

110th CONGRESS
2d Session
H. R. 5819

AN ACT

To amend the Small Business Act to improve the Small Business Innovation Research (SBIR) program and the Small Business Technology Transfer (STTR) program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the 'SBIR/STTR Reauthorization Act'.

(b) Table of Contents- The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I--MODERNIZING THE SBIR AND STTR PROGRAMS

Sec. 101. Extension of termination dates.

Sec. 102. Increased SBIR and STTR award levels.

Sec. 103. Establishment of SBIR advisory boards.

Sec. 104. Increase in amount of technical assistance funds and option to purchase technical assistance directly.

Sec. 105. Increased number of research topic solicitations annually and shortened period for final decisions on applications.

Sec. 106. Inclusion of energy-related research topics and rare-disease-related research topics as deserving 'special consideration' as SBIR research topics.

Sec. 107. Agencies should fund vital R&D projects with the potential for commercialization.

Sec. 108. Federal agency engagement with SBIR awardees that have been awarded multiple Phase One awards but have not been awarded Phase Two awards.

Sec. 109. Limitation on certain awards.

Sec. 110. Comptroller General audit of how Federal agencies calculate extramural research budgets.

Sec. 111. Providing explanations to unsuccessful applicants.

TITLE II--VENTURE CAPITAL INVESTMENT STANDARDS

Sec. 201. Ensuring that innovative small businesses with substantial investment from venture capital operating companies are able to participate in the SBIR program.

TITLE III--SBIR AND ECONOMIC DEVELOPMENT

Sec. 301. Reauthorization and modernization of Federal and State Technology Partnership Program (FAST).

Sec. 302. Obtaining SBIR applicant's consent to release contact information to economic development organizations.

TITLE IV--ADVANCING COMMERCIALIZATION OF SBIR-FUNDED RESEARCH

Sec. 401. Clarifying the definition of 'Phase Three'.

Sec. 402. Agency research goals.

Sec. 403. Express authority for an agency to award sequential Phase Two awards for SBIR-funded projects.

Sec. 404. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses.

Sec. 405. Express authority to 'fast-track' Phase Two awards for promising Phase One research.

Sec. 406. Commercialization programs.

Sec. 407. Report on efforts to enhance manufacturing activities.

TITLE V--SUPPORTING PROGRAM UTILIZATION

Sec. 501. Agency databases to support program evaluation.

Sec. 502. Agency databases to support technology utilization.

Sec. 503. Interagency Policy Committee.

Sec. 504. Nanotechnology-related research topics.

Sec. 505. Rural preference.

Sec. 506. Priority for areas that have lost a major source of employment.

- Sec. 507. Veterans preference.
- Sec. 508. Initiative to publicize the SBIR program to veterans.
- Sec. 509. Preference for organizations that are making significant contributions towards energy efficiency.

TITLE VI--IMPLEMENTATION

- Sec. 601. Conforming amendments to the SBIR and STTR policy directives.
- Sec. 602. National Research Council SBIR Study.
- Sec. 603. SBIR awardee business operations.
- Sec. 604. Prohibition of awards to aliens unlawfully present in the United States.
- Sec. 605. Prohibition on awards to firms in violation of immigration laws.

TITLE I--MODERNIZING THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

- (a) SBIR- Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking `2008' and inserting `2010'.
- (b) STTR- Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking `2009' and inserting `2010'.

SEC. 102. INCREASED SBIR AND STTR AWARD LEVELS.

- (a) SBIR Award Level- Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended by striking `\$100,000' and `\$750,000' and inserting `\$300,000' and `\$2,200,000', respectively.
- (b) STTR Award Level- Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended by striking `\$100,000' and `\$750,000' and inserting `\$300,000' and `\$2,200,000', respectively.
- (c) Annual Adjustments- Section 9 of the Small Business Act (15 U.S.C. 638) is amended--
 - (1) in subsection (j)(2)(D), by striking `and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations' and inserting `and a mandatory annual adjustment of such

amounts to reflect economic adjustments and programmatic considerations'; and
(2) in subsection (p)(2)(B)(ix), by striking `greater or lesser amounts' and inserting `with a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations, and with lesser amounts'.

(d) Limitation on Certain Awards- Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

`(z) Limitation on Phase I and II Awards-

`(1) IN GENERAL- No Federal agency shall issue an award under the SBIR program or the STTR program if the size of the award exceeds the amounts established under subsections (j)(2)(D) and (p)(2)(B)(ix), except as provided in paragraph (2).

`(2) EXCEPTION- The prohibition in paragraph (1) does not apply to an agency for a fiscal year if the head of the agency--

`(A) notifies the Administrator that the agency intends to issue awards in that fiscal year without regard to the prohibition in paragraph (1); and

`(B) reports to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate at least annually the number of instances in which the agency issued an award that exceeds the amounts referred to in paragraph (1) and the justification for each such instance.'.

SEC. 103. ESTABLISHMENT OF SBIR ADVISORY BOARDS.

(a) In General- Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (z) the following:

`(aa) SBIR Advisory Boards-

`(1) ADVISORY BOARDS REQUIRED- Each Federal agency that is required by this section to conduct an SBIR program and that administers annually \$50,000,000 or more in SBIR grants shall have an SBIR advisory board.

