



March 7, 2014

Mr. Javier Saade
Associate Administrator
Office of Investment and Innovation
US Small Business Administration
409 3rd St, SW Ste 6300
Washington, DC 20416

Dear Mr. Saade,

The National Institutes of Health recently released a list of SBIR topics that have been granted exemptions by the SBA from statutory award size limits of \$225,000 for Phase I and \$1,500,000 for Phase II. In total, there were 284 topics that were granted exemptions across 21 institutes. The SBTC is concerned that, rather than targeted exemptions for a handful of specific topics, the SBA has instead granted a blanket exemption to statutory award size limits that covers a wide swath of topics and will no doubt consist of a large percentage of the NIH SBIR program.

Pursuant to 15 USC 638(aa), which covers size limitations for SBIR award, the Administrator may grant a waiver from award size restrictions for a period of one fiscal year, provided that an agency submits an application for a waiver of a **specific topic** and the administrator is persuaded that two conditions are met:

“(4) Waiver for specific topic

Upon the receipt of an application from a Federal agency, the Administrator may grant a waiver from the requirement under paragraph (1) with respect to a **specific topic** (but not for the agency as a whole) for a fiscal year if the Administrator determines, based on the information contained in the application from the agency, that—

- (A) the requirement under paragraph (1) (*award size restrictions*) will interfere with the ability of the agency to fulfill its research mission through the SBIR program or the STTR program; and
- (B) the agency will minimize, to the maximum extent possible, the number of awards that do not satisfy the requirement under paragraph (1) (*award size restrictions*) to preserve the nature and intent of the SBIR program and the STTR program.”¹

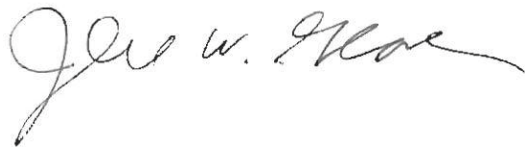
¹ 15 USC 638(aa)(4) Waiver for Specific Topic

The Small Business Technology Council requests that the SBA provide the applications that the various institutes at the NIH submitted for each of the topics that were granted an exemption, as well as the justification for issuing waivers for all 284 topics.

In addition, 15 USC 638(aa)(2) requires all participating agencies to maintain certain information on all awards that exceed statutory limits, including "a justification for exceeding the guidelines for each award". We further request that for any awards made by the NIH that exceed \$225,000 for Phase I and \$1,500,000 for Phase II, specific justification for exceeding these limits be made public.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jere W. Glover". The signature is written in black ink and is positioned above the typed name and title.

Jere W. Glover
Executive Director
Small Business Technology Council
jereglover@brandlawgroup.com

Cc: Pravina Raghavan, SBA
Edsel Brown, SBA