

CREATING JOBS THROUGH SMALL BUSINESS
INNOVATION ACT OF 2011

JULY 1, 2011.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. GRAVES of Missouri, from the Committee on Small Business,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1425]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill
(H.R. 1425) to reauthorize and improve the SBIR and STTR pro-
grams, and for other purposes, having considered the same, report
favorably thereon with an amendment and recommend that the bill
as amended do pass.

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I. AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Creating Jobs Through Small Business Innovation Act of 2011”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

TITLE I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

- Sec. 101. Extension of termination dates.
- Sec. 102. SBIR and STTR award levels.
- Sec. 103. Agency and program flexibility.
- Sec. 104. Elimination of Phase II invitations.
- Sec. 105. Phase flexibility.
- Sec. 106. 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. 107. Ensuring that innovative small businesses with substantial investment from venture capital operating companies, hedge funds, or private equity firms are able to participate in the SBIR and STTR programs.
- Sec. 108. SBIR and STTR special acquisition preference.
- Sec. 109. Collaborating with Federal laboratories and research and development centers.
- Sec. 110. Notice requirement.
- Sec. 111. Additional SBIR and STTR Awards.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

- Sec. 201. Technical assistance for awardees.
- Sec. 202. Commercialization Readiness Program at Department of Defense.
- Sec. 203. Commercialization Readiness Pilot Program for civilian agencies.
- Sec. 204. Interagency Policy Committee.
- Sec. 205. Clarifying the definition of “Phase III”.
- Sec. 206. Shortened period for final decisions on proposals and applications.
- Sec. 207. Phase 0 Proof of Concept Partnership pilot program.

TITLE III—OVERSIGHT AND EVALUATION

- Sec. 301. Streamlining annual evaluation requirements.
- Sec. 302. Data collection from agencies for SBIR.
- Sec. 303. Data collection from agencies for STTR.
- Sec. 304. Public database.
- Sec. 305. Government database.
- Sec. 306. Accuracy in funding base calculations.
- Sec. 307. Continued evaluation by the National Academy of Sciences.
- Sec. 308. Technology insertion reporting requirements.
- Sec. 309. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations.
- Sec. 310. Pilot to allow funding for administrative, oversight, and contract processing costs.
- Sec. 311. GAO study with respect to venture capital operating company, hedge fund, and private equity firm involvement.
- Sec. 312. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse.
- Sec. 313. Simplified paperwork requirements.
- Sec. 314. Reducing fraud, waste, and abuse.

TITLE IV—POLICY DIRECTIVES

- Sec. 401. Conforming amendments to the SBIR and the STTR Policy Directives.

TITLE V—OTHER PROVISIONS

- Sec. 501. Report on SBIR and STTR program goals.
- Sec. 502. Competitive selection procedures for SBIR and STTR programs.
- Sec. 503. Loan restrictions.
- Sec. 504. Limitation on pilot programs.
- Sec. 505. Ensuring equity in SBIR and STTR awards to individual companies.
- Sec. 506. Inspector General reports.
- Sec. 507. Timing.
- Sec. 508. Publication of certain information.
- Sec. 509. Preference for clean coal technology research.
- Sec. 510. Report on enhancement of manufacturing activities.
- Sec. 511. Express authority to “fast-track” Phase II awards for promising Phase I research.
- Sec. 512. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses.
- Sec. 513. Preference for acid mine drainage research.
- Sec. 514. Preference for hydraulic fracturing research.

SEC. 3. DEFINITIONS.

In this Act—

- (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 I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 101. EXTENSION OF TERMINATION DATES.

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

- (1) by striking “TERMINATION.—” and all that follows through “the authorization” and inserting “TERMINATION.—The authorization”;
- (2) by striking “2008” and inserting “2014”; and
- (3) by striking paragraph (2).

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

- (1) by striking “IN GENERAL.—” and all that follows through “with respect” and inserting “IN GENERAL.—With respect”;
- (2) by striking “2009” and inserting “2014”; and
- (3) by striking clause (ii).