`(2) MEMBERS- For each advisory board required by paragraph (1), the members of the advisory board shall include--

- ˘ (A) at least two individuals who are employees of the agency;
 - ˘ (B) at least two representatives of private sector technology firms;
 - ˘ (C) at least one individual who is a veteran who owns a small business concern owned and controlled by veterans; and
 - ˘ (D) such other individuals as the agency considers appropriate.
- ˘ (3) SECURITY CLEARANCES- Where it is appropriate to the work of an advisory board required by paragraph (1) that the members and staff of the advisory board have a security clearance, the appropriate departments and agencies of the executive branch shall cooperate with the advisory board to expeditiously provide members and staff with appropriate security clearances to the extent possible under applicable procedures and requirements.
- ˘ (4) MEETINGS- Each advisory board required by paragraph (1) shall meet at least two times per year.
- ˘ (5) DUTIES- Each advisory board required by paragraph (1) shall--
- ˘ (A) review the quarterly reports submitted under subsection (g)(8);
 - ˘ (B) make recommendations to the agency about potential modifications to the agency's SBIR program that are intended to--
 - ˘ (i) encourage applications, particularly applications from small business concerns owned and controlled by women, small business concerns owned and controlled by minorities, small business concerns owned and controlled by service-disabled veterans, and small business concerns in States and regions that historically receive few SBIR awards; and
 - ˘ (ii) support commercialization of Federal research funded by SBIR awards; and
 - ˘ (C) submit to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an annual report on the SBIR program conducted by the agency.
- ˘ (6) CONTENTS OF ANNUAL REPORT- The annual report required by paragraph (5)(C) shall include a description of

how that agency's SBIR program is functioning and any recommendations of the advisory board for strengthening that agency's SBIR program. The annual report shall also state the number and dollar amount of awards under the agency's SBIR program, and under the agency's STTR program, that were made to small business concerns owned and controlled by women, small business concerns owned and controlled by minorities, small business concerns owned and controlled by veterans, and small business concerns in States and regions that historically receive few SBIR awards.

` (7) NON-APPLICABILITY OF FACAA- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to an advisory board required by paragraph (1).'

(b) Agency Reports to SBIR Advisory Boards- Section 9(g)(8) of the Small Business Act (15 U.S.C. 638(g)(8)) is amended by inserting before the semicolon at the end the following: ` and, if the agency is required by subsection (aa) to have an SBIR advisory board, submit a quarterly report on the SBIR program to that SBIR advisory board'.

SEC. 104. INCREASE IN AMOUNT OF TECHNICAL ASSISTANCE FUNDS AND OPTION TO PURCHASE TECHNICAL ASSISTANCE DIRECTLY.

Section 9(q) of the Small Business Act (15 U.S.C. 638(q)) is amended--

(1) in paragraph (1)--

(A) by striking ` paragraph (2)' and inserting ` paragraph (2)(A), or another Federal agency under paragraph (2)(B),';

(B) by striking ` and' at the end of subparagraph (C);

(C) by striking the period at the end of subparagraph

(D) and inserting ` ; and'; and

(D) by adding at the end the following new subparagraph:

` (E) implementing manufacturing processes and production strategies for utilization.';

(2) by amending paragraph (2) to read as follows:

` (2) ASSISTANCE PROVIDERS-

(A) VENDOR SELECTION- Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed

3 years. Such selection shall be competitive and shall utilize merit-based criteria.

^ (B) INTERAGENCY COLLABORATION- In addition, each agency may enter into a collaborative agreement with the technical extension or assistance programs of other Federal agencies in order to provide the assistance described in paragraph (1).'; and

(3) in paragraph (3)--

(A) in subparagraph (A) by striking ` \$4,000' and inserting ` \$5,000';

(B) by amending subparagraph (B) to read as follows:

^ (B) SECOND PHASE- Each agency referred to in paragraph (1) may provide directly, or authorize any second phase SBIR award recipient to purchase with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than \$8,000 per year, per award.'; and

(C) by adding at the end the following:

^ (C) AUTHORITY TO OPT OUT- The Administrator shall establish guidelines under which an award recipient eligible to receive services under subparagraph (A) may decline those services and receive instead an amount equal to not more than \$2,500, which shall be in addition to the amount of the recipient's award and which shall be used to purchase services described in paragraph (1).'

SEC. 105. INCREASED NUMBER OF RESEARCH TOPIC SOLICITATIONS ANNUALLY AND SHORTENED PERIOD FOR FINAL DECISIONS ON APPLICATIONS.

(a) Increased Number of Research Topic Solicitations- Section 9(g)(2) of the Small Business Act (15 U.S.C. 638(g)(2)) is amended by inserting before the semicolon at the end the following: ` , but not less often than twice per year'.

