

United States Senate

WASHINGTON, DC 20510

November 4, 2003

The Honorable Hector V. Barreto
Small Business Administration
409 Third Street, SW
Washington, DC 20416

Dear Administrator Barreto:

There is a major problem, which the Small Business Administration (SBA) has created, for start-up biotechnology companies with venture capital backing. The recent changes in the SBA's interpretation of the eligibility standards for Small Business Innovation Research (SBIR) grants now disqualify many of these companies from receiving SBIR grants. We urge you to restore their eligibility for SBIR grants in order to avoid stifling innovation.

As you know, the SBA provides start-up funding to small businesses in a variety of ways. One program is the SBIR program, where a specific percentage of all federal research and development grant monies are reserved for small business applicants. These funds provide critical "seed" money to new business innovators.

Currently, the SBA regulations require that, to be eligible for a grant, a small company must be at least 51 percent owned by one or more individuals. Recently, the SBA has interpreted "individuals" to mean only natural persons, resulting in the disqualification of companies with venture capital backing from the SBIR program.

Without question, our nation's biotechnology industry relies on the SBIR program to fund early-stage companies. In addition, venture capital plays a vital role in the financial support of the very companies the SBIR program has been designed to benefit. However, this interpretation will prevent the most innovative small companies from participating in the program because the SBA erroneously concluded that a biotech firm with a majority of venture capital backing is a large business. Contrary to the SBA's conclusion, venture capital firms solely invest in biotech start-ups for the possibility of a future innovation and financial return and generally do not seek to take control over the management functions or day-to-day operations of the company. Venture capital firms that seek to invest in small biotech business do not, simply by their investment, turn a small business into a large business.

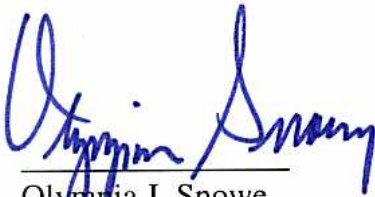
While we urge you to restore the eligibility of small biotech firms, which are backed by venture capital investments, for SBIR awards, we do not want the SBA to create a situation where truly large corporations can improperly and unfairly use and manipulate venture capital companies as a means to obtain SBIR awards that they would otherwise be ineligible to receive. Accordingly, we believe that in reversing the currently erroneous interpretation, the SBA must ensure that any new interpretation does not create an unintended loophole that would

disadvantage small businesses and inappropriately benefit large businesses. We expect that the SBA will take steps to safeguard against this unintended consequence by considering mechanisms such as requiring small business applicants to certify to the SBA that the day-to-day operations are not conducted by venture capital firms.


As the world's leader in biotechnology, this country has benefitted greatly from the SBIR program, which has been an essential component for commercialization and economic development. In addition, when Congress first enacted the SBIR program, it clearly recognized the relationship between venture capital and the SBIR program, and it expressly intended to encourage and strengthen that important connection.

Once again, we urge you to restore the eligibility for SBIR grants to venture-backed biotechnology start-up companies. We must work together to help secure a sustainable and beneficial future in the biotech industry.


Sincerely,



Olympia J. Snowe



Christopher S. Bond



Robert F. Bennett