



**“SBA Programs Spurring Innovation”
Testimony before the Committee on Small Business
United States House of Representatives
116th Congress**

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BACKGROUND

Chairwoman Velázquez, Ranking Member Chabot and Members of the Committee, thank you for the opportunity to testify here today and for your efforts in supporting the Small Business Innovation Research (SBIR) Program.

My name is Alison Brown, and I am the CEO and Founder of NAVSYS Corporation, a small business located in Monument, Colorado. NAVSYS has been developing innovative positioning, navigation and timing solutions for the government and private sector since 1986. Much of our success has been from technology we developed with funding through the SBIR program. As an example, an early device we developed for use on Air Force radiosondes through an SBIR contract transitioned into the first emergency cell phone location system, deployed in Colorado in 1995. I am proud to say that this unit, [LocaterNet](#), is now on display at the Smithsonian National Air and Space museum and the LocaterNet system was instrumental in establishing the FCC mandated E-911 standards that are in place today which have resulted in the saving of countless lives.

Throughout my company’s history we have been able to bring innovations to the warfighter and field these solutions rapidly because of the Phase III contracting authority granted through the SBIR program. We are the only small business who has received the prestigious AFEI Excellence in Enterprise Integration Award which we received for our Talon NAMATH system, developed under a Phase III contract. Working with Air Force TENCAP and our industry partner Boeing, we fielded a networked solution to improve the precision of the SDB and JDAM guided weapons in less than a year, enhancing warfighter operations in Afghanistan and Iraq. Only the SBIR contracting authority permitted this innovative new capability to be fielded this rapidly to meet an urgent warfighter operational need.

However, Talon NAMATH unfortunately highlights challenges that small businesses often face working within the defense acquisition system. Despite the success of the Talon NAMATH program, and the positive feedback received from operational warfighters and the MAJCOMs, the GPS Wing at SMC elected to give a sole source contract to their Lead System Integrator, Boeing, to replace the fielded Talon NAMATH system rather than working with NAVSYS to evolve the SBIR-developed and already fielded system. This decision was challenged by the Small Business Administration (SBA) as a violation of their SBIR Policy Directive which states that “*Agencies ... that pursue R/R&D or production of technology*

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developed under the SBIR/STTR program shall issue Phase III awards relating to the technology, including sole source awards, to the Awardee that developed the technology under an SBIR/STTR award, to the greatest extent practicable.” A GAO Report¹, requested by Congress to investigate challenges in commercializing technologies in part due to concerns raised by the Talon NAMATH issue², identified that multiple SBIR companies had experienced similar problems where DOD officials appeared to have shared proprietary information with prime contractors who then used the SBIR developed technology to compete against the SBIR awardee. Due to limited staffing at the SBA, they have been unable to respond to many complaints by multiple companies of similar policy violations of the Phase III preference requirement – leaving this important part of SBA legislation effectively unregulated within the Department of Defense. My example with the Talon NAMATH program is illustrative of a problem that many other firms have faced in transitioning their SBIR technology.

Everyone is aware of the need to get new technology to the warfighter. While Congress has enacted changes to the SBIR process, to date most of changes have not been put into the Defense Federal Acquisition Regulations (DFAR). I served on the Government-Industry panel of experts which was convened to prepare a report on Technical Data Rights for the office of the Secretary of Defense in response to NDAA 2016 Section 813. This report included recommendations regarding handling of SBIR data rights on Phase III awards, or work which *derives from, extends, or completes efforts made under prior funding agreements under the SBIR program*³. The panel discussed SBIR Phase III issues that arose when data rights were used as an evaluation factor or when issuance of a contract was made conditional on relinquishing data rights. Multiple small businesses provided examples to the panel of specific examples of where this had occurred, even though requiring relinquishing of SBIR data rights is a direct violation of the SBIR policy directive. The panel recommended that, as the intent of SBIR data rights is to reward small businesses for their innovation and invention by providing intellectual property protection, a revision should be made to 10 U.S.C. 2320 to clarify that an item or process developed under a contract or subcontract to which the SBIR regulations apply shall be treated as though developed at private expense during the protection period authorized in the SBIR regulations. This would afford SBIR similar protection within defense acquisition based on language that Congress has enacted language that clarifies how commercial items are to be handled.