SEC. 102. 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 Act, 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 award amount;
- “(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) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a Federal agency from supplementing an award under the SBIR pro-

gram 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. 103. AGENCY AND PROGRAM FLEXIBILITY.

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

“(bb) SUBSEQUENT PHASE II AWARDS.—

“(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).”

SEC. 104. 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, pre-selection, or down-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, pre-selection, or down-selection process for eligibility for Phase II, that will further develop proposals that”.

SEC. 105. PHASE FLEXIBILITY.

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

“(cc) PHASE I REQUIRED.—Under this section, a Federal agency shall provide to a small business concern an award under Phase II of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award under Phase I of an SBIR program with respect to such project or 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. 106. 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 Act, 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 a written determination described in paragraph (2) provided 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 an award is made—

“(A) the Director of the National Institutes of Health, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and the Director of the National Science Foundation may award not more than 45 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; 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 35 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 the SBIR project.

“(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.—

“(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).

“(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.

“(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.

“(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) TECHNICAL AND CONFORMING AMENDMENT.—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)).”

SEC. 107. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, OR PRIVATE EQUITY FIRMS ARE ABLE TO PARTICIPATE IN THE SBIR AND STTR PROGRAMS.

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

“(ee) VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, AND PRIVATE EQUITY FIRMS.—Effective only for the SBIR and STTR programs the following shall apply:

“(1) A business concern that has more than 500 employees shall not qualify as a small business concern.

“(2) In determining whether a small business concern is independently owned and operated under section 3(a)(1) or meets the small business size standards instituted under section 3(a)(2), the Administrator shall not consider a business concern to be affiliated with a venture capital operating company, hedge fund, or private equity firm (or with any other business that the venture capital operating company, hedge fund, or private equity firm has financed) if—

“(A) the venture capital operating company, hedge fund, or private equity firm does not own 50 percent or more of the business concern; and

“(B) employees of the venture capital operating company, hedge fund, or private equity firm do not constitute a majority of the board of directors of the business concern.

“(3) A business concern shall be deemed to be ‘independently owned and operated’ if—

“(A) it is owned in majority part by one or more natural persons or venture capital operating companies, hedge funds, or private equity firms;

“(B) there is no single venture capital operating company, hedge fund, or private equity firm that owns 50 percent or more of the business concern; and

“(C) there is no single venture capital operating company, hedge fund, or private equity firm the employees of which constitute a majority of the board of directors of the business concern.

“(4) If a venture capital operating company, hedge fund, or private equity firm controlled by a business with more than 500 employees (in this paragraph referred to as a VCOC, hedge fund, or private equity firm under large business control) has an ownership interest in a small business concern that is owned in majority part by venture capital operating companies, hedge funds, or private equity firms, the small business concern is eligible to receive an award under the SBIR or STTR program only if—

“(A) not more than two VCOCs, hedge funds, or private equity firms under large business control have an ownership interest in the small business concern; and

“(B) the VCOCs, hedge funds, or private equity firms under large business control do not collectively own more than 20 percent of the small business concern.”

SEC. 108. 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. 109. 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 Act, is further amended by adding at the end the following:

“(ff) 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—

“(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 a 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—

“(A) have the flexibility to use the resources of the Federal laboratories and 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. 110. 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”;

(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. 111. ADDITIONAL SBIR AND STTR AWARDS.

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

“(gg) 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 one 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.”.

TITLE II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 201. 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) in subparagraph (A)—
 - (i) by inserting “or STTR” after “SBIR”; and
 - (ii) by striking “\$4,000” and inserting “\$5,000”;
 - (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. 202. 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) in paragraph (5)—
 - (A) by striking “the Committee on Armed Services and the Committee on Small Business of the House of Representatives” and inserting “the Committee on Armed Services, the Committee on Small Business, and the Committee on Science, Space, and Technology of the House of Representatives”; and
 - (B) by striking “shall include” and inserting “shall include, in addition to the information described in paragraph (6)(C)”;
- (6) by redesignating paragraph (5) as paragraph (7);
- (7) by striking paragraph (6); and

(8) 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—

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

“(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; and

“(C) take action to ensure that, if a prime contractor on such a contract, after consultation with the Secretary, certifies that an appropriate Phase III technology is not available to be incorporated into a project of the prime contractor, such project shall be excluded from any determination of whether goals under subparagraph (A) have been met.