(b) Shortened Period for Final Decisions on Applications- Section 9(g)(4) of that Act (15 U.S.C. 638(g)(4)) is amended--

(1) by inserting before the semicolon at the end the following: ` : *Provided*, That if the agency is required by subsection (aa) to have an SBIR advisory board--'; and

(2) by adding at the end the following:

- ` (A) a final decision on each proposal shall be rendered not later than 90 days after the date on which the solicitation closes;
- ` (B) the SBIR advisory board may, on a case by case basis, extend the 90 days to 180 days; and
- ` (C) the SBIR advisory board shall include in each annual report to Congress under subsection (aa) a statement identifying how many times a decision was not rendered in 90 days, how many times an extension was granted, and how many times a decision was not rendered in 180 days;'

SEC. 106. INCLUSION OF ENERGY-RELATED RESEARCH TOPICS AND RARE-DISEASE-RELATED RESEARCH TOPICS AS DESERVING ` SPECIAL CONSIDERATION' AS SBIR RESEARCH TOPICS.

Section 9(g)(3) of the Small Business Act (15 U.S.C. 638(g)(3)) is amended--

- (1) in the matter preceding subparagraph (A) by inserting after `critical technologies' the following: `or pressing research priorities';
- (2) at the end of subparagraph (A) by striking `or'; and
- (3) by adding at the end the following:
 - ` (C) the National Academy of Sciences, in the final report issued by the `America's Energy Future: Technology Opportunities, Risks, and Tradeoffs' project, and in subsequent reports issued by the National Academy of Sciences on sustainability, energy, and alternative fuels;
 - ` (D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in subsequent reports issued by the National Institutes of Health on rare diseases research activities;
 - ` (E) the National Academy of Sciences, in the final report issued by the `Transit Research and Development: Federal Role in the National Program' project and the `Transportation Research, Development and Technology Strategic Plan (2006-2010)' issued by the United States Department of Transportation Research and Innovative Technology Administration, and in subsequent reports issued by

the National Academy of Sciences and United States Department of Transportation on transportation and infrastructure; or'.

SEC. 107. AGENCIES SHOULD FUND VITAL R&D PROJECTS WITH THE POTENTIAL FOR COMMERCIALIZATION.

Section 9(j)(2) of the Small Business Act (15 U.S.C. 638(j)(2)), as amended by section 103, is further amended--

- (1) in subparagraph (H) by striking `and' at the end;
- (2) in subparagraph (I) by striking the period at the end and inserting `; and'; and
- (3) by adding at the end the following:
 - `(J) procedures to ensure that the Administrator, on an annual basis, submits to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a list identifying each small business concern that, for the period covered by the preceding 5 fiscal years, received 15 or more first phase SBIR awards and no second phase SBIR awards.'

SEC. 108. FEDERAL AGENCY ENGAGEMENT WITH SBIR AWARDEES THAT HAVE BEEN AWARDED MULTIPLE PHASE ONE AWARDS BUT HAVE NOT BEEN AWARDED PHASE TWO AWARDS.

Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding at the end the following:

- `(4) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE SBIR AWARDEES- The Administrator shall modify the policy directives issued pursuant to this subsection to provide for each Federal agency required by this section to conduct an SBIR program to engage with SBIR awardees that have been awarded multiple first phase SBIR awards but have not been awarded any second phase SBIR awards and to develop performance metrics to measure awardee progression in the SBIR program.'

SEC. 109. LIMITATION ON CERTAIN AWARDS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

ˆ (bb) Subsequent Phases-

ˆ (1) IN GENERAL- A small business concern which received an award from a Federal agency under this section shall be eligible to receive an award for a subsequent phase from another Federal agency, if the head of each relevant Federal agency makes a written determination that the topics of the relevant awards are the same.

ˆ (2) CROSSOVER BETWEEN PROGRAMS- A small business concern which received an award under this section under the SBIR program or the STTR program may, at the discretion of the granting agency, receive an award under this section for a subsequent phase in either the SBIR program or the STTR program.

ˆ (3) PHASE II SBIR APPLICATIONS- An agency may permit an applicant to apply directly for a Phase II award, as described in subsection (e)(4)(B), without first completing a Phase I award, as described in subsection (e)(4)(A), if the applicant can demonstrate that project feasibility was achieved without SBIR or other Federal funding.

ˆ (4) PHASE II STTR APPLICATIONS- An agency may permit an applicant to submit proposals for Phase II awards, as described in subsection (e)(6)(B), without first completing a Phase I award, as described in subsection (e)(6)(A), if the applicant can demonstrate it has accomplished Phase I through cooperative research and development achieved without STTR or other Federal funding.

ˆ (cc) Waiver of Minimum Work Requirement- A Federal agency making an SBIR or STTR award under this section may waive the minimum small business concern or research institution work requirements under subsection (e)(7) if the agency determines that to provide such waiver would be consistent with the purposes of this section and consistent with achieving the objectives of the award proposal.'.

SEC. 110. COMPTROLLER GENERAL AUDIT OF HOW FEDERAL AGENCIES CALCULATE EXTRAMURAL RESEARCH BUDGETS.

The Comptroller General of the United States shall carry out a detailed audit of how Federal agencies calculate extramural research budgets for purposes of calculating the size of the agencies' Small Business Innovation Research and Small Business Technology Transfer budgets. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the results of the audit.

