

SEC. 4701. DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS (In Thousands of Dollars)		
Program	FY 2012 Request	Conference Authorized
Waste isolation pilot plant	147,136	
Central characterization project	23,975	
Transportation	29,044	
Community and regulatory support	28,771	
Total, Waste Isolation Pilot Plant	228,926	215,134
Program direction	321,628	321,628
Program Support	0	20,380
Community, regulatory and program support	91,279	
Safeguards and Security:		
Oak Ridge Reservation	17,300	17,300
Paducah	9,435	9,435
Portsmouth	16,412	16,412
Richland/Hanford Site	69,234	69,234
Savannah River Site	130,000	133,193
Waste Isolation Pilot Project	4,845	4,845
West Valley	1,600	1,600
Total, Safeguards and Security	248,826	252,019
Technology development	32,320	11,000
Subtotal, Defense environmental cleanup	5,410,162	5,026,381
Use of prior year balances	-3,381	-3,381
Total, Defense Environmental Cleanup	5,406,781	5,023,000
Other Defense Activities		
Health, safety and security		
Health, safety and security	349,445	335,436
Program direction	107,037	102,000
Total, Health, safety and security	456,482	437,436
Office of Legacy Management		
Legacy management	157,514	157,514
Program direction	12,586	12,086
Total, Office of Legacy Management	170,100	169,600
Defense-related activities		
Infrastructure		
Idaho sitewide safeguards and security	98,500	93,350
Total, Defense-related activities	98,500	93,350
Defense related administrative support	118,836	118,836
Acquisitions workforce improvement	11,892	0
Office of hearings and appeals	4,142	4,142
Total, Other Defense Activities	859,952	823,364

SBIR/STTR
Reauthorization
Act of 2011.

DIVISION E—SBIR AND STTR REAUTHORIZATION

TITLE L—SHORT TITLE; DEFINITIONS

15 USC 631 note. **SEC. 5001. SHORT TITLE.**

This division may be cited as the “SBIR/STTR Reauthorization Act of 2011”.

SEC. 5002. DEFINITIONS.15 USC 638b
note.

In this division—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms “extramural budget”, “Federal agency”, “Small Business Innovation Research Program”, “SBIR”, “Small Business Technology Transfer Program”, and “STTR” have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

(3) the term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

TITLE LI—SBIR AND STTR REAUTHORIZATION

Subtitle A—Reauthorization of the SBIR and STTR Programs

- Sec. 5101. Extension of termination dates.
- Sec. 5102. SBIR and STTR allocation increase.
- Sec. 5103. SBIR and STTR award levels.
- Sec. 5104. Agency and program flexibility.
- Sec. 5105. Elimination of Phase II invitations.
- Sec. 5106. Pilot to allow phase flexibility.
- Sec. 5107. Participation by firms with substantial investment from multiple venture capital operating companies, hedge funds, or private equity firms in a portion of the SBIR program.
- Sec. 5108. SBIR and STTR special acquisition preference.
- Sec. 5109. Collaborating with Federal laboratories and research and development centers.
- Sec. 5110. Notice requirement.
- Sec. 5111. Additional SBIR and STTR awards.

Subtitle B—Outreach and Commercialization Initiatives

- Sec. 5121. Technical assistance for awardees.
- Sec. 5122. Commercialization Readiness Program at Department of Defense.
- Sec. 5123. Commercialization Readiness Pilot Program for civilian agencies.
- Sec. 5124. Interagency Policy Committee.
- Sec. 5125. Clarifying the definition of “Phase III”.
- Sec. 5126. Shortened period for final decisions on proposals and applications.
- Sec. 5127. Phase 0 Proof of Concept Partnership pilot program.

Subtitle C—Oversight and Evaluation

- Sec. 5131. Streamlining annual evaluation requirements.
- Sec. 5132. Data collection from agencies for SBIR.
- Sec. 5133. Data collection from agencies for STTR.
- Sec. 5134. Public database.
- Sec. 5135. Government database.
- Sec. 5136. Accuracy in funding base calculations.
- Sec. 5137. Continued evaluation by the National Academy of Sciences.
- Sec. 5138. Technology insertion reporting requirements.
- Sec. 5139. Intellectual property protections.
- Sec. 5140. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations.
- Sec. 5141. Pilot to allow funding for administrative, oversight, and contract processing costs.
- Sec. 5142. GAO study with respect to venture capital operating company, hedge fund, and private equity firm involvement.
- Sec. 5143. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse.
- Sec. 5144. Simplified paperwork requirements.

Subtitle D—Policy Directives

- Sec. 5151. Conforming amendments to the SBIR and the STTR Policy Directives.

Subtitle E—Other Provisions

- Sec. 5161. Report on SBIR and STTR program goals.
 Sec. 5162. Competitive selection procedures for SBIR and STTR programs.
 Sec. 5163. Loan restrictions.
 Sec. 5164. Limitation on pilot programs.
 Sec. 5165. Commercialization success.
 Sec. 5166. Publication of certain information.
 Sec. 5167. Report on enhancement of manufacturing activities.
 Sec. 5168. Coordination of the SBIR program and the Experimental Program to Stimulate Competitive Research.

Subtitle A—Reauthorization of the SBIR and STTR Programs

SEC. 5101. EXTENSION OF TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking “2011” and inserting “2017”.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking “2011” and inserting “2017”.

SEC. 5102. SBIR AND STTR ALLOCATION INCREASE.

(a) SBIR.—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “Each” and inserting “Except as provided in paragraph (2)(B), each”;

(B) in subparagraph (B), by striking “and” at the end; and

(C) by striking subparagraph (C) and inserting the following:

“(C) not less than 2.5 percent of such budget in each of fiscal years 1997 through 2011;

“(D) not less than 2.6 percent of such budget in fiscal year 2012;

“(E) not less than 2.7 percent of such budget in fiscal year 2013;

“(F) not less than 2.8 percent of such budget in fiscal year 2014;

“(G) not less than 2.9 percent of such budget in fiscal year 2015;

“(H) not less than 3.0 percent of such budget in fiscal year 2016; and

“(I) not less than 3.2 percent of such budget in fiscal year 2017 and each fiscal year thereafter.”; and

(2) by adding at the end the following:

“(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prohibit a Federal agency from expending with small business concerns an amount of the extramural budget for research or research and development of the agency that exceeds the amount required under paragraph (1).”.

(b) STTR.—Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

(1) in clause (i) by striking “and” at the end; and

(2) by striking clause (ii) and inserting the following:

“(ii) 0.3 percent for each of fiscal years 2004 through 2011;

“(iii) 0.35 percent for each of fiscal years 2012 and 2013;

“(iv) 0.40 percent for each of fiscal years 2014 and 2015; and

“(v) 0.45 percent for fiscal year 2016 and each fiscal year thereafter.”.

SEC. 5103. SBIR AND STTR AWARD LEVELS.

(a) **SBIR ADJUSTMENTS.**—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

(1) by striking “\$100,000” and inserting “\$150,000”; and

(2) by striking “\$750,000” and inserting “\$1,000,000”.

(b) **STTR ADJUSTMENTS.**—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking “\$100,000” and inserting “\$150,000”; and

(2) by striking “\$750,000” and inserting “\$1,000,000”.

(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 “once every 5 years to reflect economic adjustments and programmatic considerations” and inserting “every year for inflation”; and

(2) in subsection (p)(2)(B)(ix), as amended by subsection

(b) of this section, by inserting “(each of which the Administrator shall adjust for inflation annually)” after “\$1,000,000,”.

(d) **LIMITATION ON SIZE OF AWARDS.**—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this title, is further amended by adding at the end the following:

“(aa) **LIMITATION ON SIZE OF AWARDS.**—

“(1) **LIMITATION.**—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent.

“(2) **MAINTENANCE OF INFORMATION.**—Participating agencies shall maintain information on awards exceeding the guidelines established under this section, including—

“(A) the amount of each award;

“(B) a justification for exceeding the guidelines for each award;

“(C) the identity and location of each award recipient; and

“(D) whether an award recipient has received any venture capital, hedge fund, or private equity firm investment and, if so, whether the recipient is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.

“(3) **REPORTS.**—The Administrator shall include the information described in paragraph (2) in the annual report of the Administrator to Congress.

“(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) will interfere with the ability of the agency to fulfill its research mission through the SBIR program or the STTR program; and

Determination.

“(B) the agency will minimize, to the maximum extent possible, the number of awards that do not satisfy the requirement under paragraph (1) to preserve the nature and intent of the SBIR program and the STTR program.

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR program or the STTR program using funds of the Federal agency that are not part of the SBIR program or the STTR program of the Federal agency.”.

SEC. 5104. AGENCY AND PROGRAM FLEXIBILITY.

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

“(bb) SUBSEQUENT PHASE II AWARDS.—

Eligibility.
Determination.

“(1) AGENCY FLEXIBILITY.—A small business concern that received a Phase I award from a Federal agency under this section shall be eligible to receive a subsequent Phase II award from another Federal agency, if the head of each relevant Federal agency or the relevant component of the Federal agency makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administrator for inclusion in the public database under subsection (k).

“(2) SBIR AND STTR PROGRAM FLEXIBILITY.—A small business concern that received a Phase I award under this section under the SBIR program or the STTR program may receive a subsequent Phase II award in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administrator for inclusion in the public database under subsection (k).

