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CLIENT ALERT

Life Sciences Industry Team Update

January 17, 2012

Reauthorization of SBIR Program Allows Access for Venture-Backed Companies

As part of the National Defense Authorization Act for Fiscal Year 2012, which was signed into law on December 31, 2011, the government's Small Business Innovation Research ("SBIR") program was reauthorized for an additional six years with certain changes to the program that may benefit venture-backed startup companies (the "Reauthorization"). The SBIR program is a federally funded grant program aimed at financing small businesses engaged in research and development that has the potential for commercialization and public benefit. Under the Reauthorization, government agencies participating in the program may now make SBIR awards to companies that are majority owned by multiple venture capital operating companies, hedge funds, or private equity funds. Prior to the Reauthorization, the eligibility requirements for SBIR grants virtually excluded venture-backed companies from receiving awards under the program.

As a result of the Reauthorization, government agencies participating in the program will now be allowed to allocate up to 15% of their SBIR funds to small businesses that are majority owned by venture capital operating companies and, in the case of certain agencies, including the National Institute of Health, Department of Energy, and National Science Foundation, up to 25% of their SBIR funds.

Some of the key provisions from the Reauthorization include:

- extension of SBIR program through 2017;
- allocation of up to 25% of SBIR funds from certain government agencies, including the National Institute of Health, Department of Energy, and National Science Foundation, to small businesses that are majority owned by venture capital operating companies;
- allocation of up to 15% of SBIR funds from other participating government agencies to small businesses that are majority owned by venture capital operating companies;
- increased Phase I award levels of up to \$150,000 (up from \$100,000) and increased Phase II award levels of up to \$1,000,000 (up from \$750,000); and
- percentage of each participating agency's outside research and development budget allocated to the SBIR program to be increased over the course of the extension period from 2.5% to 3.2%.

The exact impact of the changes to the SBIR program will not be fully known until the Small Business Administration ("SBA") issues its implementing regulations. Pursuant to the Reauthorization, the SBA is required to issue proposed regulations within 120 days of enactment. As additional details begin to emerge in the next several months as a result of the SBA's rule-making process, we will continue to update this Alert.

If you have any questions regarding this Alert or would like additional information regarding the SBIR program, eligibility requirements under the program, or how to apply for awards, feel free to call (919-781-4000) or e-mail your Wyrick Robbins contact or one of the following members of our Life Sciences Industry Team: Ken Ehemann (kehemann@wyrick.com) and Brian Sullivan (bsullivan@wyrick.com).