SEC. 111. PROVIDING EXPLANATIONS TO UNSUCCESSFUL APPLICANTS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

` (dd) Providing Explanations to Unsuccessful Applicants-- Whenever an entity applies for, but does not receive, an award under an SBIR or STTR program under this section, the Federal agency conducting the program shall--

` (1) in a plain and conspicuous manner, notify that entity that it can request an explanation (which must be of a constructive nature) of the reasons why the entity did not receive the award; and

` (2) provide such an explanation to that entity, if the entity so requests.'.

TITLE II--VENTURE CAPITAL INVESTMENT STANDARDS

SEC. 201. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES ARE ABLE TO PARTICIPATE IN THE SBIR PROGRAM.

Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended by striking `and' at the end of paragraph (8), striking the period at the end of paragraph (9) and inserting `; and', and adding at the end the following:

` (10) effective only for the SBIR and STTR programs, notwithstanding any other amendment made by the SBIR/STTR Reauthorization Act, the following shall apply:

- ˘ (A) A business concern that has more than 500 employees shall not qualify as a small business concern.
- ˘ (B) In determining whether a small business concern is independently owned and operated under section 3(a)(1) or meets the small business size standards instituted under section 3(a)(2), the Administrator shall not consider a business concern to be affiliated with a venture capital operating company (or with any other business that the venture capital operating company has financed) if--
 - ˘ (i) the venture capital operating company does not own 50 percent or more of the business concern; and
 - ˘ (ii) employees of the venture capital operating company do not constitute a majority of the board of directors of the business concern.
- ˘ (C) A business concern shall be deemed to be 'independently owned and operated' if--
 - ˘ (i) it is owned in majority part by one or more natural persons or venture capital operating companies;
 - ˘ (ii) there is no single venture capital operating company that owns 50 percent or more of the business concern; and
 - ˘ (iii) there is no single venture capital operating company the employees of which constitute a majority of the board of directors of the business concern.
- ˘ (D) If a venture capital operating company controlled by a business with more than 500 employees (in this subparagraph referred to as a 'VCOC under large business control') has an ownership interest in a small business concern that is owned in majority part by venture capital operating companies, the small business concern is eligible to receive an award under the SBIR or STTR program only if--
 - ˘ (i) not more than two VCOCs under large business control have an ownership interest in the small business concern;

- ` (B) To provide application support and entrepreneurial and business skills support to prospective participants in the programs under this section.
- ` (2) PROGRAM AUTHORITY- Of the amounts made available to carry out this section for each of fiscal years 2009 through 2010, the Administrator may expend not more than \$10,000,000 in each such fiscal year to carry out paragraph (1).
- ` (3) AMOUNT OF ASSISTANCE- For each of subparagraphs (A) and (B) of paragraph (1), the amount of assistance provided to an organization under that subparagraph in any fiscal year--
 - ` (A) shall be equal to the total amount of matching funds from non-Federal sources provided by the organization; and
 - ` (B) shall not exceed \$250,000.
- ` (4) DIRECTION- An organization receiving funds under paragraph (1) shall, in using those funds, direct its activities at one or both of the following:
 - ` (A) Small business concerns located in geographic areas that are underrepresented in the programs under this section.
 - ` (B) Small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, and small business concerns owned and controlled by minorities.
- ` (5) ADVISORY BOARD-
 - ` (A) ESTABLISHMENT- Not later than 90 days after the date of the enactment of this subsection, the Administrator shall establish an advisory board for the activities carried out under this subsection.
 - ` (B) NON-APPLICABILITY OF FACA- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.
 - ` (C) MEMBERS- The members of the advisory board shall include the following:
 - ` (i) The Administrator (or the Administrator's designee).
 - ` (ii) For each Federal agency required by this section to conduct an SBIR program, the head of the agency (or the designee of the head of the agency).

- ˘ (iii) Representatives of small business concerns that are current or former recipients of SBIR awards, or representatives of organizations of such concerns.

- ˘ (iv) Representatives of service providers of SBIR outreach and assistance, or representatives of organizations of such service providers.

- ˘ (D) DUTIES- The advisory board shall have the following duties:

- ˘ (i) To develop guidelines for awards under paragraph (1)(A), including guidelines relating to award sizes, proposal requirements, metrics for monitoring awardee performance, and metrics for measuring overall value of the activities carried out by the awardees.

- ˘ (ii) To identify opportunities for coordinated outreach, technical assistance, and commercialization activities among Federal agencies, the recipients of the awards under paragraph (1)(A), and applicants and recipients of SBIR awards, including opportunities such as--

- ˘ (I) podcasting or webcasting for conferences, training workshops, and other events;

- ˘ (II) shared online resources to match prospective applicants with the network of paragraph (1)(A) recipients; and

- ˘ (III) venture capital conferences tied to technologies and sectors that cross agencies.

- ˘ (iii) To review and recommend revisions to activities under paragraph (1)(A).

- ˘ (iv) To submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science and Technology of the House of Representatives an annual report on the activities carried out under paragraph (1)(A) and the effectiveness and impact of those activities.

- ˘ (6) SELECTION CRITERIA- In awarding grants under this subsection, the Administrator shall use selection criteria

developed by the advisory board established under paragraph (5). The criteria shall include--

- ` (A) criteria designed to give preference to applicants who propose to carry out activities that will reach either an underperforming geographic area or an underrepresented population group (as measured by the number of SBIR applicants);
- ` (B) criteria designed to give preference to applicants who propose to carry out activities that complement, and are integrated into, the existing public-private innovation support system for the targeted region or population;
- ` (C) criteria designed to give preference to applicants who propose to measure the effectiveness of the proposed activities; and
- ` (D) criteria designed to give preference to applicants who include an SBDC program that is accredited for its technology services.