Verification.

“(3) PREVENTING DUPLICATIVE AWARDS.—The head of a Federal agency shall verify that any activity to be performed with respect to a project with a Phase I or Phase II SBIR or STTR award has not been funded under the SBIR program or STTR program of another Federal agency.”.

SEC. 5105. ELIMINATION OF PHASE II INVITATIONS.

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

(1) in paragraph (4)(B), by striking “to further” and inserting “which shall not include any invitation, pre-screening, or pre-selection process for eligibility for Phase II, that will further”; and

(2) in paragraph (6)(B), by striking “to further develop proposed ideas to” and inserting “which shall not include any invitation, pre-screening, or pre-selection process for eligibility for Phase II, that will further develop proposals that”.

SEC. 5106. PILOT TO ALLOW PHASE FLEXIBILITY.

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

Determination.

“(cc) PHASE FLEXIBILITY.—During fiscal years 2012 through 2017, the National Institutes of Health, the Department of Defense, and the Department of Education may each provide to a small business concern an award under Phase II of the SBIR program with respect to a project, without regard to whether the small business concern was provided an award under Phase I of an

SBIR program with respect to such project, if the head of the applicable agency determines that the small business concern has completed the determinations described in subsection (e)(4)(A) with respect to such project despite not having been provided a Phase I award.”.

SEC. 5107. PARTICIPATION BY FIRMS WITH SUBSTANTIAL INVESTMENT FROM MULTIPLE VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN A PORTION OF THE SBIR PROGRAM.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this title, is further amended by adding at the end the following:

“(dd) PARTICIPATION OF SMALL BUSINESS CONCERNS MAJORITY-OWNED BY VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS IN THE SBIR PROGRAM.—

“(1) AUTHORITY.—Upon providing a written determination described in paragraph (2) to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, not later than 30 days before the date on which any such award is made—

Determination.
Deadline.

“(A) the Director of the National Institutes of Health, the Secretary of Energy, and the Director of the National Science Foundation may award not more than 25 percent of the funds allocated for the SBIR program of the applicable Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns; and

“(B) the head of a Federal agency other than a Federal agency described in subparagraph (A) that participates in the SBIR program may award not more than 15 percent of the funds allocated for the SBIR program of the Federal agency to small business concerns that are owned in majority part by multiple venture capital operating companies, hedge funds, or private equity firms through competitive, merit-based procedures that are open to all eligible small business concerns.

“(2) DETERMINATION.—A written determination described in this paragraph is a written determination by the head of a Federal agency that explains how the use of the authority under paragraph (1) will—

“(A) induce additional venture capital, hedge fund, or private equity firm funding of small business innovations;

“(B) substantially contribute to the mission of the Federal agency;

“(C) demonstrate a need for public research; and

“(D) otherwise fulfill the capital needs of small business concerns for additional financing for SBIR projects.

“(3) REGISTRATION.—A small business concern that is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms and qualified for participation in the program authorized under paragraph (1) shall—

- “(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and
- “(B) indicate in any SBIR proposal that the small business concern is registered under subparagraph (A) as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.
- “(4) COMPLIANCE.—
- Data. “(A) IN GENERAL.—The head of a Federal agency that makes an award under this subsection during a fiscal year shall collect and submit to the Administrator data relating to the number and dollar amount of Phase I awards, Phase II awards, and any other category of awards by the Federal agency under the SBIR program during that fiscal year.
- “(B) ANNUAL REPORTING.—The Administrator shall include as part of each annual report by the Administration under subsection (b)(7) any data submitted under subparagraph (A) and a discussion of the compliance of each Federal agency that makes an award under this subsection during the fiscal year with the maximum percentages under paragraph (1).
- Deadline. “(5) ENFORCEMENT.—If a Federal agency awards more than the percent of the funds allocated for the SBIR program of the Federal agency authorized under paragraph (1) for a purpose described in paragraph (1), the head of the Federal agency shall transfer an amount equal to the amount awarded in excess of the amount authorized under paragraph (1) to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency not later than 180 days after the date on which the Federal agency made the award that caused the total awarded under paragraph (1) to be more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).
- “(6) FINAL DECISIONS ON APPLICATIONS UNDER THE SBIR PROGRAM.—
- “(A) DEFINITION.—In this paragraph, the term ‘covered small business concern’ means a small business concern that—
- “(i) was not majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms on the date on which the small business concern submitted an application in response to a solicitation under the SBIR programs; and
- “(ii) on the date of the award under the SBIR program is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms.
- Time period. “(B) IN GENERAL.—If a Federal agency does not make an award under a solicitation under the SBIR program before the date that is 9 months after the date on which the period for submitting applications under the solicitation ends—
- “(i) a covered small business concern is eligible to receive the award, without regard to whether the covered small business concern meets the requirements for receiving an award under the SBIR program for a small business concern that is majority-owned by

multiple venture capital operating companies, hedge funds, or private equity firms, if the covered small business concern meets all other requirements for such an award; and

“(ii) the head of the Federal agency shall transfer an amount equal to any amount awarded to a covered small business concern under the solicitation to the funds for general SBIR programs from the non-SBIR and non-STTR research and development funds of the Federal agency, not later than 90 days after the date on which the Federal agency makes the award.

Deadline.

“(7) EVALUATION CRITERIA.—A Federal agency may not use investment of venture capital or investment from hedge funds or private equity firms as a criterion for the award of contracts under the SBIR program or STTR program.”.

(b) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

“(aa) VENTURE CAPITAL OPERATING COMPANY.—In this Act, the term ‘venture capital operating company’ means an entity described in clause (i), (v), or (vi) of section 121.103(b)(5) of title 13, Code of Federal Regulations (or any successor thereto).

“(bb) HEDGE FUND.—In this Act, the term ‘hedge fund’ has the meaning given that term in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).

“(cc) PRIVATE EQUITY FIRM.—In this Act, the term ‘private equity firm’ has the meaning given the term ‘private equity fund’ in section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2)).”.

(c) RULEMAKING TO ENSURE THAT FIRMS THAT ARE MAJORITY-OWNED BY MULTIPLE VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS ARE ABLE TO PARTICIPATE IN A PORTION OF THE SBIR PROGRAM.—

15 USC 638 note.

(1) STATEMENT OF CONGRESSIONAL INTENT.—It is the stated intent of Congress that the Administrator should promulgate regulations to carry out the authority under section 9(dd) of the Small Business Act, as added by this section, that—

(A) permit small business concerns that are majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms to participate in the SBIR program in accordance with section 9(dd) of the Small Business Act;

(B) provide specific guidance for small business concerns that are majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms with regard to eligibility, participation, and affiliation rules; and

(C) preserve and maintain the integrity of the SBIR program as a program for small business concerns in the United States by prohibiting large businesses or large entities or foreign-owned businesses or foreign-owned entities from participation in the program established under section 9 of the Small Business Act.

(2) RULEMAKING REQUIRED.—

(A) PROPOSED REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administrator shall issue proposed regulations to amend section 121.103 (relating to determinations of affiliation applicable to the

Deadline.

SBIR program) and section 121.702 (relating to ownership and control standards and size standards applicable to the SBIR program) of title 13, Code of Federal Regulations, for firms that are majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms and participating in the SBIR program solely under the authority under section 9(dd) of the Small Business Act, as added by this section.

Deadline.

(B) FINAL REGULATIONS.—Not later than 1 year after the date of enactment of this Act, and after providing notice of and opportunity for comment on the proposed regulations issued under subparagraph (A), the Administrator shall issue final or interim final regulations under this subsection.

Determination.

(3) CONTENTS.—

(A) IN GENERAL.—The regulations issued under this subsection shall permit the participation of applicants majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms in the SBIR program in accordance with section 9(dd) of the Small Business Act, as added by this section, unless the Administrator determines—

(i) in accordance with the size standards established under subparagraph (B), that the applicant is—

(I) a large business or large entity; or

(II) majority-owned or controlled by a large business or large entity; or

(ii) in accordance with the criteria established under subparagraph (C), that the applicant—

(I) is a foreign-owned business or a foreign entity or is not a citizen of the United States or alien lawfully admitted for permanent residence; or

(II) is majority-owned or controlled by a foreign-owned business, foreign entity, or person who is not a citizen of the United States or alien lawfully admitted for permanent residence.

(B) SIZE STANDARDS.—Under the authority to establish size standards under paragraphs (2) and (3) of section 3(a) of the Small Business Act (15 U.S.C. 632(a)), the Administrator shall, in accordance with paragraph (1) of this subsection, establish size standards for applicants seeking to participate in the SBIR program solely under the authority under section 9(dd) of the Small Business Act, as added by this section.

(C) CRITERIA FOR DETERMINING FOREIGN OWNERSHIP.—The Administrator shall establish criteria for determining whether an applicant meets the requirements under subparagraph (A)(ii), and, in establishing the criteria, shall consider whether the criteria should include—

(i) whether the applicant is at least 51 percent owned or controlled by citizens of the United States or domestic venture capital operating companies, hedge funds, or private equity firms;

(ii) whether the applicant is domiciled in the United States; and

(iii) whether the applicant is a direct or indirect subsidiary of a foreign-owned firm, including whether the criteria should include that an applicant is a direct or indirect subsidiary of a foreign-owned entity if—

(I) any venture capital operating company, hedge fund, or private equity firm that owns more than 20 percent of the applicant is a direct or indirect subsidiary of a foreign-owned entity; or

(II) in the aggregate, entities that are direct or indirect subsidiaries of foreign-owned entities own more than 49 percent of the applicant.

