiscal year.

The program’s authorization is set to expire on November 18. House and Senate leaders are reportedly in talks to reauthorize SBIR and come to terms on how much the program can spend and how. “Progress has been made and the situation is still very fluid,” Wendy Knox, a spokeswoman for Rep. Sam Graves (R-MO), chairman of the House Committee on Small Business, told GEN.

History of SBIR

SBIR was established in 1982 along with its companion Small Business Technology Transfer (STTR) program. SBIR requires federal agencies with extramural R&D budgets that exceed \$100 million to set aside 2.5% of their R&D budget to the program.

SBIR includes 11 Federal agencies, and each sets its own program and funding guidelines: NIH, CDC, and FDA, for example, award phase 1 grants of up to \$150,000 covering six month’s total costs and phase 2 grants of up to \$1 million covering one year’s costs. The Department of Defense typically limits awards to \$100,000 in phase 1 and \$750,000 in phase 2. The program includes a phase 3 commercialization stage, for which SBIR awards no funds.

House Version

Rep. Renee Ellmers (R-NC), chairwoman of the House Small Business Subcommittee on

Healthcare and Technology, introduced the Creating Jobs Through Small Business Innovation Act (HR 1425). Maximum award guidelines would be raised for all agencies to \$250,000 for phase 1 and up to \$1 million for phase 2 and would have to increase annually based on inflation.

Perhaps most importantly, the House would allow NIH and NSF, as well as NASA and the energy department, to award up to 45% of their SBIR funds to small businesses majority-owned by multiple venture capital firms, hedge funds, or private equity firms. All other federal agencies could set aside up to 35% of their funds to such businesses. At present, VC-backed companies can access SBIR funds as long as venture firms own up to 49% of a small business; majority VC-owned businesses are not considered “small” businesses, according to the US Small Business Administration.

The House also would allow businesses to pursue phase 2 funds directly as well as divert 3% of SBIR funding to NIH administrative use. The latter change would effectively wipe out about 200 grants a year, according to the Small Biotechnology Business Coalition, which opposes the bill.

Also, the House bill blocks businesses from receiving funding if the aggregate amount it has already amounts to more than 50% of the amount received by businesses, or more than 50% of the number of such awards given out by that agency, during the previous fiscal year in the state with the median total of SBIR funding.

That limit, and the removal of the phase 1 requirement, are among reasons why HR 1425 has drawn fire from a bipartisan quartet that said proposed changes would force agencies to approve less-than-best proposals once top companies exhausted their limit. They also predict that it would lower the quality of the technologies funded since phase 1 SBIR companies must prove the feasibility of their innovations.

“The government’s return on investment under SBIR comes from developing feasible concepts. Without the proving ground of phase 1, the program will likely produce less commercialized products, and will risk wasting taxpayer money,” the four members of Congress noted.

Senate's Guidelines

The Senate’s SBIR reauthorization measure (S.493) was introduced in March by Sens. Mary Landrieu (D-LA) and Olympia Snowe (R-ME). It would reauthorize SBIR through FY 2019, compared with three years for HR 1425. The senate version is similar, however, to the House bill in raising guidelines for the phase 1 maximum award to \$150,000 and the phase 2 award to \$1 million.

S.493 would also raise the percentage agencies would have to set aside for SBIR by an additional 0.1% each year from FY 2014 through FY 2023, when 3.5% would be required; the House bill maintains the current percentage.

Like the House, though, but at different levels, the Senate would allow a percentage of SBIR funds to be awarded to businesses majority-owned by investment companies: 25% of SBIR funds from NIH, DOE, and NSF and 15% for all other agencies. Finally, the Senate would not permit companies where more than half the investors are from overseas; the House has no such limit.

Enhancing access to capital for more small businesses in biotech and other fields is a worthy

goal but one that is negated in part by some provisions in the reauthorization bills. Diverting even some existing funds toward administrative costs doesn't square away with SBIR's promise.

While Congress works to sort out the details to reauthorize SBIR, all should agree that SBIR is important enough to merit a reauthorization well beyond three years: at least the eight offered by the Senate, if not the nine-year periods of earlier authorizations.

Program proponents have numbers on their side: SBIR winners have gone on to receive 77,000 patents, generate 800 corporate acquisitions, and create 1.5 million jobs. With numbers like these, SBIR comes close to being the best \$2 billion Washington spends each year.

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