

ALERT

Rep. Thornberry Proposes to Enhance VC-Owned Companies' Access to SBIR Awards

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WHAT: Rep. Mac Thornberry (R-TX), Ranking Member of the House Armed Services Committee, released a new proposal for a pilot program designed to remove barriers to obtaining venture capital for participants of Small Business Innovation Research (SBIR) program, called the *Accelerating Defense Innovation Act*. The focus of the pilot is to encourage the Department of Defense (DOD) to increase its use of waivers where potential SBIR participants are otherwise barred from the program because they have over 50% venture capital (VC) ownership. Although lacking in detail, the proposal also requires the U.S. Small Business Administration (SBA) to issue regulations making it easier for VC-owned SBIR firms to participate.

WHEN: The proposal was offered for inclusion in the FY2020 National Defense Authorization Act (NDAA).

WHAT DOES IT MEAN FOR INDUSTRY: As discussed in our Government Contracts SBIR Series, to be eligible for an SBIR award, the firm must be at least 50% owned directly or indirectly (through no more than one corporate layer) by citizens or permanent resident aliens of the United States (i.e., by actual people). If the firm receives venture capital funding through an investment vehicle that involves multiple corporate entities, the firm may not meet this requirement. In 2013, Congress changed the SBIR rules to provide an exception that would allow companies that are majority-owned by venture capital or private equity firms to be eligible for SBIR awards. But, the exception requires the use of special authority, written determinations by the agency, congressional notification, and Small Business Administration approval. According to Rep. Thornberry, the exception has never been invoked by DOD in the seven years since the rules were

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changed. If included in the FY2020 NDAA, Rep. Thornberry's proposed changes would purportedly make it easier for DOD to use the exception for VC-owned firms and, ultimately, enhance DOD's access to innovative technology already being recognized with investments from the commercial market.