(D) CRITERIA FOR DETERMINING AFFILIATION.—The Administrator shall establish criteria, in accordance with paragraph (1), for determining whether an applicant is affiliated with a venture capital operating company, hedge fund, private equity firm, or any other business that the venture capital operating company, hedge fund, or private equity firm has financed and, in establishing the criteria, shall specify that—

(i) if a venture capital operating company, hedge fund, or private equity firm that is determined to be affiliated with an applicant is a minority investor in the applicant, the portfolio companies of the venture capital operating company, hedge fund, or private equity firm shall not be determined to be affiliated with the applicant, unless—

(I) the venture capital operating company, hedge fund, or private equity firm owns a majority of the portfolio company; or

(II) the venture capital operating company, hedge fund, or private equity firm holds a majority of the seats on the board of directors of the portfolio company;

(ii) subject to clause (i), the Administrator retains the authority to determine whether a venture capital operating company, hedge fund, or private equity firm is affiliated with an applicant, including establishing other criteria;

(iii) the Administrator may not determine that a portfolio company of a venture capital operating company, hedge fund, or private equity firm is affiliated with an applicant based solely on 1 or more shared investors; and

(iv) subject to clauses (i), (ii), and (iii), the Administrator retains the authority to determine whether a portfolio company of a venture capital operating company, hedge fund, or private equity firm is affiliated with an applicant based on factors independent of whether there is a shared investor, such as whether there are contractual obligations between the portfolio company and the applicant.

(4) ENFORCEMENT.—If the Administrator does not issue final or interim final regulations under this subsection on or before the date that is 1 year after the date of enactment of this Act, the Administrator may not carry out or establish any pilot program until the date on which the Administrator

Time period.

issues the final or interim final regulations under this subsection.

(5) DEFINITION.—In this subsection, the terms “venture capital operating company”, “hedge fund”, and “private equity firm” have the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632), as amended by this section.

(d) ASSISTANCE FOR DETERMINING AFFILIATES.—

(1) CLEAR EXPLANATION REQUIRED.—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the Web site of the Administration (with a direct link displayed on the homepage of the Web site of the Administration or the SBIR and STTR Web sites of the Administration)—

(A) a clear explanation of the SBIR and STTR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(B) contact information for officers or employees of the Administration who—

(i) upon request, shall review an issue relating to the rules described in subparagraph (A); and

(ii) shall respond to a request under clause (i) not later than 20 business days after the date on which the request is received.

(2) INCLUSION OF AFFILIATION RULES FOR CERTAIN SMALL BUSINESS CONCERNS.—On and after the date on which the final regulations under subsection (c) are issued, the Administrator shall post on the Web site of the Administration information relating to the regulations, in accordance with paragraph (1).

SEC. 5108. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

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

“(4) PHASE III AWARDS.—To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.”.

SEC. 5109. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

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

“(ee) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

“(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may make SBIR and STTR awards to any eligible small business concern that—

“(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

“(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

“(2) PROHIBITION.—No Federal agency shall—

Web postings.
15 USC 638 note.
Deadlines.

Review.

“(A) condition an SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

“(B) approve an agreement between a small business concern receiving an SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR Policy Directive and the STTR Policy Directive of the Administrator; or

“(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

“(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

Deadline.

“(A) have the flexibility to use the resources of the Federal laboratories or federally funded research and development centers; and

“(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.

“(4) ADVANCE PAYMENT.—If a small business concern receiving an award under this section enters into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award, the Federal laboratory or federally funded research and development center may not require advance payment from the small business concern in an amount greater than the amount necessary to pay for 30 days of such activities.”.

SEC. 5110. NOTICE REQUIREMENT.

(a) SBIR PROGRAM.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) in paragraph (10), by striking “and” at the end;

(2) in paragraph (11), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(12) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program of the Federal agency.”.

(b) STTR PROGRAM.—Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (15);

(2) in paragraph (16), by striking the period at the end and inserting “; and”; and

(3) by redesignating paragraph (16) as paragraph (15); and

(4) by adding at the end the following:

“(16) provide timely notice to the Administrator of any case or controversy before any Federal judicial or administrative tribunal concerning the STTR program of the Federal agency.”.

SEC. 5111. ADDITIONAL SBIR AND STTR AWARDS.

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

“(ff) ADDITIONAL SBIR AND STTR AWARDS.—

“(1) EXPRESS AUTHORITY FOR AWARDING A SEQUENTIAL PHASE II AWARD.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible to receive 1 additional Phase II SBIR award or Phase II STTR award for continued work on that project.

“(2) PREVENTING DUPLICATIVE AWARDS.—The head of a Federal agency shall verify that any activity to be performed with respect to a project with a Phase I or Phase II SBIR or STTR award has not been funded under the SBIR program or STTR program of another Federal agency.”.

Verification.

Subtitle B—Outreach and Commercialization Initiatives

SEC. 5121. TECHNICAL ASSISTANCE FOR AWARDEES.

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

(1) in paragraph (1)—

(A) by inserting “or STTR program” after “SBIR program”; and

(B) by striking “SBIR projects” and inserting “SBIR or STTR projects”;

(2) in paragraph (2), by striking “3 years” and inserting “5 years”; and

(3) in paragraph (3)—

(A) by striking subparagraph (A) and inserting the following:

“(A) PHASE I.—A Federal agency described in paragraph (1) may—

“(i) provide to the recipient of a Phase I SBIR or STTR award, through a vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than \$5,000 per year; or

“(ii) authorize the recipient of a Phase I SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than \$5,000 per year, which shall be in addition to the amount of the recipient’s award.”;

(B) by striking subparagraph (B) and inserting the following:

“(B) PHASE II.—A Federal agency described in paragraph (1) may—

“(i) provide to the recipient of a Phase II SBIR or STTR award, through a vendor selected under paragraph (2), the services described in paragraph (1), in an amount equal to not more than \$5,000 per year; or

“(ii) authorize the recipient of a Phase II SBIR or STTR award to purchase the services described in paragraph (1), in an amount equal to not more than \$5,000 per year, which shall be in addition to the amount of the recipient’s award.”; and

(C) by adding at the end the following:

“(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

“(D) LIMITATION.—A Federal agency may not—

“(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

“(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.”.

SEC. 5122. COMMERCIALIZATION READINESS PROGRAM AT DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in the subsection heading, by striking “PILOT” and inserting “READINESS”;

(2) by striking “Pilot” each place that term appears and inserting “Readiness”;

(3) in paragraph (1)—

(A) by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”; and

(B) by adding at the end the following: “The authority to create and administer a Commercialization Readiness Program under this subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3136).”;

(4) in paragraph (2), by inserting “or Small Business Technology Transfer Program” after “Small Business Innovation Research Program”;

(5) by striking paragraph (5);

(6) by striking paragraph (6); and

(7) by inserting after paragraph (4) the following:

“(5) INSERTION INCENTIVES.—For any contract with a value of not less than \$100,000,000, the Secretary of Defense is authorized to—

Contracts.

“(A) establish goals for the transition of Phase III technologies in subcontracting plans; and

“(B) require a prime contractor on such a contract to report the number and dollar amount of contracts

entered into by that prime contractor for Phase III SBIR or STTR projects.

“(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

“(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by the Secretary that lead to technology transition into programs of record or fielded systems;

“(B) use incentives in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2011, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

Submission.

“(C) submit to the Administrator for inclusion in the annual report under subsection (b)(7)—

“(i) the number and percentage of Phase II SBIR and STTR contracts awarded by the Secretary that led to technology transition into programs of record or fielded systems;

“(ii) information on the status of each project that received funding through the Commercialization Readiness Program and efforts to transition those projects into programs of record or fielded systems; and

“(iii) a description of each incentive that has been used by the Secretary under subparagraph (B) and the effectiveness of that incentive with respect to meeting the goal under subparagraph (A).”

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 9(i)(1) of the Small Business Act (15 U.S.C. 638(i)(1)) is amended by inserting “(including awards under subsection (y))” after “the number of awards”.

SEC. 5123. COMMERCIALIZATION READINESS PILOT PROGRAM FOR CIVILIAN AGENCIES.

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

“(gg) PILOT PROGRAM.—

“(1) AUTHORIZATION.—The head of each covered Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the covered Federal agency—

“(A) for awards for technology development, testing, evaluation, and commercialization assistance for SBIR and STTR Phase II technologies; or

“(B) to support the progress of research, research and development, and commercialization conducted under the SBIR or STTR programs to Phase III.

“(2) APPLICATION BY FEDERAL AGENCY.—

Deadline.

“(A) IN GENERAL.—A covered Federal agency may not establish a pilot program unless the covered Federal agency makes a written application to the Administrator, not later than 90 days before the first day of the fiscal year in which the pilot program is to be established, that describes a compelling reason that additional investment in SBIR or STTR technologies is necessary, including unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly

promising small business technologies or a class of such technologies expected to substantially advance the mission of the agency.