` (7) PEER REVIEW- In awarding grants under this subsection, the Administrator shall use a peer review process. Reviewers shall include--

- ` (A) SBIR program managers for agencies required by this section to conduct SBIR programs; and
- ` (B) private individuals and organizations that are knowledgeable about SBIR, the innovation process, technology commercialization, and State and regional technology-based economic development programs.

` (8) PER-STATE LIMITATIONS-

` (A) IN GENERAL- To be eligible to receive a grant under this subsection, the applicant must have the written endorsement of the Governor of the State where the targeted regions or populations are located (if the regions or populations are located in more than one State, the applicant must have the written endorsement of the Governor of each such State). Such an endorsement must indicate that the Governor will ensure that the activities to be carried out under the grant will be integrated with the balance of the State's portfolio of investments to help small business concerns commercialize technology.

` (B) LIMITATION- Each fiscal year, a Governor may have in effect not more than one written

endorsement for a grant under paragraph (1)(A), and not more than one written endorsement for a grant under paragraph (1)(B).

ˆ (9) SPECIFIC REQUIREMENTS FOR FAST AWARDS- In making awards under paragraph (1)(A) (to be known as 'FAST' awards) the Administrator shall ensure the following:

ˆ (A) GOALS- Priority shall be given applications that address one or more of the following goals:

ˆ (i) Increasing the number of SBIR applications from underperforming geographic areas (as measured by the number of SBIR applicants).

ˆ (ii) Increasing the number of SBIR applications from underrepresented population groups (as measured by the number of SBIR applicants).

ˆ (B) DURATION- Each award shall be for a period of 2 fiscal years. The Administrator shall establish rules and performance goals for the disbursement of funds for the second fiscal year, and funds shall not be disbursed to a recipient for such a fiscal year until after the advisory board established under this subsection has determined that the recipient is in compliance with the rules and performance goals.'

SEC. 302. OBTAINING SBIR APPLICANT'S CONSENT TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended in subsection (s) (as added by this title) by adding at the end the following:

ˆ (5) CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS-

ˆ (A) ENABLING CONCERN TO GIVE CONSENT- Each Federal agency required by this section to conduct an SBIR program shall enable a small business concern that is an SBIR applicant to indicate to the agency whether the agency has its consent to--

ˆ (i) identify the concern to appropriate local and State-level economic development organizations as an SBIR applicant; and

- (ii) release the concern's contact information to such organizations.
- (B) RULES- The Administrator shall establish rules to implement this paragraph. The rules shall include a requirement that the agency include in its SBIR application forms a provision through which the applicant can indicate consent for purposes of subparagraph (A).'

TITLE IV--ADVANCING COMMERCIALIZATION OF SBIR-FUNDED RESEARCH

SEC. 401. CLARIFYING THE DEFINITION OF 'PHASE THREE'.

Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended--

- (1) in paragraph (4)(C)--
 - (A) in the matter preceding clause (i) by inserting after 'a third phase' the following: ', which shall consist of work that derives from, extends, or logically concludes efforts performed under prior SBIR funding agreements (which may be referred to as 'Phase III')'; and
 - (B) in clause (i) by inserting after 'non-SBIR Federal funding awards' the following: ': *Provided*, That for purposes of this clause, such sources of capital and such funding awards include private investment, private research, development, testing, and evaluation (RDT&E) awards, private sales or licenses, government RDT&E contracts and awards, and government sales';
- (2) in paragraph (8) by striking 'and' at the end;
- (3) in paragraph (9) by striking the period at the end and inserting '; and'; and
- (4) by adding at the end the following:
 - (10) the term 'commercialization' means the process of developing marketable products or services and producing and delivering products or services for sale (whether by the originating party or by others) to government or commercial markets.'

SEC. 402. AGENCY RESEARCH GOALS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by striking subsection (h) and inserting the following:

^ (h) Agency Research Goals-

^ (1) IN GENERAL- In addition to the requirements of subsection (f), each Federal agency that is required by this section to have an SBIR program and that awards annually \$5,000,000,000 or more in procurement contracts shall, effective for fiscal year 2009 and each fiscal year thereafter, establish annual goals for commercialization of projects funded by SBIR awards.

^ (2) SPECIFIC GOALS- The goals required by paragraph (1) shall include specific goals for each of the following:

^ (A) The percentage of SBIR projects that receive funding for the third phase (as defined in subsection (e)(4)(C)).

^ (B) The percentage of SBIR projects that are successfully integrated into a program of record.

^ (C) The amount of Federal dollars received by SBIR projects through Federal contracts, not including dollars received through the SBIR program.

^ (3) SUBMISSION TO ADVISORY BOARD- For each fiscal year for which goals are required by paragraph (1), the agency shall submit to the agency's SBIR advisory board--

^ (A) not later than 60 days after the beginning of the fiscal year, the goals; and

^ (B) not later than 90 days after the end of the fiscal year, data on the extent to which the goals were met and a description of the methodology used to collect that data.'

