

# Congress of the United States

Washington, DC 20510

May 15, 2006

The Honorable Kenneth J. Krieg  
Under Secretary of Defense  
for Acquisition, Technology, and Logistics  
3000 Defense Pentagon  
Washington, DC 20301-3000

Re: Section 252 of the National Defense Authorization Act for  
FY2007 - Congressional Guidance and Status Reporting Request

Dear Under Secretary Krieg:

As leaders of the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business, we write concerning the critical issue of developing and transitioning new technologies through the Small Business Innovation Research Program by the Department of Defense (DOD) and its four component military Departments. The DOD spends approximately \$1.1 billion a year on SBIR Phase I and Phase II competitive, merit-based awards given directly to small innovative firms. These research investments, in turn, were commercialized through approximately half a billion dollars in DOD SBIR Phase III prime contracts as well as in subcontracts on major defense acquisition systems. Technological projects fostered by the DOD from invention to commercialization have made our Nation more secure by providing our warfighters with unmanned aerial vehicles (UAV), training simulators for operations involving urban combat and improvised explosive devices (IEDs), submarine components, and language translation aids, to name a few.

We would like to hold a meeting between your staff and the staffs of the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business by June 16, 2006 to receive the Department's written status report concerning implementation of Section 252 of the National Defense Authorization Act for Fiscal Year 2006. We are particularly interested in the following questions:

- (1) How the DOD plans to implement the new requirement in Section 252(a) for research focus of its SBIR and STTR programs?
- (2) How the DOD and each military department plan to involve acquisition program managers and program executive offices in SBIR/STTR topic selection and management and to ensure that SBIR/STTR is integrated into the DOD's mission and its acquisition framework, as contemplated in Section 252(a), SBIR Commercialization Pilot Program, and Section 252(c), inclusion of testing and evaluation work as part of SBIR/STTR commercialization activity?
- (3) How the DOD's and each military department's acquisition program managers and program executive officers will plan for post-SBIR/STTR funding, through the Program Objective Memoranda and other vehicles, to utilize SBIR/STTR technology

resources in their acquisition process, as contemplated by Section 252(a), SBIR Commercialization Pilot Program?

- (4) How the DOD and each military department will plan for and implement the SBIR Commercialization Pilot Program, and specifically what processes these military services and defense agencies will develop and implement to ensure identification of optimal SBIR/STTR Phase I - II projects for accelerated transition through this Pilot Program?
- (5) What acquisition incentives and activities will the DOD and each military department be deploying to accelerate the transition of SBIR/STTR technologies into the acquisition process through this Pilot Program?
- (6) What specific reporting requirements do the DOD and each military department intend to impose on acquisition program managers, program executive officers, and prime contractors as part of the annual evaluative report to Congress contemplated by Section 252(a)?
- (7) How will the DOD and each military department implement Executive Order 3329, *Encouraging Innovation In Manufacturing*, codified into law as part of Section 252(b)?

In answering these questions, we ask that you follow the following Congressional guidance on Section 252. First and foremost, this Section addresses the need for a strategic, DOD-wide review of the SBIR and the STTR programs (conducted not less than quadrennially) based on the latest research, science, and technology plans of the DOD. The review should address the research priorities of the DOD (taking into account the warfighters' needs), tie these priorities with the ongoing or anticipated acquisition programs, and also address the commercialization, manufacturing, and testing and evaluation of technologies funded through the SBIR and the STTR. The strategic review process envisioned by this provision is also intended to guard the SBIR/STTR programs at the DOD against merely serving as a funding supplement to advanced acquisition programs which are suffering from low levels of technological maturity. We expect that the quadrennial SBIR/STTR review document will be promptly shared with our committees.

With regard to incentives called for in Section 252, proceedings before the National Academies of Sciences pursuant to the Congressionally-mandated SBIR study highlighted at least four types of such incentives which the DOD must pursue: (a) educational and business development assistance to SBIR firms, uniquely focused on encouraging early focus on commercialization in Federal and dual-use markets; (b) outreach and advocacy with large prime contractors, as well as defense acquisition and program management officials; (c) legal and contractual incentives ranging from clauses and bonuses to large prime contractors that integrate SBIR technologies, to mentor-protégé arrangements for the benefit of SBIR firms, to dedication of specific acquisition dollars for integrating SBIR technologies into major defense systems; and (d) performance incentives to acquisition and program management personnel for developing and executing rapid commercialization of SBIR technologies through government contracts and subcontracts. We also wish to emphasize the especially crucial role that SBIR data rights protection, both at the prime contracting and the subcontracting levels, plays in incentivizing SBIR participation. The SBIR Policy Directive is clear that data rights protection is the obligation of each agency participating in the SBIR program. We ask that the DOD consider issuing binding directives, contract clauses, or regulatory amendments through the Defense Federal Acquisition Regulation Supplement

(DFARS) to facilitate the requisite incentives.

With regards to the evaluative report contemplated by Section 252(a), Congress intended that it would address incentives and activities undertaken by the program managers, program executive officers, and prime contractors to advance rapid commercialization of SBIR technologies. By requiring reporting on the number of small business concerns assisted (including dollars awarded towards SBIR technologies) and the number of SBIR technologies commercialized, Congress intended that the Pilot Program be extended as broadly as possible. Finally, we are specifically interested in the emphasis that the DOD intends to place on hi-tech manufacturing as part of the SBIR Commercialization Pilot Program created in Section 252(a).

In dispersing the responsibility for the Commercialization Pilot Program between the Secretary of Defense and the Secretaries of the Army, the Air Force, and the Navy, Congress intended to create a competition among the various defense agencies and the Armed Services for a more effective SBIR commercialization approach. However, as the Under Secretary of Defense for Acquisition, Technology and Logistics, you will be expected to provide the strategic direction and leadership on this important legislation to ensure that SBIR/STTR-funded technology is inserted into the DOD's and each military department's acquisition process as quickly and successfully as possible. We look forward to working with you on the successful implementation of Section 252.

Should you have any questions, please contact Max Kidalov of the Senate Committee on Small Business and Entrepreneurship at 202-224-8495, Nigel Stephens of the Senate Committee on Small Business and Entrepreneurship or Nelson Crowther of the House Committee on Small Business at 202-225-9777.

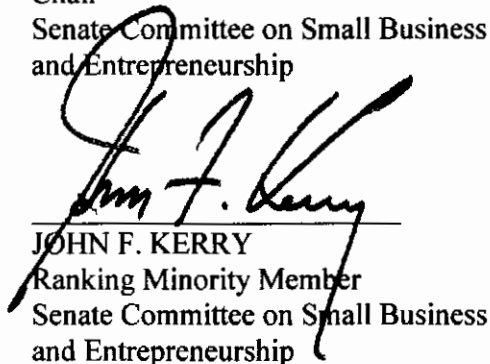
Sincerely,



OLYMPIA J. SNOWE  
Chair  
Senate Committee on Small Business  
and Entrepreneurship



DONALD MANZULLO  
Chairman  
House Committee on Small Business



JOHN F. KERRY  
Ranking Minority Member  
Senate Committee on Small Business  
and Entrepreneurship

cc: Frank Ramos, Director, Small Business Programs, Office of the Secretary of Defense