“(B) DETERMINATION.—The Administrator shall—

“(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted;

Deadline.

“(ii) publish the determination in the Federal Register; and

Federal Register, publication.

“(iii) make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.

Records.

“(3) MAXIMUM AMOUNT OF AWARD.—The head of a covered Federal agency may not make an award under a pilot program in excess of 3 times the dollar amounts generally established for Phase II awards under subsection (j)(2)(D) or (p)(2)(B)(ix).

“(4) REGISTRATION.—Any applicant that receives an award under a pilot program shall register with the Administrator in a registry that is available to the public.

Public information.

“(5) AWARD CRITERIA OR CONSIDERATION.—When making an award under this section, the head of a covered Federal agency shall give consideration to whether the technology to be supported by the award is likely to be manufactured in the United States.

“(6) REPORT.—The head of each covered Federal agency shall include in the annual report of the covered Federal agency to the Administrator an analysis of the various activities considered for inclusion in the pilot program of the covered Federal agency and a statement of the reasons why each activity considered was included or not included, as the case may be.

“(7) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2017.

“(8) DEFINITIONS.—In this subsection—

“(A) the term ‘covered Federal agency’—

“(i) means a Federal agency participating in the SBIR program or the STTR program; and

“(ii) does not include the Department of Defense; and

“(B) the term ‘pilot program’ means each program established under paragraph (1).”.

SEC. 5124. INTERAGENCY POLICY COMMITTEE.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish an Interagency SBIR/STTR Policy Committee.

(b) MEMBERSHIP.—The Interagency SBIR/STTR Policy Committee shall include representatives from Federal agencies with an SBIR or an STTR program and the Small Business Administration.

(c) DUTIES.—The Interagency SBIR/STTR Policy Committee shall review the following issues and make policy recommendations on ways to improve program effectiveness and efficiency:

Recommendations.

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

(2) Federal agency flexibility in establishing Phase I and II award sizes, including appropriate criteria for exercising such flexibility.

(3) Commercialization assistance best practices of 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 that business concerns face after Phase II but before commercialization.

(4) Developing and incorporating a standard evaluation framework to enable systematic assessment of SBIR and STTR, including through improved tracking of awards and outcomes and development of performance measures for the SBIR program and STTR program of each Federal agency.

(5) Outreach and technical assistance activities that increase the participation of small businesses underrepresented in the SBIR and STTR programs, including the identification and sharing of best practices and the leveraging of resources in support of such activities across agencies.

(d) **REPORTS.**—The Interagency SBIR/STTR Policy Committee shall transmit to the Committee on Science, Space, 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;

(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;

(4) a report on its review and recommendations under subsection (c)(4) not later than 2 years after the date of enactment of this Act; and

(5) a report on its review and recommendations under subsection (c)(5) not later than 2 years after the date of enactment of this Act.

SEC. 5125. CLARIFYING THE DEFINITION OF “PHASE III”.

(a) **PHASE III AWARDS.**—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)), as amended by this title, is further amended—

(1) in paragraph (4)(C), in the matter preceding clause (i), by inserting “for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program” after “phase”;

(2) in paragraph (6)(C), in the matter preceding clause (i), by inserting “for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program” after “phase”;

(3) in paragraph (8), by striking “and” at the end;

(4) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

“(10) the term ‘commercialization’ means—

“(A) the process of developing products, processes, technologies, or services; and

“(B) the production and delivery (whether by the originating party or by others) of products, processes, technologies, or services for sale to or use by the Federal Government or commercial markets;”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this title, is further amended—

(1) in subsection (e)—

(A) in paragraph (4)(C)(ii), by striking “scientific review criteria” and inserting “merit-based selection procedures”;

(B) in paragraph (9), by striking “the second or the third phase” and inserting “Phase II or Phase III”; and

(C) by adding at the end the following:

“(11) the term ‘Phase I’ means—

“(A) with respect to the SBIR program, the first phase described in paragraph (4)(A); and

“(B) with respect to the STTR program, the first phase described in paragraph (6)(A);

“(12) the term ‘Phase II’ means—

“(A) with respect to the SBIR program, the second phase described in paragraph (4)(B); and

“(B) with respect to the STTR program, the second phase described in paragraph (6)(B); and

“(13) the term ‘Phase III’ means—

“(A) with respect to the SBIR program, the third phase described in paragraph (4)(C); and

“(B) with respect to the STTR program, the third phase described in paragraph (6)(C).”;

(2) in subsection (j)—

(A) in paragraph (1)(B), by striking “phase two” and inserting “Phase II”;

(B) in paragraph (2)—

(i) in subparagraph (B)—

(I) by striking “the third phase” each place it appears and inserting “Phase III”; and

(II) by striking “the second phase” and inserting “Phase II”;

(ii) in subparagraph (D)—

(I) by striking “the first phase” and inserting “Phase I”; and

(II) by striking “the second phase” and inserting “Phase II”;

(iii) in subparagraph (F), by striking “the third phase” and inserting “Phase III”;

(iv) in subparagraph (G)—

(I) by striking “the first phase” and inserting “Phase I”; and

(II) by striking “the second phase” and inserting “Phase II”; and

(v) in subparagraph (H)—

(I) by striking “the first phase” and inserting “Phase I”;

- (II) by striking “second phase” each place it appears and inserting “Phase II”; and
- (III) by striking “third phase” and inserting “Phase III”; and
- (C) in paragraph (3)—
 - (i) in subparagraph (A)—
 - (I) by striking “the first phase (as described in subsection (e)(4)(A))” and inserting “Phase I”;
 - (II) by striking “the second phase (as described in subsection (e)(4)(B))” and inserting “Phase II”; and
 - (III) by striking “the third phase (as described in subsection (e)(4)(C))” and inserting “Phase III”; and
 - (ii) in subparagraph (B), by striking “second phase” and inserting “Phase II”;
- (3) in subsection (k)—
 - (A) by striking “first phase” each place it appears and inserting “Phase I”; and
 - (B) by striking “second phase” each place it appears and inserting “Phase II”;
- (4) in subsection (l)(2)—
 - (A) by striking “the first phase” and inserting “Phase I”; and
 - (B) by striking “the second phase” and inserting “Phase II”;
- (5) in subsection (o)(13)—
 - (A) in subparagraph (B), by striking “second phase” and inserting “Phase II”; and
 - (B) in subparagraph (C), by striking “third phase” and inserting “Phase III”;
- (6) in subsection (p)—
 - (A) in paragraph (2)(B)—
 - (i) in clause (vi)—
 - (I) by striking “the second phase” and inserting “Phase II”; and
 - (II) by striking “the third phase” and inserting “Phase III”; and
 - (ii) in clause (ix)—
 - (I) by striking “the first phase” and inserting “Phase I”; and
 - (II) by striking “the second phase” and inserting “Phase II”; and
 - (B) in paragraph (3)—
 - (i) by striking “the first phase (as described in subsection (e)(6)(A))” and inserting “Phase I”;
 - (ii) by striking “the second phase (as described in subsection (e)(6)(B))” and inserting “Phase II”; and
 - (iii) by striking “the third phase (as described in subsection (e)(6)(C))” and inserting “Phase III”;
- (7) in subsection (r)—
 - (A) in the subsection heading, by striking “THIRD PHASE” and inserting “PHASE III”;
 - (B) in paragraph (1)—
 - (i) in the first sentence—
 - (I) by striking “for the second phase” and inserting “for Phase II”;

(II) by striking “third phase” and inserting “Phase III”; and
 (III) by striking “second phase period” and inserting “Phase II period”; and
 (ii) in the second sentence—
 (I) by striking “second phase” and inserting “Phase II”; and
 (II) by striking “third phase” and inserting “Phase III”; and
 (C) in paragraph (2), by striking “third phase” and inserting “Phase III”; and
 (8) in subsection (u)(2)(B), by striking “the first phase” and inserting “Phase I”.

SEC. 5126. SHORTENED PERIOD FOR FINAL DECISIONS ON PROPOSALS AND APPLICATIONS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this title, is further amended—

(1) in subsection (g)(4)—

(A) by inserting “(A)” after “(4)”; and

(B) by adding “and” after the semicolon at the end;

and

(C) by adding at the end the following:

“(B) make a final decision on each proposal submitted under the SBIR program— Deadlines.

“(i) not later than 1 year after the date on which the applicable solicitation closes, if with respect to the National Institutes of Health or the National Science Foundation, or 90 days after the date on which the applicable solicitation closes, if with respect to any other participating agency; or

“(ii) if the Administrator authorizes an extension with respect to a solicitation, not later than 90 days after the date that would otherwise be applicable to the agency under clause (i);”;

(2) in subsection (o)(4)—

(A) by inserting “(A)” after “(4)”; and

(B) by adding “and” after the semicolon at the end;

and

(C) by adding at the end the following:

“(B) make a final decision on each proposal submitted under the STTR program—

“(i) not later than 1 year after the date on which the applicable solicitation closes, if with respect to the National Institutes of Health or the National Science Foundation, or 90 days after the date on which the applicable solicitation closes, if with respect to any other participating agency; or

“(ii) if the Administrator authorizes an extension for a solicitation, not later than 90 days after the date that would be applicable to the agency under clause (i);”.

