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United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

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March 5, 2013

Charles Hagel
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Hagel:

Under the National Defense Authorization Act of 2012 (2012 NDAA), the Senate Committee on Small Business and Entrepreneurship and the Senate Committee on Armed Services included provisions to accelerate the transition of technologies under the SBIR and STTR programs to Phase III. The objectives of these provisions are to maximize the government's R&D investments, to stimulate economic growth, and to create jobs.

With these objectives in mind, Congress included targeted provisions in the 2012 NDAA that required agencies and departments to establish goals and reporting requirements for DoD departments, DoD Program Managers and Program Executive Officers, and DoD Prime Contractors. The relevant sections are 5108, 5122, 5125, and 5138. We need benchmarks and goals to know where we are now and where we should aim in order to maximize those investments made in promising, cost-effective technologies. As Chair of the Senate Committee on Small Business and Entrepreneurship, I ask for information on those actions that your Department has taken to comply with the following directives. We ask that the Departments of the Army, Navy, Air Force, and DARPA provide individual responses to each of these questions:

Section 5108 (4), SBIR and STTR Special Acquisition Preference: This section of 2012 NDAA states that Federal agencies and prime contractors shall issue Phase III awards to the SBIR and STTR award recipients who developed the technology.

1. Has the Department put in place a tracking system to determine how many Phase III awards have been issued? If yes, please explain. If not, when will this be accomplished?
2. Are your contracting officers aware of the SBIR/STTR policy directives that authorize sole source contracts for technologies that are an outgrowth of an SBIR/STTR project? If not, why not and how will the contracting officers be trained?

Sections 5122 (6) (A-C), Goal for SBIR and STTR Technology Insertion:

Establish a Goal (6) (A): This subsection requires the Secretary of Defense to set a goal to increase the number of Phase II SBIR and STTR contracts that transition into programs of record or fielded systems.

3. Has the Secretary established such a goal? If so, what is the goal and has it been implemented? If not, why not and when will the goal be issued?

Establish Incentives to Meet a Goal (6) (B): This subsection requires the Secretary to use or to create incentives that were put into effect on the date of enactment of the 2011 SBIR/STTR Reauthorization Act to encourage agency program managers and prime contractors to meet the goal of increasing the number of successful Phase II contracts that transition to Phase III contracts.

4. Has the Secretary of Defense used or created incentives to meet the goals for program managers and prime contractors? What are the incentives and how are they tracked? If not, why not and when will the incentives be established and implemented?

Data on Transition (6) (C) (i): This subsection calls for the Secretary to submit to the SBA Administrator the number and percentage of Phase II SBIR and STTR contracts that have led to the transition into programs of record or fielded systems.

5. Has the Secretary submitted the numbers and percentage to the SBA Administrator? If so, please provide us what was sent. If not, why not and when will that information be reported?

Reporting (6) (C) (ii): This subsection calls for the Secretary to provide to the Administrator information on the status of each project that received funding through the Commercialization Readiness Program, as well as information on the efforts to transition those projects into programs of record or fielded systems.

6. Has the Secretary submitted this information to the Administrator? If so, please provide us what was sent. If not, why not and when will the information be submitted?

Effectiveness of Incentives (6) (C) (iii): This subsection requires the Secretary to submit to the Administrator a description of each incentive (see question 4 above) that has been used by the Secretary and the effectiveness of that incentive in meeting the mandated goal (see question 3 above).

7. Has the Secretary reported on the incentives used to promote the transition of SBIR/STTR technologies into programs of record or fielded systems, as well as evaluated the effectiveness of each incentive in accomplishing this objective? If not, why not and when will the DoD start evaluating and reporting on the effectiveness of the incentives?

Section 5125, Clarifying the Definition of "Phase III": This subsection clarifies the definition of "Phase III." Specifically, Phase III contracts shall be awards for work that derive from or complete the efforts made under prior funding agreements. Moreover, commercialization completed in Phase III shall go toward the production and delivery of products, processes, technologies, or services for sale to or use by the Federal government or commercial markets.

8. Does the DoD have in place a system to confirm that contracting officers are aware of this clarification and know how to apply it? If yes, please explain. If not, why not?

Section 5138, Technology Insertion Reporting Requirements: This subsection states that the Department must provide the following information to the Small Business Administration, to be included in its annual report to Congress: (1) the name of the agency/component of the DoD or the non-Federal source of funding for the Phase III award; (2) the name of the small business concern or individual receiving the Phase III award; and (3) the dollar amount of the Phase III award.

9. Has the Department provided all three informational components to the Small Business Administration?

In addition to the questions above, we request that your Department detail when the Defense Federal Acquisitions Regulations will be amended to incorporate NDAA's SBIR-related provisions.

The Senate Committee on Small Business and Entrepreneurship plans to have a roundtable or hearing within the next six months to discuss the implementation of the six-year SBIR/STTR reauthorization. The transition of SBIR/STTR Phase II projects to Phase III projects will be an important part of the meeting. The answers to these questions will help us prepare for that hearing. Please send us responses by Monday, April 1st.

Sincerely,



Mary Landrieu
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