SEC. 403. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD SEQUENTIAL PHASE TWO AWARDS FOR SBIR-FUNDED PROJECTS.

Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding after paragraph (4) (as added by section 109) the following:

^ (5) REQUIREMENTS RELATING TO ADDITIONAL SECOND PHASE SBIR AWARDS- The Administrator shall modify the policy directives issued pursuant to this subsection to provide the following:

^ (A) A small business concern that receives a second phase SBIR award for a project remains eligible to receive additional second phase SBIR awards.

^ (B) Agencies are expressly authorized to provide additional second phase SBIR awards for testing and evaluation assistance for the insertion of SBIR technologies into technical or weapons systems.

^ (C) Each agency that is required by subsection (aa) to have an SBIR advisory board shall include in the quarterly reports submitted under subsection (g)(8) the number of projects that have received additional second phase SBIR awards and the total dollar amount of those additional second phase SBIR awards.'

SEC. 404. INCREASED PARTNERSHIPS BETWEEN SBIR AWARDEES AND PRIME CONTRACTORS, VENTURE CAPITAL INVESTMENT COMPANIES, AND LARGER BUSINESSES.

Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding after paragraph (5) (as added by section 403) the following:

^ (6) INCREASED PARTNERSHIPS-

^ (A) IN GENERAL- Each agency required by this section to conduct an SBIR program shall establish initiatives by which the agency encourages partnerships between SBIR awardees and prime contractors, venture capital investment companies, business incubators, and larger businesses, for the purpose of facilitating the progress of the SBIR awardees to the third phase. If the agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report submitted under subsection (aa) a description of the initiatives established and an assessment of the effectiveness of such initiatives.

^ (B) DEFINITION- In this paragraph, the term ^ 'business incubator' means an entity that provides coordinated and specialized services to entrepreneurial businesses which meet selected criteria during the businesses' startup phases, including providing services such as shared office space and office services, access to equipment, access to telecommunications and technology services, flexible leases, specialized management assistance, access to financing, mentoring and

training services, or other coordinated business or technical support services designed to provide business development assistance to entrepreneurial businesses during these businesses' startup phases.'.

SEC. 405. EXPRESS AUTHORITY TO `FAST-TRACK' PHASE TWO AWARDS FOR PROMISING PHASE ONE RESEARCH.

Section 9(j)(2)(G) of the Small Business Act (15 U.S.C. 638(j)(2)(G)) is amended by inserting before the semicolon at the end the following: `, and to encourage agencies to develop `fast-track' programs to eliminate that delay by issuing second phase SBIR awards as soon as practicable, including in appropriate cases simultaneously with the issuance of the first phase SBIR award'.

SEC. 406. COMMERCIALIZATION PROGRAMS.

Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding after paragraph (6) (as added by section 404) the following:

`(7) COMMERCIALIZATION PROGRAMS- Each agency required by this section to conduct an SBIR program shall establish a commercialization program that supports the progress of SBIR awardees to the third phase. The commercialization program may include activities such as partnership databases, partnership conferences, multiple second phases, mentoring between prime contractors and SBIR awardees, multiple second phases with matching private investment requirements, jumbo awards, SBIR helpdesks, and transition assistance programs. The agency shall include in its annual report an analysis of the various activities considered for inclusion in the commercialization program and a statement of the reasons why each activity considered was included or not included, as the case may be. If the agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report under subsection (aa) a statement identifying the number of SBIR awardees that successfully progressed to the third phase.

`(8) FUNDING FOR COMMERCIALIZATION PROGRAMS-
` (A) IN GENERAL- From amounts made available to carry out this paragraph, the Administrator may, on

petition by agencies required by this section to conduct an SBIR program, transfer funds to such agencies to support the commercialization programs of such agencies.

` (B) PETITIONS- The Administrator shall establish rules for making transfers under subparagraph (A). The initial set of rules shall be promulgated not later than 90 days after the date of the enactment of this paragraph.

` (C) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to the Administrator to carry out this paragraph \$27,500,000 for fiscal year 2009 and each fiscal year thereafter.

` (D) MINORITY INSTITUTION PILOT PROGRAM-

` (i) ESTABLISHMENT- From amounts made available to carry out this subparagraph, the Administrator shall establish and carry out a pilot program to make grants to minority institutions that partner with nonprofit organizations that have experience developing relationships between industry, minority institutions, and other entities, for the purpose of increasing the number of SBIR and STTR program applications by minority-owned small businesses.

` (ii) APPLICATION- To be eligible to receive a grant under the pilot program established in clause (i), a minority institution shall submit an application to the Administrator at such time, in such manner, and containing such information and assurances as the Administrator may require.

` (iii) MATCHING REQUIREMENT- As a condition of a grant under the pilot program, the Administrator shall require that a matching amount be provided from a source other than the Federal Government that is equal to the amount of the grant.

` (iv) MINORITY INSTITUTION- In this subparagraph, the term `minority institution' has the meaning given that term in section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k(3)).

` (v) FUNDING- For each of fiscal years 2009 through 2012, of the amounts appropriated pursuant to the authorization of appropriations in subparagraph (C), up to \$4,000,000 shall be available to carry out this subparagraph.