(b) OTHER TIMING PROVISIONS.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this title, is further amended by adding at the end the following:

“(hh) TIMING OF RELEASE OF FUNDING.—Federal agencies participating in the SBIR program or STTR program shall, to the extent possible, attempt to shorten the amount of time between

the provision of notice of an award under the SBIR program or STTR program and the subsequent release of funding with respect to the award.

“(ii) REPORTING ON TIMING.—Federal agencies participating in the SBIR program or STTR program shall provide to the Administrator, for the annual report on the SBIR and STTR program under subsection (b)(7), the average amount of time the agency takes to make a final decision on proposals submitted under such programs, the average amount of time the agency takes to release funding with respect to an award under such programs, and the goals established to reduce such amounts.”.

Grants.

SEC. 5127. PHASE 0 PROOF OF CONCEPT PARTNERSHIP PILOT PROGRAM.

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

“(jj) PHASE 0 PROOF OF CONCEPT PARTNERSHIP PILOT PROGRAM.—

“(1) IN GENERAL.—The Director of the National Institutes of Health may use \$5,000,000 of the funds allocated under subsection (n)(1) for a Proof of Concept Partnership pilot program to accelerate the creation of small businesses and the commercialization of research innovations from qualifying institutions. To implement this program, the Director shall award, through a competitive, merit-based process, grants to qualifying institutions. These grants shall only be used to administer Proof of Concept Partnership awards in conformity with this subsection.

“(2) DEFINITIONS.—In this subsection—

“(A) the term ‘Director’ means the Director of the National Institutes of Health;

“(B) the term ‘pilot program’ refers to the Proof of Concept Partnership pilot program; and

“(C) the terms ‘qualifying institution’ and ‘institution’ mean a university or other research institution that participates in the National Institutes of Health’s STTR program.

“(3) PROOF OF CONCEPT PARTNERSHIPS.—

“(A) IN GENERAL.—A Proof of Concept Partnership shall be set up by a qualifying institution to award grants to individual researchers. These grants should provide researchers with the initial investment and the resources to support the proof of concept work and commercialization mentoring needed to translate promising research projects and technologies into a viable company. This work may include technical validations, market research, clarifying intellectual property rights position and strategy, and investigating commercial or business opportunities.

“(B) AWARD GUIDELINES.—The administrator of a Proof of Concept Partnership program shall award grants in accordance with the following guidelines:

“(i) The Proof of Concept Partnership shall use a market-focused project management oversight process, including—

“(I) a rigorous, diverse review board comprised of local experts in translational and proof of concept research, including industry, start-up, venture

capital, technical, financial, and business experts and university technology transfer officials;

“(II) technology validation milestones focused on market feasibility;

“(III) simple reporting effective at redirecting projects; and

“(IV) the willingness to reallocate funding from failing projects to those with more potential.

“(ii) Not more than \$100,000 shall be awarded towards an individual proposal.

“(C) EDUCATIONAL RESOURCES AND GUIDANCE.—The administrator of a Proof of Concept Partnership program shall make educational resources and guidance available to researchers attempting to commercialize their innovations.

“(4) AWARDS.—

“(A) SIZE OF AWARD.—The Director may make awards to a qualifying institution for up to \$1,000,000 per year for up to 3 years.

“(B) AWARD CRITERIA.—In determining which qualifying institutions receive pilot program grants, the Director shall consider, in addition to any other criteria the Director determines necessary, the extent to which qualifying institutions—

“(i) have an established and proven technology transfer or commercialization office and have a plan for engaging that office in the program’s implementation;

“(ii) have demonstrated a commitment to local and regional economic development;

“(iii) are located in diverse geographies and are of diverse sizes;

“(iv) can assemble project management boards comprised of industry, start-up, venture capital, technical, financial, and business experts;

“(v) have an intellectual property rights strategy or office; and

“(vi) demonstrate a plan for sustainability beyond the duration of the funding award.

“(5) LIMITATIONS.—The funds for the pilot program shall not be used—

“(A) for basic research, but to evaluate the commercial potential of existing discoveries, including—

“(i) proof of concept research or prototype development; and

“(ii) activities that contribute to determining a project’s commercialization path, to include technical validations, market research, clarifying intellectual property rights, and investigating commercial and business opportunities; or

“(B) to fund the acquisition of research equipment or supplies unrelated to commercialization activities.

“(6) EVALUATIVE REPORT.—The Director shall submit to the Committee on Science, Space, and Technology and the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship

of the Senate an evaluative report regarding the activities of the pilot program. The report shall include—

“(A) a detailed description of the institutional and proposal selection process;

“(B) an accounting of the funds used in the pilot program;

“(C) a detailed description of the pilot program, including incentives and activities undertaken by review board experts;

“(D) a detailed compilation of results achieved by the pilot program, including the number of small business concerns included and the number of business packages developed, and the number of projects that progressed into subsequent STTR phases; and

“(E) an analysis of the program’s effectiveness with supporting data.

“(7) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2017.”

Subtitle C—Oversight and Evaluation

SEC. 5131. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

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

(1) in paragraph (7)—

(A) by striking “STTR programs, including the data” and inserting the following: “STTR programs, including—
“(A) the data”;

(B) by striking “(g)(10), (o)(9), and (o)(15), the number” and all that follows through “under each of the SBIR and STTR programs, and a description” and inserting the following: “(g)(8) and (o)(9);

“(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital, hedge fund, or private equity firm investment (including those majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms) under each of the SBIR and STTR programs;

“(C) a description of the extent to which each Federal agency is increasing outreach and awards to firms owned and controlled by women or by socially or economically disadvantaged individuals under each of the SBIR and STTR programs;

“(D) general information about the implementation of, and compliance with the allocation of funds required under, subsection (dd) for firms owned in majority part by venture capital operating companies, hedge funds, or private equity firms and participating in the SBIR program;

“(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR Policy Directive and the STTR Policy Directive filed by the Administrator with Federal agencies;

“(F) an accounting of funds, initiatives, and outcomes under the Commercialization Readiness Program; and

“(G) a description”; and

- (C) by striking “and” at the end;
- (2) in paragraph (8), by striking the period at the end and inserting “; and”; and
- (3) by inserting after paragraph (8) the following:
 - “(9) to coordinate the implementation of electronic databases at each of the Federal agencies participating in the SBIR program or the STTR program, including the technical ability of the participating agencies to electronically share data.”.

SEC. 5132. DATA COLLECTION FROM AGENCIES FOR SBIR.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)), as amended by this title, is further amended—

- (1) by striking paragraph (10);
- (2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and
- (3) by inserting after paragraph (7) the following:

“(8) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

Deadline.

“(A) whether an awardee—

“(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms and, if so—

“(I) the amount of venture capital, hedge fund, or private equity firm investment that the awardee has received as of the date of the award; and

“(II) the amount of additional capital that the awardee has invested in the SBIR technology;

“(ii) has an investor that—

“(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States and, if so, the name of any such individual; or

“(II) is a person that is not an individual and is not organized under the laws of a State or the United States and, if so, the name of any such person;

“(iii) is owned by a woman or has a woman as a principal investigator;

“(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(v) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(vi) is located in a State described in subsection (u)(3);

“(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section; and

“(C) data with respect to the Federal and State Technology Partnership Program (FAST Program);”.

SEC. 5133. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)), as amended by this title, is further amended by striking paragraph (9) and inserting the following:

Deadline.

“(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

“(A) whether an applicant or awardee—

“(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms and, if so—

“(I) the amount of venture capital, hedge fund, or private equity firm investment that the applicant or awardee has received as of the date of the application or award, as applicable; and

“(II) the amount of additional capital that the applicant or awardee has invested in the STTR technology;

“(ii) has an investor that—

“(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States and, if so, the name of any such individual; or

“(II) is a person that is not an individual and is not organized under the laws of a State or the United States and, if so, the name of any such person;

“(iii) is owned by a woman or has a woman as a principal investigator;

“(iv) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(v) is a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(vi) is located in a State in which the total value of contracts awarded to small business concerns under all STTR programs is less than the total value of contracts awarded to small business concerns in a majority of other States, as determined by the Administrator in biennial fiscal years, beginning with fiscal year 2008, based on the most recent statistics compiled by the Administrator;

“(B) if an awardee receives an award in an amount that is more than the award guidelines under this section, a statement from the agency that justifies the award amount; and

“(C) data with respect to the Federal and State Technology Partnership Program (FAST Program);”.

SEC. 5134. PUBLIC DATABASE.

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

- (1) in subparagraph (D), by striking “and” at the end;
- (2) in subparagraph (E), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:

“(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

“(i) has venture capital, hedge fund, or private equity firm investment and, if so, whether the small business concern is registered as majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms as required under subsection (dd)(3);

“(ii) is owned by a woman or has a woman as a principal investigator;

“(iii) is owned by a socially or economically disadvantaged individual or has a socially or economically disadvantaged individual as a principal investigator;

“(iv) is owned by a faculty member or a student of an institution of higher education, as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); or

“(v) received assistance under the Federal and State Technology Partnership Program (FAST Program).”.

SEC. 5135. GOVERNMENT DATABASE.

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

- (1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “Not later” and all that follows through “Act of 2000” and inserting “Not later than 90 days after the date of enactment of the SBIR/STTR Reauthorization Act of 2011”; Deadline.