“(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 that 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 Creating Jobs Through Small Business Innovation Act of 2011, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

“(C) include in the annual report under this subsection—

“(i) the 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. 203. COMMERCIALIZATION READINESS PILOT PROGRAM FOR CIVILIAN AGENCIES.

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

“(hh) **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.**—

“(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;

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

“(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.

“(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.

“(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 2014.

“(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 the program established under paragraph (1).”.

SEC. 204. INTERAGENCY POLICY COMMITTEE.

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

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

(1) The public and government databases described in section 9(k) 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.

(c) 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 (b)(1) not later than 1 year after the date of enactment of this Act;

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

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

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

SEC. 205. 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 Act, 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 of products, processes, technologies, or services for sale (whether by the originating party or by others) 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 Act, 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 (q)(3)(A)—
 - (A) in the subparagraph heading, by striking “FIRST PHASE” and inserting “PHASE I”; and
 - (B) by striking “first phase” and inserting “Phase I”;
- (8) 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
- (9) in subsection (u)(2)(B), by striking “the first phase” and inserting “Phase I”.

SEC. 206. 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 Act, is further amended—

- (1) in subsection (g)(4)—
 - (A) by inserting “(A)” after “(4)”;
 - (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—

 - “(i) not later than 90 days after the date on which the solicitation closes;
 - or
 - “(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;”;
- (2) in subsection (o)(4)—
 - (A) by inserting “(A)” after “(4)”;
 - (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 90 days after the date on which the solicitation closes;
 - or
 - “(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;”.

(b) **NIH PEER REVIEW PROCESS.**—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is further amended by adding at the end the following:

- “(ii) **NIH PEER REVIEW PROCESS.**—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Institutes of Health may make an award under the SBIR program or the STTR program of the National Institutes of Health only if the application for the award has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a).

“(jj) NSF PEER REVIEW PROCESS.—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Science Foundation may make an award under the SBIR program or the STTR program of the National Science Foundation only if the application for the award has undergone the National Science Foundation’s technical and scientific peer review process and met all other applicable peer review procedures and guidelines pursuant to the National Science Foundation Act of 1950 (42 U.S.C. 1861, et seq.) and other applicable Federal law.”.

SEC. 207. PHASE 0 PROOF OF CONCEPT PARTNERSHIP PILOT PROGRAM.

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

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

“(1) IN GENERAL.—The Director of the National Institutes of Health may use \$10,000,000 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 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 2014.”.

TITLE III—OVERSIGHT AND EVALUATION

SEC. 301. 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 and social 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; and
 - “(F) 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. 302. DATA COLLECTION FROM AGENCIES FOR SBIR.

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

“(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); and

“(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.”

SEC. 303. DATA COLLECTION FROM AGENCIES FOR STTR.

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

“(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 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 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; and

“(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;”.

SEC. 304. 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; or

“(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).”.

SEC. 305. 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 Creating Jobs Through Small Business Innovation Act of 2011”;

(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, and an identifying number assigned by the Administration of the small business concern;

“(ii) an abstract of the 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 (iv) 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, location, and any identifying number assigned to the awardee by the Administrator;
- “(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 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.”.

SEC. 306. ACCURACY IN FUNDING BASE CALCULATIONS.

- (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—
- (1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to—
- (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 Act;
- (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; and
- (C) 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, 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 determination made under subparagraph (C) of paragraph (1).

