



House Passes SBIR Reauthorization Bill -- Could be Bad News for Small Business

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The U.S. House of Representatives this week approved Small Business Innovation Research (SBIR) reauthorization legislation. Approved 368-43, The SBIR/STTR Reauthorization Act (H.R. 5819) whizzed through three committees and onto the House floor in the span of one week, after being introduced April 16 by House Committee on Small Business Chairwoman Nydia Velázquez and two co-sponsors.

While SBTC and NSBA expressed grave concerns with the specifics of the legislation, it urged lawmakers to approve the overall package, as it is imperative that the program soon be reauthorized. With a looming Sept. 30, 2008 expiration date, agencies could stop funding new SBIR research and development if the program is not reauthorized soon.

While the reauthorization of the program in the House is good news, the bad news is the final bill that was passed. H.R. 5819 is deeply flawed and frequently at odds with the best interests of America's small-business community. It creates a system of public subsidies for the venture capital industry, including large venture capital companies that should have no place in a small business program.

Most significantly, the bill removes critical large-business participation restrictions from the SBIR program, all but eliminating "small business" from the Small Business Innovation Research program. While Section 201 of H.R. 5819 would continue to prohibit larger venture capital (VC) firms from owning a controlling interest in an SBIR awardee business, it would allow two or more VC firms (syndicates) to own the entire firm. Such syndicates easily could assume de facto control over SBIR companies through joint ownership, control or operation agreements or third party control of multiple VCs.

By eliminating the U.S. Small Business Administration's affiliation rule, Section 201 of H.R. 5819 also would prohibit the SBA from classifying any VC company as a large business as long as the firm had fewer than 500 employees—no matter how many "small" businesses the VC firm controlled. This raises the specter of a competition for funding between actual small businesses and "small businesses" owned by a VC syndicate that controls 1,000 small companies, employees 100,000 people, and generates billions in revenue.

Another highly problematic provision in the bill would allow companies to bypass the Phase I, "proof of concept" stage of SBIR and apply directly for Phase II awards. Without the transparent and juried competition required for Phase I awards, companies would be able to simply lobby agencies for the \$2.2 million Phase II development awards, leaving the program vulnerable to influence-peddling and abuse.

The bill also triples the allowable award sizes for each phase of the program, from \$100,000 to \$300,000 for Phase I projects and from \$750,000 to \$2.2 million for Phase II projects. While SBTC and NSBA support increasing allowable award sizes, H.R. 5819 — as it was passed—did not contain a commensurate increase in the program’s set aside. Although the original bill would have increased the SBIR set-aside from 2.5 percent of federal research and development to 3 percent, this increase was stripped from the bill by an amendment offered by Rep. Vernon Ehlers (R-Mich.). Conservative estimates indicate that tripling the award sizes but not increasing the overall set-aside likely would lead to a purging of more than half of the companies currently in SBIR.

Rep. Peter Welch (D-Vermont) heroically offered two amendments that would have addressed the provisions allowing the bypassing of Phase I and the tripling of award sizes. Unfortunately, Velázquez strongly opposed the amendments and urged her colleagues to do the same; and Welch eventually was forced to withdraw them.

He did manage to solicit a pledge from Velázquez to support a National Institute for Standards and Technology study of whether the bill disadvantages small firms and to work together to ensure that small firms are not underrepresented in agencies’ distribution of SBIR awards. Concerns that small businesses might be underrepresented in a small-business program ought to serve as a clear indicator that something is wrong.

The reauthorization battle now turns to the Senate. SBTC and NSBA will continue to fight to keep “small business” in the Small Business Innovation Research program, and will rely on ongoing grassroots efforts through future SBIR Action Alerts and updates.

Please take a moment to tell your Senators how this issue impacts you.

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