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BIO's big gamble

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The Biotechnology Industry Organization is pushing hard to force the US government to change the rules on certain grants for biotechs. Not everybody views this as a wise pursuit.

The Biotechnology Industry Organization (BIO) in Washington, DC has a beef with the US Small Business Administration (SBA). Specifically, BIO feels that the SBA's Small Business Innovation Research (SBIR) grant rules are onerous for biotech startups. After many months of trying, BIO finally convinced the SBA to reconsider its interpretation of the grant eligibility rules imposed on biotech startups, which stipulates at present that firms that are majority-owned by venture capital (VC) groups are not eligible for SBIR grants. Throughout the month, the SBA is meeting with stakeholders around the country to hear the advantages and disadvantages of loosening the rules.

JADE Research Corporation

John Davis, general manager of the SBIR Resource Center, is against tinkering with controversial SBIR grant rules.

In an effort to cover all bases, BIO also convinced Congress to take action on SBIR grant rules. On June 16, bills were introduced in the House and Senate that call for the SBA to ease up on companies that are majority-owned by VC groups. There is, of course, no guarantee that these bills will be voted into law, or that the SBA will, in the end, change the rules of SBIR grant eligibility. Then again, if this latest effort to change the way the SBA goes about grant-making fails, nobody can blame BIO for lack of effort.

Long cherished by startups because it provides validating, nondilutive money, the SBIR program was created in 1982 long before it was clear that investors, not the government, would be providing the biotech industry with the critical financing needed to commercialize research and create jobs.

Over the years, SBIR grants have helped myriad biotech startups achieve the milestones venture capitalists typically require before investing in startups. The vast majority of biotech startups receive their SBIR grants through the National Institutes of Health (NIH). By all accounts, these grants helped forge a rather unique bond between the NIH and the biotech industry that has proved mutually beneficial over the years. In 2001, and more definitively in 2003, however, the SBA essentially decided that some firms are more deserving of these grants than others. Specifically, the SBA decided that companies that are majority-owned by VC groups have plenty of access to funds and, therefore, should not be allowed to dip into the SBIR program, which was created to help the needy. Biotechs that are now excluded argue that "needy" is a relative term.

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The ruling was a reinterpretation of a long-standing rule that eligible companies must be at least 51% owned by "individuals" — a term that had until then been interpreted to include VCs. The reinterpretation was meant to level the playing field among technology firms in search of the money and imprimatur that come with an SBIR grant. The idea was to prevent well-backed companies from gaining an unfair advantage in the application process over those firms that have little or no backing.

Not everybody feels that a change in SBIR rules is required, or even wise. And some are not keen on BIO's push, for example, to have the SBA view investments by venture capitalists as no different than those of individual investors. Skeptics fret that companies with venture capitalist backers have a clear advantage over those that do not at a time when early-stage startups are struggling to secure financing.

"A VC [venture capitalist] can buy into a company and plop down $50,000 to write a proposal," says Rick Shindell, president of Zyn systems, a consultancy that manages the SBIR Gateway. (Zyn works with federal technology transfer, and other commercialization and advocacy matters, but it does not apply for SBIR grants.) That's a lot of money to an entrepreneur with no backers. "There's no way a [small company] can compete with that."

> “Not everybody feels that an SBIR rules change is required, or even wise.”

John Davis agrees. "If you start making fundamental changes like this, I think you're inviting disaster," says Davis, general manager of the SBIR Resource Center.

Davis has a unique vantage point in this matter because through his company, which provides consulting services and software packages designed to assist with preparing SBIR applications, he has come to know which companies succeed in their SBIR quest and which ones fall short. If, indeed, the competition for SBIR grants is only fair with the VC clause in place—a point that is hard to prove—Davis, Shindell and others feel that it won't remain so if the SBA decides to loosen the rules.

Far fetched as it sounds, Davis says there is a third way. Because biotech startups require so very much cash relative to other technology startups, why not create a separate and unique SBIR program just for biotechs? "I think the SBIR program would be very willing to help lobby for that if [BIO and Congress] will leave the (existing) SBIR program alone," Davis says.

Would BIO consider pushing for such a program? Morrie Ruffin, vice president of business development and emerging companies at BIO, is not enthusiastic. "I think that's making it more complicated than it needs to be," Ruffin says.

Perhaps. But, considering BIO's track record on this SBIR issue—BIO has been thwarted in the past—and the fact that Davis knows the SBA well, Ruffin and BIO dismiss the third way at their own peril.

Web links

Websites referenced:

- BIO
- SBIR Resource Center
- SBIR Gateway