` (9) FUNDING LIMITATION- For payment of expenses incurred to administer the commercialization programs described in paragraphs (7) and (8), the head of the agency may use not more than an amount equal to 1 percent of the funds available to the agency pursuant to the Small Business Innovation Research program. Such funds--

` (A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

` (B) shall not be used for the purpose of funding costs associated with salaries and expenses of employees of the United States Government.'.

SEC. 407. REPORT ON EFFORTS TO ENHANCE MANUFACTURING ACTIVITIES.

Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding after paragraph (9) (as added by section 406) the following:

` (10) EFFORTS TO ENHANCE MANUFACTURING ACTIVITIES- If an agency is required by subsection (aa) to have an SBIR advisory board, the advisory board shall include in each report under subsection (aa) a part relating to efforts to enhance manufacturing activities, which shall include--

` (A) a comprehensive description of the actions undertaken each year by the SBIR and STTR programs of that agency in support of Executive Order No. 13329;

` (B) an assessment of the effectiveness of such actions toward enhancing the research and development of manufacturing technologies and processes; and

` (C) any recommendations that the program managers of the SBIR and STTR programs consider appropriate for additional actions to be undertaken in order to increase the effectiveness toward enhancing manufacturing activities within the defense industrial base.'.

TITLE V--SUPPORTING PROGRAM UTILIZATION

SEC. 501. AGENCY DATABASES TO SUPPORT PROGRAM EVALUATION.

Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended--

(1) in paragraph (2)(A)--

(A) by striking `and' at the end of clause (ii);

(B) by inserting `and' at the end of clause (iii); and

(C) by adding at the end the following new clause:

`(iv) information on the ownership structure of award recipients, both at the time of receipt of the award and upon completion of the award period;';

(2) by amending paragraph (3) to read as follows:

`(3) UPDATING INFORMATION FOR DATABASE-

`(A) IN GENERAL- A Federal agency shall not make a Phase I or Phase II payment to a small business concern under this section unless the small business concern has provided all information required under this subsection with respect to the award under which the payment is made, and with respect to any other award under this section previously received by the small business concern or a predecessor in interest to the small business concern.

`(B) APPORTIONMENT- In complying with this paragraph, a small business concern may apportion sales or additional investment information relating to more than one second phase award among those awards, if it notes the apportionment for each award.

`(C) ANNUAL UPDATES UPON TERMINATION- A small business concern receiving an award under this section shall--

`(i) in the case of a second phase award, update information in the databases required under paragraphs (2) and (6) concerning that award at the termination of the award period;

`(ii) in the case of award recipients not described in clause (iii), be requested to voluntarily update such information annually thereafter for a period of 5 years; and

`(iii) in the case of a small business concern applying for a subsequent first phase or second

phase award, be required to update such information annually thereafter for a period of 5 years.'; and

(3) by adding at the end the following new paragraph:

` (6) AGENCY PROGRAM EVALUATION DATABASES- Each Federal agency required to establish an SBIR or STTR program under this section shall develop and maintain, for the purpose of evaluating such programs, a database containing information required to be contained in the database under paragraph (2). Each such database shall be designed to be accessible to other agencies that are required to maintain a database under this paragraph.'.

SEC. 502. AGENCY DATABASES TO SUPPORT TECHNOLOGY UTILIZATION.

Section 9(k) of the Small Business Act (15 U.S.C. 638(k)), as amended by this Act, is further amended by adding at the end the following new paragraph:

` (7) AGENCY DATABASES TO SUPPORT TECHNOLOGY UTILIZATION- Each Federal agency with an SBIR or STTR program shall create and maintain a technology utilization database, which shall be available to the public and shall contain data supplied by the award recipients specifically to help them attract customers for the products and services generated under the SBIR or STTR project, and to attract additional investors and business partners. Each database created under this paragraph shall include information on the other databases created under this paragraph by other Federal agencies. Participation in a database under this paragraph shall be voluntary, except that such participation is required of all award recipients who received supplemental payments from SBIR and STTR program funds above their initial Phase II award.'.

SEC. 503. INTERAGENCY POLICY COMMITTEE.

(a) Establishment- The Director of the Office of Science and Technology Policy shall establish an Interagency SBIR/STTR Policy Committee comprised of one representative from each Federal agency with an SBIR program.

(b) Cochairs- The Director of the Office of Science and Technology Policy and the Director of the National Institute of

Standards and Technology shall jointly chair the Interagency Policy Committee.

(c) Duties- The Interagency Policy Committee shall review the following issues and make policy recommendations on ways to improve program effectiveness and efficiency:

(1) The public and government databases described in section 9(k)(1) and (2) of the Small Business Act (15 U.S.C. 638(k)(1) and (2)).

(2) Federal agency flexibility in establishing Phase I and II award sizes, and appropriate criteria to exercise such flexibility.

(3) Commercialization assistance best practices in Federal agencies with significant potential to be employed by other agencies, and the appropriate steps to achieve that leverage, as well as proposals for new initiatives to address funding gaps business concerns face after Phase II but before commercialization.

