

111TH CONGRESS  
1ST SESSION

# H. R. 2772

To amend the Small Business Act to enhance the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2009

Mr. SCHOCK introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Small Business Act to enhance the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “SBIR and STTR En-  
5 hancement Act”.

1 **SEC. 2. INCREASED NUMBER OF RESEARCH TOPIC SOLICI-**  
2 **TATIONS ANNUALLY AND SHORTENED PE-**  
3 **RIOD FOR FINAL DECISIONS ON APPLICA-**  
4 **TIONS.**

5 (a) INCREASED NUMBER OF RESEARCH TOPIC SO-  
6 LICITATIONS ANNUALLY.—Section 9(g)(2) of the Small  
7 Business Act (15 U.S.C. 638(g)(2)) is amended by insert-  
8 ing before the semicolon at the end the following: “, but  
9 not less often than twice per year”.

10 (b) SHORTENED PERIOD FOR FINAL DECISIONS ON  
11 APPLICATIONS.—Section 9(g)(4) of the Small Business  
12 Act (15 U.S.C. 638(g)(4)) is amended by inserting before  
13 the semicolon at the end the following: “, but a final deci-  
14 sion on each proposal shall be rendered not later than 90  
15 days after the date on which the solicitation closes unless  
16 the Administrator determines, on a case by case basis,  
17 that a decision may be extended from 90 days to 180  
18 days”.

19 **SEC. 3. AGENCIES SHOULD FUND VITAL R&D PROJECTS**  
20 **WITH THE POTENTIAL FOR COMMERCIALIZA-**  
21 **TION.**

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

24 “(aa) MULTIPLE FIRST PHASE SBIR AWARDS RE-  
25 PORT.—The Administrator shall, on an annual basis, sub-  
26 mit to the Committee on Small Business and the Com-

1 mittee on Science and Technology of the House of Rep-  
2 resentatives and the Committee on Small Business and  
3 Entrepreneurship of the Senate a list identifying each  
4 small business concern that, for the period covered by the  
5 preceding 5 fiscal years, received 15 or more first phase  
6 SBIR awards and no second phase SBIR awards.”.

7 **SEC. 4. FEDERAL AGENCY ENGAGEMENT WITH SBIR**  
8 **AWARDEES THAT HAVE BEEN AWARDED MUL-**  
9 **TIPLE PHASE ONE AWARDS BUT HAVE NOT**  
10 **BEEN AWARDED PHASE TWO AWARDS.**

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

14 “(bb) REQUIREMENTS RELATING TO FEDERAL  
15 AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE  
16 SBIR AWARDEES.—Each Federal agency required by this  
17 section to conduct an SBIR program shall engage with  
18 SBIR awardees that have been awarded multiple first  
19 phase SBIR awards but have not been awarded any sec-  
20 ond phase SBIR awards and shall develop performance  
21 measures with respect to awardee progression in the SBIR  
22 program.”.

1 **SEC. 5. FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND**  
2 **CONTRACT PROCESSING COSTS.**

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

6 “(cc) ASSISTANCE FOR ADMINISTRATIVE, OVER-  
7 SIGHT, AND CONTRACT PROCESSING COSTS.—

8 “(1) IN GENERAL.—From amounts made avail-  
9 able to carry out this subsection, the Administrator  
10 may, on petition by Federal agencies required by  
11 this section to conduct an SBIR program, transfer  
12 funds to such agencies to assist with the administra-  
13 tive, oversight, and contract processing costs relating  
14 to such program.

15 “(2) PETITIONS.—The Administrator shall es-  
16 tablish rules for making transfers under paragraph  
17 (1). The initial set of rules shall be promulgated not  
18 later than 180 days after the date of the enactment  
19 of this subsection.

20 “(3) LIMIT ON TRANSFER.—A Federal agency  
21 may not receive under this subsection in a fiscal  
22 year an amount greater than 3 percent of the SBIR  
23 budget of such agency for such fiscal year.

