



A council of the National Small Business Association



AMERICA'S SMALL BUSINESS ADVOCATE

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June 30, 2011

The Honorable Sam Graves
Chairman
House Committee on Small Business
1415 Longworth House Office Building
Washington, D.C. 20515

Subject: HR 1425

Dear Chairman Graves,

The Small Business Technology Council was happy to see that the House of Representatives has recently taken action to extend the Small Business Innovation Research program temporarily until September 30, 2011. We are grateful for the leadership that you demonstrated in ensuring that a continuing resolution was passed that was long enough to give both the Senate and the House enough time to work out their differences and come to an acceptable compromise in the coming months. We are also appreciative that, as Chairman, you continue to make the reauthorization of this important small business program a priority, despite the difficulties and legislative gridlock that have stalled the reauthorization process over the last few years. As stated in our testimony before your Committee, we appreciate your support of the small business community as the principal job creators of our nation's economy.

While we applaud your continued efforts to pass an SBIR reauthorization bill, our membership has some serious concerns about some of the proposed changes to this program that the House Bill, HR 1425, proposes. We believe that the proposed changes could seriously and detrimentally alter the character of the SBIR program, dramatically changing a program that has been nearly universally praised as a model of a successful government innovation program. Most of the concerns are with items that are holdovers from the previous proposed legislation from the past Congress and we appreciate that they may not reflect your priorities – we have flagged these with an asterisk (*). Some of the areas of concern from HR 1425 are:

SEC. 101 Extension of Termination Dates (*). This section would extend the program only 3 years, to 2014. This is less time than one cycle of solicitation, and about as long as Congress has currently been working on reauthorization. It is simply too short an extension period, and would lead us right back to where we are now in three short years without an opportunity for you to evaluate the changes proposed.

SEC. 105 Phase Flexibility (*). Allowing Federal Agencies to arbitrarily bypass Phase I and award large Phase II projects to companies could have a devastating effect on technology quality and in reducing the number of awards given out by the SBIR program. The larger entry awards could lead to very advanced technologies to use the SBIR

program as a sort of commercialization assistance program, a role currently reserved for post-SBIR investments. The Phase I requirement was originally included in the SBIR program to ensure that the company could demonstrate its technology's proof of concept in a competitive environment. This requirement also acts as a safeguard against fraud, waste, and abuse, because it prevents Agencies from wasting millions of dollars on unproven technologies. The SBIR program has been so successful largely because of the requirement for companies to prove the viability of their proposed concepts in the small Phase I awards – this has been copied by other countries. This concept was first suggested to Roland Tibbetts by DuPont research when he was first conceiving the SBIR program: all high-risk research projects sound good at the proposal phase, but prudent financial management requires cutting off funds to weak performers. Opening up the SBIR Program to later stage technology also injects the possibility that larger companies would engage in lobbying government officials, public relations efforts and use of former government officials to influence decision making of government officials. This is a radical change and eliminates safeguards the founders of the program put into the SBIR Program to prevent abuse and prevent non-scientific, non-merit based decisions.

SEC. 106 Participation of VC Owned Firms (*). This section increases the percentage of VC owned firms allowed to participate in the program from 25% and 15% in the Senate bill to 45% and 35%. It also allows hedge funds and private equity firms to participate in the program. The 25% and 15% figures included in the Senate reauthorization bill were the result of months of negotiations by the major organizations representing the stakeholders involved in this program. Allowing as much as 45% of an Agency's SBIR program to be awarded to large VC firms would edge out far too many small businesses, potentially halving the number of independent small businesses taking part in the program. The affiliation provisions in the Senate bill were carefully drafted with SBA involvement to prevent unintended expansion of VC participation in the Program.

No Language Prohibiting Foreign-Owned Firms From Participation. HR 1425 removed language from the Senate reauthorization bill (S 493) that would have prohibited foreign-owned businesses from participating in the SBIR program. The SBIR program was designed from the very beginning to be open only to companies that are owned and incorporated in the US, and the Senate language will strengthen the restrictions on foreign participation, as well as define the criteria for determining whether a business is foreign owned or not. It is important to make sure this program is restricted to American-owned companies, and to ensure that American taxpayer dollars are not going overseas to foreign investors.

SEC. 505 Ensuring Equity in SBIR and STTR awards to Individual Companies (the Velázquez Amendment). This proposed change would take the SBIR program away from being a science- and merit-based competitive program awarding small businesses with the best technology. This rule would punish the most successful small businesses, and would force Agencies to pick the 2nd or 3rd best technology in some cases simply because the best technology was developed by a company with too many awards. We do not currently exclude large companies from competing for government business because they have been too successful, and should not start doing this for small businesses. It would also bolster the argument by some critics that the SBIR program is a “hand-out” program designed to prop up mediocre companies, instead of the competitive, successful

innovation program that it has proven to be. Our research shows that the companies with the largest number of SBIR awards that would be affected by this amendment are primarily DOD contractors wherein DOD uses the SBIR program to successfully quickly transition advanced technologies to our fighting forces. It is our opinion that DOD would be negatively affected by this amendment. We would expect the DOD and the Armed Services Committees to have concerns that this provision would deny the warfighter the best technology from small businesses.

No SBIR Allocation Increase (*). HR 1425 does not include the allocation increase that was part of the Senate reauthorization bill, S. 493. Without this increase in allocation to balance against the increase in award size limits and bypassing Phase I, the number of SBIR awards given out could plummet as the average award size rises. Our testimony to your Committee included data that demonstrates that the SBIR program is orders of magnitude more productive than all other Federal R&D programs – the taxpayers gain with an increase in allocation.

We urge you to reexamine these areas of concern in HR 1425, and introduce a manager's amendment that would eliminate the above proposed changes to the SBIR program. This is a program that has been cited as the most productive federal research program for nearly 30 years, and has earned praise by small businesses, Congress, Federal Agencies, the GAO, and in multiple National Academies of Science and National Research Council studies. There is simply no reason to alter this program as dramatically as the holdover sections of HR 1425 seeks to do. Please reconsider this bill, and help preserve the nature and character of the SBIR program.

Thank you again for your continued support for the nation's small businesses. If you have any questions, we stand ready to provide any assistance we can.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jere W. Glover". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Jere W. Glover
Executive Director
Small Business Technology Council