(d) Reports- The Interagency Policy Committee shall transmit to the Committee on Science and Technology and the Committee on Small Business of the House of Representatives, and to the Committee on Small Business and Entrepreneurship of the Senate--

(1) a report on its review and recommendations under subsection (c)(1) not later than 1 year after the date of enactment of this Act;

(2) a report on its review and recommendations under subsection (c)(2) not later than 18 months after the date of enactment of this Act; and

(3) a report on its review and recommendations under subsection (c)(3) not later than 2 years after the date of enactment of this Act.

SEC. 504. NANOTECHNOLOGY-RELATED RESEARCH TOPICS.

(a) SBIR- Section 9(g)(3) of the Small Business Act (15 U.S.C. 638(g)(3)), as amended by section 107, is further amended by adding at the end the following new subparagraph:

(F) the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in subsequent reports issued by the National Science and Technology Council

Committee on Technology, focusing on areas of nanotechnology identified in such plan;'.

(b) STTR- Section 9(o)(1) of the Small Business Act (15 U.S.C. 638(o)(1)) is amended by inserting ` , giving special consideration to topics that further 1 or more critical technologies, as identified by the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in subsequent reports issued by the National Science and Technology Council Committee on Technology, focusing on areas of nanotechnology identified in such plan' after ` its STTR program'.

SEC. 505. RURAL PREFERENCE.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

` (dd) Rural Preference- In making awards under this section, Federal agencies shall give priority to applications so as to increase the number of SBIR and STTR award recipients from rural areas.'.

SEC. 506. PRIORITY FOR AREAS THAT HAVE LOST A MAJOR SOURCE OF EMPLOYMENT.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

` (ee) Priority for Areas That Have Lost a Major Source of Employment- In making awards under this section, Federal agencies shall give priority to applications from companies located in geographic areas that, as determined by the Administrator, have lost a major source of employment. Not later than 90 days after the date of the enactment of this subsection, the Administrator shall promulgate rules for making the determination required by this subsection.'.

SEC. 507. VETERANS PREFERENCE.

Section 9 of the Small Business Act (15 U.S.C. 638) is further amended by adding at the end the following:

` (ff) Veterans Preference- In making awards under this section, Federal agencies shall give priority to applications from veterans, as defined in section 101(2) of title 38, United States Code, so

as to increase the number of SBIR and STTR award recipients who are veterans.'

SEC. 508. INITIATIVE TO PUBLICIZE THE SBIR PROGRAM TO VETERANS.

The Administrator of the Small Business Administration, in consultation with the Secretary of Veterans Affairs, shall develop an initiative to publicize the SBIR program to veterans returning from service and encourage those veterans with applicable technical skills to apply for SBIR grants.

SEC. 509. PREFERENCE FOR ORGANIZATIONS THAT ARE MAKING SIGNIFICANT CONTRIBUTIONS TOWARDS ENERGY EFFICIENCY.

Section 9 of the Small Business Act (15 U.S.C. 638) is further amended by adding at the end the following:

^ (ff) Preference for Organizations That Are Making Significant Contributions Towards Energy Efficiency- In making awards under this section, Federal agencies shall give priority to applications so as to increase the number of SBIR, STTR, and FAST award recipients from organizations that are making significant contributions towards energy efficiency, including organizations that are making efforts to reduce their carbon footprint or are carbon neutral.'

TITLE VI--IMPLEMENTATION

SEC. 601. CONFORMING AMENDMENTS TO THE SBIR AND STTR POLICY DIRECTIVES.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate amendments to the SBIR and the STTR Policy Directives to conform such directives to this Act and the amendments made by this Act.

SEC. 602. NATIONAL RESEARCH COUNCIL SBIR STUDY.

Section 108(d) of the Small Business Reauthorization Act of 2000 is amended--

- (1) by striking `of the Senate' and all that follows through `not later than 3' and inserting `of the Senate, not later than 3'; and
- (2) by striking `; and' and all that follows through `update of such report'.

SEC. 603. SBIR AWARDEE BUSINESS OPERATIONS.

Section 9 of the Small Business Act is further amended by adding at the end the following:

- `(ee) SBIR Awardee Business Operations-
 - `(1) IN GENERAL- To be eligible to receive an SBIR award, an awardee must have its primary business operations in the United States.
 - `(2) DEFINITION- In this subsection, the term `United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.'

SEC. 604. PROHIBITION OF AWARDS TO ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.

Section 9 of the Small Business Act is amended by adding at the end the following:

- `(ee) Prohibition of Awards to Aliens Unlawfully Present in the United States- A concern is not eligible to receive an award under this section if an individual who is an alien unlawfully present in the United States--
 - `(1) has an ownership interest in that concern; or
 - `(2) has an ownership interest in another concern that itself has an ownership interest in that concern.'

SEC. 605. PROHIBITION ON AWARDS TO FIRMS IN VIOLATION OF IMMIGRATION LAWS.

Any applicant found, based on a determination by the Secretary of Homeland Security or the Attorney General to have engaged in a pattern or practice of hiring, recruiting or referring for a fee, for employment in the United States an alien knowing the person is an unauthorized alien shall not be eligible for the receipt of future awards under section 9 of the Small Business Act.

Passed the House of Representatives April 23, 2008.

Attest:

Clerk.