(B) by striking subparagraph (C);

(C) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(D) by inserting before subparagraph (B), as so redesignated, the following:

“(A) contains for each small business concern that applies for, submits a proposal for, or receives an award under Phase I or Phase II of the SBIR program or the STTR program—

“(i) the name, size, and location of, and the identifying number assigned by the Administration to, the small business concern;

“(ii) an abstract of the applicable project;

“(iii) the specific aims of the project;

“(iv) the number of employees of the small business concern;

“(v) the names and titles of the key individuals that will carry out the project, the position each key

individual holds in the small business concern, and contact information for each key individual;

“(vi) the percentage of effort each individual described in clause (v) will contribute to the project;

“(vii) whether the small business concern is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

“(viii) the Federal agency to which the application is made and contact information for the person or office within the Federal agency that is responsible for reviewing applications and making awards under the SBIR program or the STTR program;”;

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(F) by inserting after subparagraph (C), as so redesignated, the following:

“(D) includes, for each awardee—

“(i) the name, size, and location of, and any identifying number assigned by the Administrator to, the awardee;

“(ii) whether the awardee has venture capital, hedge fund, or private equity firm investment and, if so—

“(I) the amount of venture capital, hedge fund, or private equity firm investment as of the date of the award;

“(II) the percentage of ownership of the awardee held by a venture capital operating company, hedge fund, or private equity firm, including whether the awardee is majority-owned by multiple venture capital operating companies, hedge funds, or private equity firms; and

“(III) the amount of additional capital that the awardee has invested in the SBIR or STTR technology, which information shall be collected on an annual basis;

“(iii) the names and locations of any affiliates of the awardee;

“(iv) the number of employees of the awardee;

“(v) the number of employees of the affiliates of the awardee; and

“(vi) the names of, and the percentage of ownership of the awardee held by—

“(I) any individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

“(II) any person that is not an individual and is not organized under the laws of a State or the United States;”;

(G) in subparagraph (E), as so redesignated, by striking “and” at the end;

(H) in subparagraph (F), as so redesignated, by striking the period at the end and inserting “; and”; and

(I) by adding at the end the following:

“(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has been—

“(i) convicted of a fraud-related crime involving funding received under the SBIR program or STTR program; or

“(ii) found civilly liable for a fraud-related violation involving funding received under the SBIR program or STTR program.”; and

(2) in paragraph (3), by adding at the end the following:

“(C) GOVERNMENT DATABASE.—Not later than 60 days after the date established by a Federal agency for submitting applications or proposals for a Phase I or Phase II award under the SBIR program or STTR program, the head of the Federal agency shall submit to the Administrator the data required under paragraph (2) with respect to each small business concern that applies or submits a proposal for the Phase I or Phase II award.”.

Deadline.

SEC. 5136. ACCURACY IN FUNDING BASE CALCULATIONS.

15 USC 638 note.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every year thereafter until the date that is 5 years after the date of enactment of this Act, the Comptroller General of the United States shall—

Deadline.

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—

Audit.
Determinations.
Assessments.

(A) determine whether Federal agencies comply with the expenditure amount requirements under subsections (f)(1) and (n)(1) of section 9 of the Small Business Act (15 U.S.C. 638), as amended by this title;

(B) assess the extent of compliance with the requirements of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by Federal agencies participating in the SBIR program or the STTR program and the Administration;

(C) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency; and

(D) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency spends for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes it is used, including the portion, if any, of such budget the Federal agency spends for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives regarding the audit conducted under paragraph (1), including the assessments required under subparagraph (B) and the determinations made under subparagraph (D) of paragraph (1).

Reports.

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term “applicable period” means—

(1) for the first report submitted under this section, the period beginning on October 1, 2005, and ending on September

30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 5137. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note) is amended by adding at the end the following:

“(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to, not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, and every 4 years thereafter—

“(A) continue the most recent study under this section relating to the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1);

“(B) conduct a comprehensive study of how the STTR program has stimulated technological innovation and technology transfer, including—

“(i) a review of the collaborations created between small businesses and research institutions, including an evaluation of the effectiveness of the program in stimulating new collaborations and any obstacles that may prevent or inhibit the creation of such collaborations;

“(ii) an evaluation of the effectiveness of the program at transferring technology and capabilities developed through Federal funding;

“(iii) to the extent practicable, an evaluation of the economic benefits achieved by the STTR program, including the economic rate of return;

“(iv) an analysis of how Federal agencies are using small businesses that have completed Phase II under the STTR program to fulfill their procurement needs;

“(v) an analysis of whether additional funds could be employed effectively by the STTR program; and

“(vi) an assessment of the systems and minimum performance standards relating to commercialization success established under section 9(qq) of the Small Business Act;

“(C) make recommendations with respect to the issues described in subparagraphs (A), (D), and (E) of subsection (a)(2) and subparagraph (B) of this paragraph; and

“(D) estimate, to the extent practicable, the number of jobs created by the SBIR program or STTR program of the agency.

Deadline.
Contracts.
Study.

Review.

Analysis.

Assessment.

Recommendations.

“(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure that there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

“(3) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).”.

SEC. 5138. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

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

“(kk) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award—

“(1) the name of the agency or component of the agency or the non-Federal source of capital making the Phase III award;

“(2) the name of the small business concern or individual receiving the Phase III award; and

“(3) the dollar amount of the Phase III award.”.

SEC. 5139. INTELLECTUAL PROPERTY PROTECTIONS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies comply with the data rights protections for SBIR awardees and the technologies of SBIR awardees under section 9 of the Small Business Act (15 U.S.C. 638);

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes, mentor-protege relationships, and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives a report regarding the study conducted under subsection (a).

SEC. 5140. OBTAINING CONSENT FROM SBIR AND STTR APPLICANTS TO RELEASE CONTACT INFORMATION TO ECONOMIC DEVELOPMENT ORGANIZATIONS.

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

“(ll) CONSENT TO RELEASE CONTACT INFORMATION TO ORGANIZATIONS.—

“(1) ENABLING CONCERN TO GIVE CONSENT.—Each Federal agency required by this section to conduct an SBIR program or an STTR program shall enable a small business concern that is an SBIR applicant or an STTR applicant to indicate to the Federal agency whether the Federal agency has the consent of the concern to—

“(A) identify the concern to appropriate local and State-level economic development organizations as an SBIR applicant or an STTR applicant; and

“(B) release the contact information of the concern to such organizations.

“(2) RULES.—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that a Federal agency include in the SBIR and STTR application a provision through which the applicant can indicate consent for purposes of paragraph (1).”.

SEC. 5141. PILOT TO ALLOW FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this title, is further amended by adding at the end the following:

“(mm) ASSISTANCE FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.—

Effective date.

“(1) IN GENERAL.—Subject to paragraph (3), for the 3 fiscal years beginning after the date of enactment of this subsection, the Administrator shall allow each Federal agency required to conduct an SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency for—

“(A) the administration of the SBIR program or the STTR program of the Federal agency;

“(B) the provision of outreach and technical assistance relating to the SBIR program or STTR program of the Federal agency, including technical assistance site visits, personnel interviews, and national conferences;

“(C) the implementation of commercialization and outreach initiatives that were not in effect on the date of enactment of this subsection;

“(D) carrying out the program under subsection (y);

“(E) activities relating to oversight and congressional reporting, including waste, fraud, and abuse prevention activities;

“(F) targeted reviews of recipients of awards under the SBIR program or STTR program of the Federal agency that the head of the Federal agency determines are at high risk for fraud, waste, or abuse to ensure compliance with requirements of the SBIR program or STTR program, respectively;

“(G) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews;

“(H) carrying out subsection (dd);

“(I) contract processing costs relating to the SBIR program or STTR program of the Federal agency; and

“(J) funding for additional personnel and assistance with application reviews.

“(2) OUTREACH AND TECHNICAL ASSISTANCE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a Federal agency participating in the program under this subsection shall use a portion of the funds authorized for uses under paragraph (1) to carry out the policy directive required under subsection (j)(2)(F) and to increase the participation of States with respect to which a low level of SBIR awards have historically been awarded.

“(B) WAIVER.—A Federal agency may request the Administrator to waive the requirement contained in subparagraph (A). Such request shall include an explanation of why the waiver is necessary. The Administrator may grant the waiver based on a determination that the agency has demonstrated a sufficient need for the waiver, that the outreach objectives of the agency are being met, and that there is increased participation by States with respect to which a low level of SBIR awards have historically been awarded.

Determination.

“(3) PERFORMANCE CRITERIA.—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

“(4) RULES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall issue rules to carry out this subsection.

Deadline.

“(5) COORDINATION WITH IG.—Each Federal agency shall coordinate the activities funded under subparagraph (E), (F), or (G) of paragraph (1) with their respective Inspectors General, when appropriate, and each Federal agency that allocates more than \$50,000,000 to the SBIR program of the Federal agency for a fiscal year may share such funding with its Inspector General when the Inspector General performs such activities.