On a number of occasions Congress has tried to improve the technology insertion process into Defense acquisitions. The blue ribbon panel of Government and Industry experts, convened to provide a report on Streamlining and Codifying Acquisition Regulations in response to NDAA Section 809, recommended more than doubling the SBIR allocation, from 3.2% to 7%, and making the program permanent. The report stated that *“DoD should invest more heavily in SBIR and RIF, as both effectively leverage small businesses to further DoD’s mission-related capabilities; however, both programs could benefit from greater speed and flexibility. DoD should factor SBIR technologies more explicitly into its acquisition strategies and plans. Greater speed, as well as the ability to disburse large awards under both programs, will help companies bridge the valley of death and successfully commercialize their products.”*⁴

The SBIR program was established with the purpose of strengthening the role of small, innovative firms in federally funded research and development. It remains today one of the few successful paths

¹ “SPACE ACQUISITIONS, Challenges in Commercializing Technologies Developed under the Small Business Innovation Research Program”, GAO-11-21, November 2010, <https://www.gao.gov/new.items/d1121.pdf>

² Attachment 1: Letter from Senator Wayne Allard to General Chilton, Commander of AFSPC

³ “2018 Report: Government-Industry Advisory Panel on Technical Data Rights” November 13, 2018, pp 145- 150 <http://www.ndia.org/-/media/Sites/NDIA/Policy/Documents/Final%20Section%20813%20Report>

⁴ “Report of the Advisory Panel on Streamlining and Codifying Acquisition Regulations”, January 2018, Page 193 https://section809panel.org/wp-content/uploads/2018/01/Sec809Panel_Vol1-Report_Jan18_FINAL.pdf

for small businesses to bring innovations into the hands of the warfighters. Recently, Dr. Will Roper, Assistant Secretary of the Air Force for Acquisition, Technology and Logistics, initiated a new SBIR process modeled after commercial investment pitch competitions to deliver a faster, smarter approach to compete for ideas that can solve near-term DoD problems through the accelerating technology ecosystem. The process is a major departure from the lengthy contractual processes typically expected of the military and focuses on rapidly awarding Phase I SBIR contracts to companies based on a simpler streamlined evaluation of white papers and in-person presentations. NAVSYS has competed and won two Pitch Day contracts. In the first Air Force Pitch Day cycle, Air Force contracting officials reviewed 417 submissions received during the 30-day application period and then invited 59 businesses to pitch their proposals in person March 6. Of those 59 businesses, 51 received an initial award⁵. It took only 10 minutes for me to receive that Phase I contract and we expect to receive our Phase II contract award this month, less than 8 months after submission of our Phase I proposal. This process has been a breath of fresh air as the Air Force Pitch Day team worked to connect us quickly and directly to end users who can take advantage of our technology and planning near term demonstrations to deliver prototype and show capability directly to the warfighter. The Navy has recently instituted a similar process to speed awards of Phase II contracts⁶. While the Air Force and Navy programs have sped up the process for some SBIR awards, all agencies need to adopt similar practices to simplify and streamline the SBIR award process with standardized contracts for Phase I, Phase II and Phase III awards.

The SBIR program provides the mechanism to bring innovative companies into the DoD ecosystem. Dr. Roper has said that the next challenge for the Air Force is to organize to do this type of activity at scale. When Congress created Other Transaction Agreements (OTAs) the intent was to bring together nontraditional companies who were agile, innovative and willing to fail fast to provide solutions for the DoD. Instead the DoD has used OTAs to award billions of dollars to the traditional prime contractors. Imagine what could have been accomplished if a fraction of the billions of dollars that have been awarded through OTAs to traditional defense contractors had instead been made to accelerate Phase III transitions from the SBIR program. Using the Phase I and II SBIR funds, the DoD can work with small companies who are agile, innovative and willing to fail fast. The proven SBIR solutions can then be rapidly field through the Phase III process into the hands of the warfighter. Through the Air Force Pitch Day process the SBIR program can be used, in Gen Stephen Wilson's words, to "deliver speed of capability to the battlefield."

RECOMMENDATIONS

1. **Update DFARS to be consistent with the SBIR Phase III and SBIR Data Rights provisions in SBA Policy Directives.**

The SBA Office of Innovation is not staffed for enforcement of the SBIR Policy Directive and when agencies do not follow the Directive there is generally no recourse for Small Businesses. Contracting officers are trained to follow Federal Acquisition Regulations and not the SBA Policy Directive. To avoid instances, such as NAVSYS experienced with Talon NAMATH, the DFARS need to be updated to comply with SBIR legislation and the SBA's Policy Directive so that agencies "*that pursue R/R&D or production of technology developed under the SBIR/STTR program shall issue Phase III awards relating to the technology, including sole source awards, to the Awardee that developed the technology under an SBIR/STTR award, to the greatest extent*"

⁵Air Force Pitch Day Kick-off: <https://www.af.mil/News/Article-Display/Article/1779609/inaugural-air-force-pitch-day-new-contracts-new-partners/>

⁶Navy Technology Accelerator Flyer (https://www.navysbir.com/docs/Navy_Tech_Acceleration_Flyer.pdf)

practicable.” Also, the provision in the policy directive extending the SBIR data rights to 20 years is not yet in the DFARS.