24 “(4) AUTHORIZATION OF APPROPRIATIONS.—  
25 There is authorized to be appropriated to the Ad-

1 administrator to carry out this subsection \$27,500,000  
2 for each of fiscal years 2010 and 2011.”.

3 **SEC. 6. COMPTROLLER GENERAL AUDIT OF HOW FEDERAL**  
4 **AGENCIES CALCULATE EXTRAMURAL RE-**  
5 **SEARCH BUDGETS.**

6 The Comptroller General of the United States shall  
7 carry out a detailed audit of how Federal agencies cal-  
8 culate extramural research budgets for purposes of calcu-  
9 lating the size of the agencies’ Small Business Innovation  
10 Research Program and Small Business Technology Trans-  
11 fer Program budgets. Not later than 1 year after the date  
12 of the enactment of this Act, the Comptroller General shall  
13 submit to the Committee on Small Business and the Com-  
14 mittee on Science and Technology of the House of Rep-  
15 resentatives and the Committee on Small Business and  
16 Entrepreneurship of the Senate a report on the results  
17 of the audit.

18 **SEC. 7. AGENCY DATABASES TO SUPPORT PROGRAM EVAL-**  
19 **UATION.**

20 Section 9(k) of the Small Business Act (15 U.S.C.  
21 638(k)) is amended—

22 (1) in paragraph (2)(A)—

23 (A) by striking “and” at the end of clause

24 (ii);

1 (B) by inserting “and” at the end of clause  
2 (iii); and

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

5 “(iv) information on the ownership  
6 structure of award recipients, both at the  
7 time of receipt of the award and upon com-  
8 pletion of the award period;”;

9 (2) by amending paragraph (3) to read as fol-  
10 lows:

11 “(3) UPDATING INFORMATION FOR DATA-  
12 BASE.—

13 “(A) IN GENERAL.—A Federal agency  
14 shall not make a Phase I or Phase II payment  
15 to a small business concern under this section  
16 unless the small business concern has provided  
17 all information required under this subsection  
18 and available at the time with respect to the  
19 award under which the payment is made, and  
20 with respect to any other award under this sec-  
21 tion previously received by the small business  
22 concern or a predecessor in interest to the small  
23 business concern.

24 “(B) APPORTIONMENT.—In complying  
25 with this paragraph, a small business concern

1           may apportion sales or additional investment  
2           information relating to more than one second  
3           phase award among those awards, if it notes  
4           the apportionment for each award.

5           “(C) ANNUAL UPDATES UPON TERMI-  
6           NATION.—A small business concern receiving an  
7           award under this section shall—

8                   “(i) in the case of a second phase  
9                   award, update information in the data-  
10                  bases required under paragraphs (2) and  
11                  (6) concerning that award at the termi-  
12                  nation of the award period;

13                   “(ii) in the case of award recipients  
14                   not described in clause (iii), be requested  
15                   to voluntarily update such information an-  
16                   nually thereafter for a period of 5 years;  
17                   and

18                   “(iii) in the case of a small business  
19                   concern applying for a subsequent first  
20                   phase or second phase award, be required  
21                   to update such information annually there-  
22                   after for a period of 5 years.”; and

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

1           “(6) AGENCY PROGRAM EVALUATION DATA-  
2           BASES.—Each Federal agency required to establish  
3           an SBIR or STTR program under this section shall  
4           develop and maintain, for the purpose of evaluating  
5           such programs, a database containing information  
6           required to be contained in the database under para-  
7           graph (2). Each such database shall be designed to  
8           be accessible to other agencies that are required to  
9           maintain a database under this paragraph. Each  
10          such database shall be developed and operated in a  
11          manner to ensure that each such database is rel-  
12          evant to and contributes to the agency’s oversight  
13          and evaluation of the SBIR and STTR programs.  
14          Paragraphs (4) and (5) apply to each database  
15          under this paragraph.”.