“(6) REPORTING.—The Administrator shall collect data and provide to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report on the use of funds under this subsection, including funds used to achieve the objectives of paragraph (2)(A) and any use of the waiver authority under paragraph (2)(B).”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this title, is further amended—

(A) in subsection (f)(2), by striking “shall not” and all that follows through “make available for the purpose” and inserting “shall not make available for the purpose”; and

(B) in subsection (y)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) TRANSITIONAL RULE.—Notwithstanding the amendments made by paragraph (1), subsections (f)(2) and (y)(4) of section 9 of the Small Business Act (15 U.S.C. 638), as in effect on the day before the date of enactment of this Act,

Applicability.

shall continue to apply to each Federal agency until the effective date of the performance criteria established by the Administrator under subsection (mm)(3) of section 9 of the Small Business Act, as added by subsection (a).

Effective date.

(3) PROSPECTIVE REPEAL.—Effective on the first day of the fourth full fiscal year following the date of enactment of this Act, section 9 of the Small Business Act (15 U.S.C. 638), as amended by paragraph (1) of this section, is amended—

(A) in subsection (f)(2), by striking “shall not make available for the purpose” and inserting the following: “shall not—

“(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

“(B) make available for the purpose”; and

(B) in subsection (y)—

(i) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(ii) by inserting after paragraph (3) the following:

“(4) FUNDING.—

“(A) IN GENERAL.—The Secretary of Defense and each Secretary of a military department may use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program for payment of expenses incurred to administer the Commercialization Readiness Program under this subsection.

“(B) LIMITATIONS.—The funds described in subparagraph (A)—

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

“(ii) shall not be used to make Phase III awards.”.

15 USC 638a.

SEC. 5142. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY, HEDGE FUND, AND PRIVATE EQUITY FIRM INVOLVEMENT.

Deadlines.

Not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the impact of requirements relating to venture capital operating company, hedge fund, and private equity firm involvement under section 9 of the Small Business Act; and

Reports.

(2) submit to Congress a report regarding the study conducted under paragraph (1).

15 USC 638b.

SEC. 5143. REDUCING VULNERABILITY OF SBIR AND STTR PROGRAMS TO FRAUD, WASTE, AND ABUSE.

(a) FRAUD, WASTE, AND ABUSE PREVENTION.—

Deadline.

(1) AMENDMENTS REQUIRED FOR FRAUD, WASTE, AND ABUSE PREVENTION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse in the SBIR program and the STTR program.

(2) CONTENT OF AMENDMENTS.—The amendments required under paragraph (1) shall include—

(A) definitions or descriptions of fraud, waste, and abuse;

(B) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program;

Guidelines.

(C) a requirement that each Federal agency that participates in the SBIR program or STTR program include information concerning the method established by the Inspector General of the Federal agency to report fraud, waste, and abuse (including any telephone hotline or Web-based platform)—

(i) on the Web site of the Federal agency; and

(ii) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program; and

(D) a requirement that each applicant for and small business concern that receives funding under the SBIR program or the STTR program shall certify whether the applicant or small business concern is in compliance with the laws relating to the SBIR program and the STTR program and the conduct guidelines established under the SBIR Policy Directive and the STTR Policy Directive.

Certification.

(3) CONSULTATION.—The Administrator shall develop, in consultation with the Council of Inspectors General on Integrity and Efficiency, the procedures and requirements for the certification set forth under paragraph (2)(D) after providing notice of and an opportunity for public comment on such procedures and requirements.

Procedures.
Requirements.
Notice.
Public comment.

(4) CERTIFICATION.—The certification developed under paragraph (3) may—

(A) cover the lifecycle of an award to require certifications at the application, funding, reporting, and closeout phases of every SBIR and STTR award;

(B) require the small business concern to certify compliance with the “principal investigator primary employment” requirement, the “small business concern” definition requirement, and the “performance of work” requirements as set forth in the Directive applicable to the award;

(C) require the small business concern to disclose whether it has applied for, plans to apply for, or received an SBIR or STTR award for identical or essentially equivalent work (as defined under the SBIR Policy Directive and the STTR Policy Directive), and require the concern to certify that the award that it is applying for or obtaining funding for is not identical or essentially equivalent to work it has performed, or will perform, in connection with any other SBIR or STTR award that the concern has applied for or received from any other agency except as fully disclosed to all funding agencies; and

(D) require that the small business concern certify that it will or did perform the work on the award at its facilities with its employees, unless otherwise indicated.

(5) INSPECTORS GENERAL.—The Inspector General of each Federal agency that participates in the SBIR program or STTR

program shall cooperate to prevent fraud, waste, and abuse in the SBIR program and the STTR program by—

- (A) establishing fraud detection indicators;
- (B) reviewing regulations and operating procedures of the Federal agency;
- (C) coordinating information sharing between Federal agencies, to the extent otherwise permitted under Federal law; and
- (D) improving the education and training of and outreach to—
 - (i) administrators of the SBIR program and the STTR program of the Federal agency;
 - (ii) applicants to the SBIR program or the STTR program; and
 - (iii) recipients of awards under the SBIR program or the STTR program.

(b) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act to establish a baseline of changes made to the program to fight fraud, waste, and abuse, and every 4 years thereafter to evaluate the effectiveness of the agency strategies, the Comptroller General of the United States shall—

- (1) conduct a study that evaluates—
 - (A) the implementation by each Federal agency that participates in the SBIR program or the STTR program of the amendments to the SBIR Policy Directive and the STTR Policy Directive made pursuant to subsection (a);
 - (B) the effectiveness of the management information system of each Federal agency that participates in the SBIR program or STTR program in identifying duplicative SBIR and STTR projects;
 - (C) the effectiveness of the risk management strategies of each Federal agency that participates in the SBIR program or STTR program in identifying areas of the SBIR program or the STTR program that are at high risk for fraud;
 - (D) technological tools that may be used to detect patterns of behavior that may indicate fraud by applicants to the SBIR program or the STTR program;
 - (E) the success of each Federal agency that participates in the SBIR program or STTR program in reducing fraud, waste, and abuse in the SBIR program or the STTR program of the Federal agency;
 - (F) the extent to which the Inspector General of each Federal agency that participates in the SBIR and STTR program effectively conducts investigations, audits, inspections, and outreach relating to the SBIR and STTR programs of the Federal agency; and
 - (G) the effectiveness of the Government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals; and

(2) submit to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business and the Committee on Science, Space, and Technology

of the House of Representatives, and the head of each Federal agency that participates in the SBIR program or STTR program a report on the results of the study conducted under paragraph (1).

(c) INSPECTOR GENERAL REPORTS.—Not later than October 1 of each year, the Inspector General of each Federal agency that participates in the SBIR program or STTR program shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives a report describing—

(1) the number of cases referred to the Inspector General in the preceding year that related to fraud, waste, or abuse with respect to the SBIR program or STTR program;

(2) the actions taken in each case described in paragraph (1) if fraud, waste, or abuse was determined to have occurred;

(3) if no action was taken in a case described in paragraph (1) and fraud, waste, or abuse was determined to have occurred, the justification for action not being taken; and

(4) an accounting of the funds used to address fraud, waste, and abuse, including a description of personnel and resources funded and funds that were recovered or saved.

SEC. 5144. SIMPLIFIED PAPERWORK REQUIREMENTS.

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

(1) in the subsection heading, by striking “SIMPLIFIED REPORTING REQUIREMENTS” and inserting “REDUCING PAPERWORK AND COMPLIANCE BURDEN”;

(2) by striking “The Administrator” and inserting the following:

“(1) STANDARDIZATION OF REPORTING REQUIREMENTS.—The Administrator”; and

(3) by adding at the end the following:

“(2) SIMPLIFICATION OF APPLICATION AND AWARD PROCESS.—Not later than 1 year after the date of enactment of this paragraph, and after a period of public comment, the Administrator shall issue regulations or guidelines, taking into consideration the unique needs of each Federal agency, to ensure that each Federal agency required to carry out an SBIR program or STTR program simplifies and standardizes the program proposal, selection, contracting, compliance, and audit procedures for the SBIR program or STTR program of the Federal agency (including procedures relating to overhead rates for applicants and documentation requirements) to reduce the paperwork and regulatory compliance burden on small business concerns applying to and participating in the SBIR program or STTR program.”.

Deadline.
Public comment.
Regulations.
Guidelines.

Subtitle D—Policy Directives

SEC. 5151. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

15 USC 638 note.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive

Deadline.

to conform such directives to this title and the amendments made by this title.

Deadline.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

Subtitle E—Other Provisions

SEC. 5161. REPORT ON SBIR AND STTR PROGRAM GOALS.

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

“(nn) ANNUAL REPORT ON SBIR AND STTR PROGRAM GOALS.—

“(1) DEVELOPMENT OF METRICS.—The head of each Federal agency required to participate in the SBIR program or the STTR program shall develop metrics to evaluate the effectiveness and the benefit to the people of the United States of the SBIR program and the STTR program of the Federal agency that—

“(A) are science-based and statistically driven;

“(B) reflect the mission of the Federal agency; and

“(C) include factors relating to the economic impact of the programs.

“(2) EVALUATION.—The head of each Federal agency described in paragraph (1) shall conduct an annual evaluation using the metrics developed under paragraph (1) of—

“(A) the SBIR program and the STTR program of the Federal agency; and

“(B) the benefits to the people of the United States of the SBIR program and the STTR program of the Federal agency.

