

**Congress of the United States**  
**Washington, DC 20515**

September 25, 2009

The Honorable Ike Skelton  
Chairman  
House Armed Services Committee  
2120 Rayburn House Office Building  
Washington, DC 20515

The Honorable Buck McKeon  
Ranking Member  
House Armed Services Committee  
2340 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Skelton and Ranking Member McKeon:

The Fiscal Year (FY) 2010 Defense Authorization legislation is critical to the modernization and strengthening of our nation's military. As the House and Senate continue negotiating this bill, however, we wanted to make you aware that section 833, section 834, and Division F of the legislation (H.R. 2647, engrossed amendment as agreed to by Senate) fall squarely within our respective Committee's jurisdiction as defined in House Rule X. As a result, we object to their inclusion in the final conference report. Below, we discuss each of these provisions in further detail.

*Section 833*

This provision extends both the SBIR and STTR programs through September 30, 2023. If included in the final conference report, this section would create significant statutory inconsistencies and complex implementation issues. The SBIR and STTR programs are currently operated on a government-wide basis, have common statutory authority, and operate on a level playing field. Permitting the Department of Defense program to be authorized for a longer period than other agencies' programs would disrupt this shared foundation and create confusion among small firms using the program. By putting agencies' respective SBIR/STTR programs out of cycle with each other, the evolution of these initiatives will slow, as Congress would review these programs less often.

With regard to implementation, the sole extension of the Department of Defense SBIR and STTR programs would create substantial challenges. As you are aware, the SBIR program permits agencies to jointly fund projects. Interagency projects, such as those between the Department of Defense and the Department of Energy, currently operate under time frames that are consistent with the reauthorization period. By making these reauthorization periods dissimilar, such interagency SBIR projects would likely be curtailed.

In addition to the likely reduction in the use of interagency projects, the disparate authorization periods could cause financial harm to small firms. For instance, a Phase II award could be issued under an interagency project agreement and, at the end of the fiscal year, the SBIR program for one of the agencies could expire while the other remains in force. Such an occurrence could cause significant financial harm to small businesses that had already committed these funds for capital expenditures, but were now left with less than the full award.

#### *Section 834*

This provision expands the commercialization pilot program (CPP), which is currently only used for SBIR, to the STTR program. In addition, it makes this pilot program permanent. The program was created in 2006 as a three-year pilot program. It was established as a pilot so that it could be fully evaluated and assessed. To this end, the enacting law requires the Secretary of Defense to submit an evaluation of the CPP annually to Congress. This report has not been received and is due for FY 2009. Making this program permanent before the final evaluative report is submitted to Congress and can be reviewed would be an abdication by Congress of its oversight responsibilities.

Finally, expanding the CPP to the STTR program is not an appropriate use of taxpayer funds. The SBIR and STTR programs vary dramatically, as the STTR program draws on the resources of America's universities and non-profit research laboratories. Given the access to these resources in the STTR program, this change would effectively deprive SBIR companies of the funding they require to bring their products to market.

#### *Division F*

Division F, sections 5001 through 5404, is identical to S. 1233, the Senate's SBIR/STTR reauthorization legislation. This legislation makes comprehensive and broad changes to the SBIR and STTR programs and in many key areas is dramatically different from the House passed SBIR/STTR legislation, H.R. 2965, which passed the House in July by a vote of 386 to 41. Given the breadth of S. 1233 and the differences with H.R. 2965, we firmly believe that the proper course of action is to conference these bills on their own and outside of the Department of Defense reauthorization process.

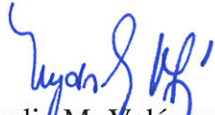
#### *Summary*

Given the recent House passage of legislation to comprehensively reauthorize SBIR/STTR, it is unnecessary and inappropriate for the Committee on Armed Services to include any provisions related to the SBIR and STTR programs in the FY 2010 Defense Authorization legislation. We ask that you omit these provisions from the final conference report.

Finally, we would like to note that such patchwork amendments are controversial because they would forestall the comprehensive reform of the SBIR and STTR programs that is long overdue and currently in progress. Last reauthorized nine years ago, these programs desperately need to be modernized and reformed. Since that time, the program has failed to keep up with changes in the economy and with new technologies. As a result, the inclusion of changes to the SBIR and STTR programs in the Defense Authorization legislation would incur substantial opposition from policymakers and program participants.

We look forward to the completion of the Defense Authorization legislation and support your work in strengthening our country's military capabilities. If you need any additional information pertaining to this matter, please do not hesitate to contact us.

Sincerely,




Nydia M. Velázquez  
Chairwoman  
Committee on Small Business



Sam Graves  
Ranking Member  
Committee on Small Business



David Wu  
Chairman  
Subcommittee on Technology and Innovation  
Committee on Science and Technology



Adrian Smith  
Ranking Member  
Subcommittee on Technology and Innovation  
Committee on Science and Technology

cc:

Speaker of the House, the Honorable Nancy Pelosi  
Majority Leader, U.S House of Representatives, the Honorable Steny Hoyer  
Republican Leader, U.S House of Representatives, the Honorable John Boehner  
Majority Leader, U.S. Senate, the Honorable Harry Reid  
Minority Leader, U.S. Senate, the Honorable Mitch McConnell  
Chairman, Senate Armed Services Committee, the Honorable Carl Levin  
Ranking Member, Senate Armed Services Committee, the Honorable John McCain