16 **SEC. 8. AGENCY DATABASES TO SUPPORT TECHNOLOGY**  
17 **UTILIZATION.**

18          Section 9(k) of the Small Business Act (15 U.S.C.  
19          638(k)), as amended, is further amended by adding at the  
20          end the following new paragraph:

21               “(7) AGENCY DATABASES TO SUPPORT TECH-  
22               NOLOGY UTILIZATION.—Each Federal agency with  
23               an SBIR or STTR program shall create and main-  
24               tain a technology utilization database, which shall be  
25               available to the public and shall contain data sup-

1       plied by the award recipients specifically to help  
2       them attract customers for the products and services  
3       generated under the SBIR or STTR project, and to  
4       attract additional investors and business partners.  
5       Each database created under this paragraph shall  
6       include information on the other databases created  
7       under this paragraph by other Federal agencies.  
8       Participation in a database under this paragraph  
9       shall be voluntary, except that such participation is  
10      required of all award recipients who received supple-  
11      mental payments from SBIR and STTR program  
12      funds above their initial Phase II award. Each data-  
13      base created under this paragraph shall be developed  
14      and operated in a manner to ensure that each such  
15      database is relevant to and contributes to the agen-  
16      cy's oversight and evaluation of the SBIR and  
17      STTR programs.”.

18 **SEC. 9. INTERAGENCY POLICY COMMITTEE.**

19       (a) **ESTABLISHMENT.**—The Director of the Office of  
20      Science and Technology Policy shall establish an Inter-  
21      agency SBIR/STTR Policy Committee comprised of one  
22      representative from each Federal agency with an SBIR  
23      program.

24       (b) **COCHAIRS.**—The Director of the Office of Science  
25      and Technology Policy and the Director of the National

1 Institute of Standards and Technology shall jointly chair  
2 the Interagency SBIR/STTR Policy Committee.

3 (c) DUTIES.—The Interagency SBIR/STTR Policy  
4 Committee shall review the following issues and make pol-  
5 icy recommendations on ways to improve program effec-  
6 tiveness and efficiency:

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

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

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

20 (d) REPORTS.—The Interagency SBIR/STTR Policy  
21 Committee shall transmit to the Committee on Science  
22 and Technology and the Committee on Small Business of  
23 the House of Representatives, and to the Committee on  
24 Small Business and Entrepreneurship of the Senate—

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

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

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

10 **SEC. 10. NATIONAL RESEARCH COUNCIL SBIR STUDY.**

11           Section 108(d) of the Small Business Reauthoriza-  
12           tion Act of 2000, enacted into law by reference under sec-  
13           tion 1(a)(9) of the Consolidated Appropriations Act, 2001  
14           (Public Law 106–554), is amended—

15           (1) by striking “of the Senate” and all that fol-  
16           lows through “not later than 3” and inserting “of  
17           the Senate, not later than 3”; and

18           (2) by striking “; and” and all that follows  
19           through “update of such report”.

20 **SEC. 11. EXPRESS AUTHORITY TO “FAST-TRACK” PHASE**  
21 **TWO AWARDS FOR PROMISING PHASE ONE**  
22 **RESEARCH.**

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

1 “(dd) AUTHORITY TO ‘FAST-TRACK’ PHASE TWO  
2 AWARDS FOR PROMISING PHASE ONE RESEARCH.—To  
3 address the delay between an award for the first phase  
4 of an SBIR program and the application for and extension  
5 of an award for the second phase of such program, each  
6 Federal agency with an SBIR program may develop ‘fast-  
7 track’ programs to eliminate such delay by issuing second  
8 phase SBIR awards as soon as practicable, including in  
9 appropriate cases simultaneously with the issuance of the  
10 first phase SBIR award. The Administrator shall encour-  
11 age the development of such ‘fast-track’ programs.”.