“(3) REPORT.—

“(A) IN GENERAL.—The head of each Federal agency described in paragraph (1) shall submit to the appropriate committees of Congress and the Administrator an annual report describing in detail the results of an evaluation conducted under paragraph (2).

Web posting.

“(B) PUBLIC AVAILABILITY OF REPORT.—The head of each Federal agency described in paragraph (1) shall make each report submitted under subparagraph (A) available to the public online.

“(C) DEFINITION.—In this paragraph, the term ‘appropriate committees of Congress’ means—

“(i) the Committee on Small Business and Entrepreneurship of the Senate; and

“(ii) the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.”.

SEC. 5162. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

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

“(oo) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise

made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.”.

SEC. 5163. LOAN RESTRICTIONS.

Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report analyzing what restrictions, conditions, or covenants contained in a note, bond, debenture, other evidence of indebtedness, or preferred stock should constitute affiliation under section 121.103(a) of title 13, Code of Federal Regulations, for purposes of section 9 of the Small Business Act (15 U.S.C. 638).

Deadline.
Reports.

SEC. 5164. LIMITATION ON PILOT PROGRAMS.

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

“(pp) LIMITATION ON PILOT PROGRAMS.—

“(1) EXISTING PILOT PROGRAMS.—The Administrator may only carry out a covered pilot program that is in operation on the date of enactment of this subsection during the 3-year period beginning on such date of enactment.

“(2) NEW PILOT PROGRAMS.—The Administrator may only carry out a covered pilot program established after the date of enactment of this subsection—

“(A) during the 3-year period beginning on the date on which such program is established; and

“(B) if such program does not continue and is not based on, in any manner, a previously established covered pilot program.

“(3) COVERED PILOT PROGRAM DEFINED.—In this subsection, the term ‘covered pilot program’ means any initiative, project, innovation, or other activity—

“(A) established by the Administrator;

“(B) relating to an SBIR or STTR program; and

“(C) not specifically authorized by law.”.

Time periods.

SEC. 5165. COMMERCIALIZATION SUCCESS.

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

“(qq) MINIMUM STANDARDS FOR PARTICIPATION.—

“(1) PROGRESS TO PHASE II SUCCESS.—

“(A) ESTABLISHMENT OF SYSTEM AND MINIMUM COMMERCIALIZATION RATE.—Not later than 1 year after the date of enactment of this subsection, the head of each Federal agency participating in the SBIR or STTR program shall—

“(i) establish a system to measure, where appropriate, the success of small business concerns with respect to the receipt of Phase II SBIR or STTR awards for projects that have received Phase I SBIR or STTR awards;

“(ii) establish a minimum performance standard for small business concerns with respect to the receipt of Phase II SBIR or STTR awards for projects that have received Phase I SBIR or STTR awards; and

Deadline.

Determination. Time period.	<p>“(iii) begin evaluating, each fiscal year, whether each small business concern that received a Phase I SBIR or STTR award from the agency meets the minimum performance standard established under clause (ii).</p> <p>“(B) CONSEQUENCE OF FAILURE TO MEET MINIMUM COMMERCIALIZATION RATE.—If the head of a Federal agency determines that a small business concern that received a Phase I SBIR or STTR award from the agency is not meeting the minimum performance standard established under subparagraph (A)(ii), such concern may not participate in Phase I (or Phase II if under the authority of subsection (cc)) of the SBIR or STTR program of that agency during the 1-year period beginning on the date on which such determination is made.</p>
Deadline.	<p>“(2) PROGRESS TO PHASE III SUCCESS.—</p> <p>“(A) ESTABLISHMENT OF SYSTEM AND MINIMUM COMMERCIALIZATION RATE.—Not later than 2 years after the date of enactment of this subsection, the head of each Federal agency participating in the SBIR or STTR program shall—</p> <p>“(i) establish a system to measure, where appropriate, the success of small business concerns with respect to the receipt of Phase III SBIR or STTR awards for projects that have received Phase I SBIR or STTR awards;</p> <p>“(ii) establish a minimum performance standard for small business concerns with respect to the receipt of Phase III SBIR or STTR awards for projects that have received Phase I SBIR or STTR awards; and</p> <p>“(iii) begin evaluating, each fiscal year, whether each small business concern that received a Phase I SBIR or STTR award from the agency meets the minimum performance standard established under clause (ii).</p>
Determination. Time period.	<p>“(B) CONSEQUENCE OF FAILURE TO MEET MINIMUM COMMERCIALIZATION RATE.—If the head of a Federal agency determines that a small business concern that received a Phase I SBIR or STTR award from the agency is not meeting the minimum performance standard established under subparagraph (A)(ii), such concern may not participate in Phase I (or Phase II if under the authority of subsection (cc)) of the SBIR or STTR program of that agency during the 1-year period beginning on the date on which such determination is made.</p>
Determination.	<p>“(3) ADMINISTRATION OVERSIGHT.—</p> <p>“(A) APPROVAL AND PUBLICATION OF SYSTEMS AND MINIMUM PERFORMANCE STANDARDS.—Each system and minimum performance standard established under paragraph (1) or paragraph (2) shall be submitted by the head of the applicable Federal agency to the Administrator and shall be subject to the approval of the Administrator. In making a determination with respect to approval, the Administrator shall ensure that the minimum performance standard exceeds a de minimis level. The Administrator shall publish on the Internet Web site of the Administration the systems and minimum performance standards approved.</p>
Web posting.	

“(B) SUBMISSION OF EVALUATION RESULTS BY AGENCY.—

The head of each covered Federal agency shall submit to the Administrator the results of each evaluation conducted under paragraph (1) or paragraph (2).

“(4) REQUIREMENT OF NOTICE AND COMMENT.—Each system and minimum performance standard established under paragraph (1) or paragraph (2) and each approval provided by the Administrator under paragraph (3)(A), at least 60 days before becoming effective, shall be preceded by the provision of notice of and an opportunity for public comment on such system, standard, or approval.”. Time period.

SEC. 5166. PUBLICATION OF CERTAIN INFORMATION.

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

“(rr) PUBLICATION OF CERTAIN INFORMATION.—In order to increase the number of small businesses receiving awards under the SBIR or STTR programs of participating agencies, and to simplify the application process for such awards, the Administrator shall establish and maintain a public Internet Web site on which the Administrator shall publish such information relating to notice of and application for awards under the SBIR program and STTR program of each participating Federal agency as the Administrator determines appropriate.”. Web site.

SEC. 5167. REPORT ON ENHANCEMENT OF MANUFACTURING ACTIVITIES.

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

“(ss) REPORT ON ENHANCEMENT OF MANUFACTURING ACTIVITIES.—Not later than October 1, 2013, and annually thereafter, the head of each Federal agency that makes more than \$50,000,000 in awards under the SBIR and STTR programs of the agency combined shall submit to the Administrator, for inclusion in the annual report required under subsection (b)(7), information that includes—

“(1) a description of efforts undertaken by the head of the Federal agency to enhance United States manufacturing activities;

“(2) a comprehensive description of the actions undertaken each year by the head of the Federal agency in carrying out the SBIR or STTR program of the agency in support of Executive Order 13329 (69 Fed. Reg. 9181; relating to encouraging innovation in manufacturing);

“(3) an assessment of the effectiveness of the actions described in paragraph (2) at enhancing the research and development of United States manufacturing technologies and processes;

“(4) a description of efforts by vendors selected to provide discretionary technical assistance under subsection (q)(1) to help SBIR and STTR concerns manufacture in the United States; and

“(5) recommendations that the program managers of the SBIR or STTR program of the agency consider appropriate for additional actions to increase the effectiveness of enhancing manufacturing activities.”.

15 USC 638 note. **SEC. 5168. COORDINATION OF THE SBIR PROGRAM AND THE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.**

(a) **COORDINATION REQUIRED.**—The head of a Federal agency that participates in the SBIR program and the Experimental Program to Stimulate Competitive Research or the Institutional Development Award Program shall coordinate, to the extent possible, the initiatives of the agency with respect to such programs.

(b) **COORDINATION REPORT.**—Not later than 1 year after the date of enactment of this Act, the head of each Federal agency that participates in the SBIR program and the Experimental Program to Stimulate Competitive Research or the Institutional Development Award Program shall submit to the Administrator, the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report describing the actions taken during the preceding 1-year period to increase coordination between such programs to maximize existing resources.

(c) **PARTICIPATION REPORT.**—Not later than 3 years after the date of enactment of this Act, the head of each Federal agency that participates in the SBIR program and the Experimental Program to Stimulate Competitive Research or the Institutional Development Award Program shall submit to the Administrator, the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report analyzing whether actions taken to increase the coordination of such programs have been successful in attracting entrepreneurs into the SBIR program and increasing the participation of States with respect to which a low level of SBIR awards have historically been awarded.

Approved December 31, 2011.

LEGISLATIVE HISTORY—H.R. 1540 (S. 1867):

HOUSE REPORTS: No. 112–78 and Pt. 2 (Comm. on Armed Services) and 112–329 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 157 (2011):

May 24–26, considered and passed House.

Dec. 1, considered and passed Senate, amended, in lieu of S. 1867.

Dec. 14, House agreed to conference report.

Dec. 15, Senate agreed to conference report.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2011):

Dec. 31, Presidential statement.