2. Adopt NDAA 2016 Section 809 Government-Industry Panel Recommendation regarding SBIR

The panel of Government and Industry experts, convened under NDAA Section 809, recommendations included amending 15 U.S.C. § 638 to make SBIR and STTR permanent, increasing the SBIR percentage allocation to 7%, increasing the Rapid Innovation Fund allocation, and updating DoD policy on major weapons system programs to emphasize SBIR technologies as essential components of acquisition strategies and plans.

3. Adopt NDAA 2016 Section 813 Government-Industry Panel Recommendations regarding SBIR Data Rights protection.

The panel of Government and Industry experts, convened under NDAA Section, recommended updates to 10 U.S.C. 2320 to clarify that the intent of Congress is for small businesses to receive protection for their innovations developed under SBIR funding, similar to commercially developed innovations, during the period that SBIR data rights apply to encourage them to commercialize the SBIR developed technology.

4. Increase funding for rapid transition of SBIR developed technology under Phase III

The success of the Air Force Pitch Days has shown the capability for the SBIR program to bring innovation to meet warfighter needs. Following the Air Force model which charters all PEOs to identify and sponsor SBIR transitions using matching program funds as an incentive provides a better, faster way to rapidly field technology innovation to the warfighter.

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June 20, 2007

General Kevin P. Chilton
Commander
Air Force Space Command
Peterson Air Force Base, CO

Dear General Chilton,

An issue regarding NAVSYS Corporation, a Colorado-based company, has come to my attention and I request your assistance in answering some questions regarding their Small Business Innovation Research (SBIR) contract.

In December 2006, U.S. Central Command officials announced publicly that NAVSYS Corporation's Talon NAMATH System had been incorporated into CENTCOM for ongoing small diameter bomb operations. Specifically, space professionals at Schriever AFB and F-15E aircrews successfully incorporated the Talon NAMATH GPS enhancement system into current theater operations to support the Air Force's newest precision weapon, the GBU-39 small diameter bomb. It is my understanding that Talon NAMATH greatly boosts the bomb's accuracy and reduces collateral damage to non-combatants. It has been relayed to me that the end user, Air Combat Command (ACC), is extremely happy with this existing system.

I was particularly pleased to see the integration of Talon NAMATH with our warfighters abroad because of my history supporting the program. As you know, in the past I directed additional funds for the Air Force Tactical Exploitation of National Capabilities (AF TENCAP) Jammer Detection and Location (JLOC) project, of which Talon NAMATH was a follow-on effort.

However, I have recently been informed that the Space & Missile Systems Center (SMC) has initiated a project termed Zero Aged Message and Data Service (ZMDS), which appears to derive from work that NAVSYS had been performing under their SBIR Talon NAMATH contract. The current SMC plan is to fund sustainment of the capability that Talon NAMATH provides but give all follow-on work to another company.

This concerns me a great deal considering that it appears to be a violation of SBIR policy. I highly value the innovative research our nation's small technology companies provide to

the Department of Defense through the SBIR program. I want to ensure that the efforts put forward by companies like NAVSYS are not shoved to the side by large corporations.

To that end, I would like an explanation as to why NAVSYS appears to have been denied the follow-on work with SMC, especially considering the success that Talon NAMATH has had in the field. Additionally, I would like to know if SMC has had any contact with the Small Business Administration about releasing themselves from their responsibility to follow congressional direction in giving preference to a small business for work that derives, extends or concludes SBIR activities.

Additionally, I am concerned about cost differences from a brand new ZMDS start over integrating the existing Talon NAMATH system. From a taxpayer's perspective, starting over from scratch could be more expensive than continuing with the current operational system that is being used by CENTCOM in theater. I would be interested to see the comparison between what it would cost to start over instead of continuing with the already proven and tested system.

Thank you for your assistance, and I look forward to hearing from you shortly.

Sincerely,



Wayne Allard
United States Senator