



July 16, 2012

Members of the United States Congress
U.S. Capitol
Washington DC, 20001

An open letter to Congress signed by over 500 small businesses and organizations:

Last winter Democrats and Republicans in Congress came together to pass the SBIR/STTR reauthorization legislation in the 2011 Defense Authorization Act. You recognized the value the Small Business Innovation Program (SBIR) has in creating new technologies and high-tech American jobs, and you bridged differences to create a compromise bill that was accepted by all parties. As the most successful federal research and development program in America, the SBIR program awards over two and a half billion dollars to U.S. small businesses, and awards made under the program account for 25% of key innovations in America, on just 2.5% of the Federal R&D budget – a truly productive investment of tax dollars in the U. S. economy.

Unfortunately, the SBA has proposed rule changes to the SBIR and STTR programs that go far beyond Congressional intent and threaten the careful compromise bill that was crafted by Congress. We, the undersigned 500+ small businesses and organizations, urge you to intervene to correct the defects in the SBA's proposed size regulatory changes to the SBIR/STTR Program.

One egregious defect in SBA's proposed rule changes would eliminate the restriction against foreign ownership of SBIR firms, thereby allowing foreign-owned companies to compete for SBIR awards. This change has the potential of sending hundreds of millions of American taxpayer dollars to businesses overseas. Products developed and manufactured by foreign firms with U.S. tax dollars are likely to benefit their own countries, to the detriment of American businesses. Secondly, allowing large businesses to own or control SBIR firms through the relaxation of the affiliation rules will divert money intended to go to small business innovation to large business. This change could result in consortiums of large businesses edging small businesses out of the program. In addition, the SBA should not have applied this regulation to the STTR program, when it was not called for by Congress.

Opening SBIR to foreign-owned businesses:

SBA's proposed rule changes depart from established law and regulations, which for over 30 years have required a small business SBIR applicant to be at least 51% owned by American citizens or permanent resident alien to be eligible for Federal SBIR funding. Despite the fact that eligibility requirements were reaffirmed in the SBIR reauthorization legislation, the SBA has ignored Congress and has proposed changing the long-standing eligibility requirements for the entire SBIR and STTR programs. These regulations run counter to the Congressional intent of the SBIR provisions in the 2011 Defense Authorization Act, which states that the SBIR program is "... a program for small business concerns in the United States by prohibiting large businesses or large entities or foreign-owned entities from participation in the program..."

No safeguards exist in the regulations against foreign ownership. One example: there is no provision in the regulations requiring venture capital companies to disclose the ownership of its investor groups even though the new law required SBA to prevent foreign owned venture capital firms from participating in the SBIR/STTR program. The SBA regulation should demand that venture capital firms prove, not merely certify, that they meet the 51% owned by US citizens rule.

Opening up this highly successful program to foreign-owned businesses would not only lead to hundreds of millions of SBIR/STTR dollars being sent overseas, but also it could lead to technology paid for and supported by U.S. taxpayers transferred to other countries for commercialization, manufacturing and job creation. Moreover, given the fact that many SBIR programs contain sensitive and cutting edge technology, it would greatly increase risk of military sensitive technologies being shared or transitioned to unfriendly nations.

Relaxing Affiliation Rules for Large Firms:

Equally as egregious as the foreign ownership provisions, SBA's proposal relaxes its affiliation rules only for SBIR/STTR, but not for other SBA programs. No longer will SBA look at stock ownership but instead SBA will look at control of the board of directors, a factor that is easily manipulated by anyone wishing to hide their control of a business. This change would allow a large firm to own 49% or even two large firms to own 98% of a business and still be eligible to participate in the SBIR program if they did not control the board. This unwarranted change reversed 50 years of SBA rules and practice. SBA is proposing to relax its rules designed to measure whether an SBIR applicant is in fact independently owned and operated. This creates another loophole that expands eligibility beyond Congressional intent. For over 50 years SBA has had regulations requiring that businesses be "independently owned and operated." SBA now proposes to eliminate the ownership requirements.

We are deeply concerned that the SBA would depart from its statutory position as a small business advocate and propose such rules. These changes are not required by law and go against 30 years of practice. Large firms and universities already receive 97% of Federal extramural R&D funding, SBA's proposed regulations would open up the remaining 3% allocated to American small business to large companies and foreign ownership and control, contrary to Congressional intent. The proposed rule changes will divert scarce R&D dollars from true American-owned small businesses, will eliminate jobs in the United States, and shift manufacturing of products developed with Federal R&D money overseas. We urge you to take action quickly and correct these problems to ensure that the SBIR program continues to spur small business growth and innovation, as one of the most successful programs in the Federal government.

Similar letters sent to President Obama, SBA Administrator Karen Mills and the SBA docket.

Sincerely,



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This letter is endorsed and cosigned by the following Small Business organizations:

National Small Business Association
Smaller Business Association of New England
New England Innovation Alliance
Save SBIR
Small Business California
Independent Business Association of Washington State
Small Business Association of Michigan
Bay Area Innovation Alliance
Arizona Small Business Association

Please see attached pages to view the list of over 500 small business signatories.

Small Business Signatories

The following list of 569 small business owners, entrepreneurs, scientists, engineers, and other interested parties agree with the positions stated in this letter and have asked to have their names included as signatories

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