12 **SEC. 12. INCREASED SBIR AND STTR AWARD LEVELS.**

13 (a) SBIR AWARD LEVEL AND ANNUAL ADJUST-  
14 MENTS.—Section 9(j) of the Small Business Act (15  
15 U.S.C. 638(j)) is amended by adding at the end the fol-  
16 lowing:

17 “(4) FURTHER ADDITIONAL MODIFICATIONS.—Not  
18 later than 180 days after the date of enactment of this  
19 paragraph and notwithstanding paragraph (2)(D), the Ad-  
20 ministrator shall modify the policy directives issued pursu-  
21 ant to this subsection to provide for an increase to  
22 \$250,000 in the amount of funds which an agency may  
23 award in the first phase of an SBIR program, and to  
24 \$2,000,000 in the second phase of an SBIR program, and

1 a mandatory annual adjustment of such amounts to reflect  
2 economic adjustments and programmatic considerations.”.

3 (b) STTR AWARD LEVEL AND ANNUAL ADJUST-  
4 MENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act  
5 (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

6 (1) by striking “\$100,000” and “\$750,000”  
7 and inserting “\$250,000” and “\$2,000,000”, re-  
8 spectively; and

9 (2) by striking “greater or lesser amounts” and  
10 inserting “with a mandatory annual adjustment of  
11 such amounts to reflect economic adjustments and  
12 programmatic considerations, and with lesser  
13 amounts”.

14 (c) LIMITATION ON CERTAIN AWARDS.—Section 9 of  
15 the Small Business Act (15 U.S.C. 638), as amended, is  
16 further amended by adding at the end the following:

17 “(ee) LIMITATION ON PHASE I AND II AWARDS.—

18 “(1) IN GENERAL.—No Federal agency shall  
19 issue an award under the SBIR program or the  
20 STTR program if the size of the award exceeds the  
21 amounts established under subsections (j)(4) and  
22 (p)(2)(B)(ix), except as provided in paragraph (2).

23 “(2) EXCEPTION.—The prohibition in para-  
24 graph (1) does not apply to an agency for a fiscal  
25 year if the head of the agency—

1           “(A) notifies the Administrator that the  
2 agency intends to issue awards in that fiscal  
3 year without regard to the prohibition in para-  
4 graph (1); and

5           “(B) reports to the Committee on Small  
6 Business and the Committee on Science and  
7 Technology of the House of Representatives  
8 and the Committee on Small Business and En-  
9 trepreneurship of the Senate at least annually  
10 the number of instances in which the agency  
11 issued an award that exceeds the amounts re-  
12 ferred to in paragraph (1) and the justification  
13 for each such instance.”.

14 **SEC. 13. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD**  
15 **SEQUENTIAL PHASE TWO AWARDS FOR SBIR-**  
16 **FUNDED PROJECTS.**

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

20       “(ff) REQUIREMENTS RELATING TO ADDITIONAL  
21 SECOND PHASE SBIR AWARDS.—

22           “(1) IN GENERAL.—A small business concern  
23 that receives a second phase SBIR award for a  
24 project remains eligible to receive additional second  
25 phase SBIR awards for such project.

1           “(2) TECHNICAL OR WEAPONS SYSTEMS.—  
2           Agencies are expressly authorized to provide addi-  
3           tional second phase SBIR awards for testing and  
4           evaluation assistance for the insertion of SBIR tech-  
5           nologies into technical or weapons systems.”.

6 **SEC. 14. FIRST PHASE REQUIRED.**

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

10           “(gg) FIRST PHASE REQUIRED.—Under this section,  
11           a Federal agency shall provide to a small business concern  
12           an award for the second phase of an SBIR program with  
13           respect to a project only if such agency finds that the  
14           small business concern has been provided an award for  
15           the first phase of an SBIR program with respect to such  
16           project or has completed the determinations described in  
17           subsection (e)(4)(A) with respect to such project despite  
18           not having been provided an award for the first phase.”.

○