# *SBTC Concerns with The INNOVATE Act*

**The INNOVATE Act, introduced by Senator Joni Ernst (R-IA), significantly undermines the merit-based approach in SBIR that has been so successful in developing critical technologies for the warfighter, space exploration, and the healthcare professional.**

## The INNOVATE Act Cuts Vital STTR Funding by Over Half

*Sec. 101 reduces the STTR allocation from 0.45% to 0.2%*

- The STTR program is an important alternative to SBIR because it requires formal collaboration between small businesses and non-profit research institutions. Universities often struggle to commercialize their federally-funded research, so STTR encourages them to leverage small business entrepreneurship to move its technologies into the marketplace.
- STTR also performs better than SBIR in rural areas and underserved states. The bottom 25 performing states received 10.49% of STTR funding from 2015-2024, compared to 7.71% of SBIR. Small businesses in rural counties have received nearly $260 million in STTR funding.
- In many undeserved states, large state universities and labs are the only major source of R&D, STTR is designed specifically to tap into that innovation

## The INNOVATE Act Cannibalizes SBIR

*Sec. 102, the Strategic Breakthrough initiative, uses Ph 1 & 2 money to fund Phase 3 work*

- This section requires largest agencies to fund jumbo awards up to $30,000,000 for work that traditionally has been Phase 3. This would potentially reduce the pool of money for Phase 1&2 awards, shrinking the amount of awards and funding for earlier-stage research, and instead reallocating it for later-stage development.
- There is no funding cap on the strategic breakthrough program, meaning agencies can choose to allocate most, if not all of their funding to these jumbo awards if they so choose.
- The agencies currently have the authority under the law to implement a strategic breakthrough-type program, as the Air Force has done with their STRATFI jumbo sized awards. This provision would force agencies to implement one, whether they want to or not.
- This section limits which companies are eligible for a Strategic Breakthrough award, reducing competitiveness and possibly denying the government the best possible technology

## The INNOVATE Act Puts a Cap on Small Business Success

*Sec. 201 establishes limits of $75 million in lifetime SBIR/STTR funding, and $40 million in annual receipts*

- This provision punishes firms for being too successful
- It would make the SBIR/STTR programs less competitive and less meritorious, while denying the agencies and the warfighter with the best possible technological solutions
- It would ensure that major SBIR success stories like Progeny Systems, Physical Optics and Intelligent Automation would never happen again, while discouraging small businesses from growing too fast and punishing the small businesses that commercialize the most
- These firms continue to get Phase I and II awards because they are the consistently provide the best R&D for the taxpayer dollar. Denying the agencies the capabilities and resources these companies provide is not in the best interests of the warfighter or taxpayer.
- Agencies currently have the authority to put limits on proposals or awards (as NSF and NASA have), and should continue to have the flexibility to do so, or not to do so, without Congress imposing an artificial cap on them.
- <u>Between 2019-2023, the top 25 SBIR winners won just 8.6% of total SBIR/STTR funding, much lower than the 18% quoted by some</u>. And the GAO study on multiple award winners affirmed that they are not pushing out new entrants, with between 1,000 to 1,500 new companies entering the SBIR/STTR program each year. According to the SBA, 46% of SBIR/STTR awards go to new firms each year.
- Arbitrary caps and limitations on small business participation represent a radical change to SBIR/STTR, and would reduce the competitiveness and shift the focus of the programs from the best possible technology to preferred companies
- Enhanced benchmarks that required experienced firms to show $450,000 in commercialization for every Phase II won were only passed into law 3 years ago and implemented 2 years ago.

## The INNOVATE Act Micromanages the Agencies

*Sec. 301 strictly instructs agencies how to manage and formulate their open topics. Sec. 302 limits the number of proposals a company can submit in a single solicitation, and over a year.*

- In both these provisions, the INNOVATE Act is attempting micromanage how the agencies run their programs. While Congress sets guardrails and framework for SBIR/STTR, the agencies should have be able to tailor their programs to suit their specific missions and needs.
- The agencies currently have the flexibility under the law to limit proposals to any number they see fit. Both NSF and NASA have administratively put limits on the number of proposals a company can submit to a proposal.
- If the goal is to relieve administrative burden, there is no need for a legislative change, the agencies can already put a limit in any solicitation they choose.
- The INNOVATE Act further micromanages SBIR by putting limits on Primary Investigators, as well as submission and award limits.

## The INNOVATE Act Punishes American Small Businesses More than China

*Title IV Throws the Baby out with the Bathwater*

- While Title IV is intended to safeguard research and technology funded by the SBIR/STTR programs from theft by China and other foreign adversaries, the provisions as written are so onerous and punitive that their primary effect will be to deter American small businesses from wanting to participate in these programs. Some of the things this section require:
    - Requires applicants to vet employees, partners, investors, suppliers, and customers against 8 federal lists of restricted entities from dozens of countries, including many that are not connected to adversaries. This creates a huge paperwork burden for small businesses in exchange for very little benefit to national security
    - Requires small businesses to be responsible for any and all risks associated with its spinouts, even if the spinout is completely separated and independent of the firm
    - Bans agencies from providing any feedback or opportunity to mitigate or cure due to companies denied due to foreign risk. This means even if the government makes a mistake and incorrectly denies a company, there is no way to redress or correct.
    - Requires firms to update government on a wide variety of ordinary and normal business transactions for a period of 10 years after receiving an award, or risk government clawing back award money.
- While protecting American research from foreign theft is important and necessary, it is essential that foreign risk management provisions are written in a way that is fair and transparent for American small businesses. Whenever possible, agencies should offer feedback and ways to mitigate risk to businesses that have been flagged by this program. The DOD policy memo by Under Secretary Hicks lays out clear processes for feedback and mitigation that, when used by the DOD components, seems to work well. We encourage Congress to use this memo as a template for all agencies to ensure that small businesses are being treated fairly by the government.
- The Federal government is not perfect. It makes mistakes from time to time, and there needs to be processes in place to allow small businesses to correct the record when mistakes are inevitably made.