(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. 307. 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 Creating Jobs Through Small Business Innovation 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 Creating Jobs Through Small Business Innovation 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) an evaluation of the program’s success at commercializing technologies compared with other Federal technology transfer programs and the SBIR program;

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

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

“(vi) an analysis of whether the existing STTR allocation has impacted the effectiveness of the program in achieving its goals;

“(C) make recommendations with respect to the issues described in subparagraph (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.

“(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—

“(A) not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation 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); and

“(B) not later than 2 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, 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 of preliminary findings and recommendations regarding the study conducted under paragraph (1)(B).”

SEC. 308. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

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

“(11) 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 made by the Federal agency—

- “(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. 309. 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 Act, is further amended by adding at the end the following:

“(mm) 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. 310. 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 Act, is further amended by adding at the end the following:

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

“(1) IN GENERAL.—Subject to paragraph (2), for the 3 full 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 and personnel interviews;
- “(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) carrying out subsection (hh);
- “(J) contract processing costs relating to the SBIR program or STTR program of the Federal agency; and
- “(K) funding for additional personnel and assistance with application reviews.

“(2) 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).

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

“(4) 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.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, 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);
- (ii) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively; and
- (iii) in paragraph (6), as so redesignated, by striking “described in paragraph (6)(C)” and inserting “described in paragraph (5)(C)”.

(2) TRANSITIONAL RULE.—Notwithstanding the amendments made by paragraph (1), subsection (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, shall continue to apply to each Federal agency until the effective date of the performance criteria established by the Administrator under subsection (nn)(2) of section 9 of the Small Business Act, as added by subsection (a).

(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), (5), and (6) as paragraphs (5), (6), and (7), respectively;
- (ii) in paragraph (7), as so redesignated, by striking “described in paragraph (5)(C)” and inserting “described in paragraph (6)(C)”; and
- (iii) 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 Pilot 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.”.

SEC. 311. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY, HEDGE FUND, AND PRIVATE EQUITY FIRM INVOLVEMENT.

Not later than 2 years after the date of enactment of this Act, and every 2 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

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

SEC. 312. REDUCING VULNERABILITY OF SBIR AND STTR PROGRAMS TO FRAUD, WASTE, AND ABUSE.

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

(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;

(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 website 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.

(3) **CONSULTATION.**—The Administrator shall develop the certification required under paragraph (2)(D) in cooperation with the Council of Inspectors General on Integrity and Efficiency and the Office of Advocacy of the Administration.

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

(A) cover the lifecycle of the 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 the same or overlapping work, and require the concern to certify that the award that it is applying for or obtaining funding for is not the same or overlapping with 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 3 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; and

(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

(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 subparagraph (A).

SEC. 313. 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 one 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.”.

SEC. 314. REDUCING FRAUD, WASTE, AND ABUSE.

Not later than 4 years after the date of enactment of this Act, and every 4 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of 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;

(2) make recommendations with respect to the issues described in paragraph (1); and

(3) submit to the head of each agency described in section 108(a) of the Small Business Reauthorization Act of 2000 (15 U.S.C. 638 note), 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 (2).

TITLE IV—POLICY DIRECTIVES

SEC. 401. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(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 to conform such directives to this Act and the amendments made by this Act.

(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.

TITLE V—OTHER PROVISIONS

SEC. 501. REPORT ON SBIR AND STTR PROGRAM GOALS.

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

“(oo) 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).

“(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. 502. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

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

“(pp) 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. 503. LOAN RESTRICTIONS.

(a) RULE REQUIRED.—For purposes of section 9 of the Small Business Act (15 U.S.C. 638), the Administrator shall promulgate a rule not later than 180 days after the date of enactment of this Act that determines what restrictions, conditions, or covenants contained in a note, bond, debenture, other evidence of indebtedness, or preferred stock constitute affiliation for purposes of section 121.103(a) of title 13, Code of Federal Regulations, as in effect on January 1, 2011.

(b) FAILURE TO PROMULGATE.—If the Administrator fails to promulgate a rule in the time period required under subsection (a), the holder of a note, bond, debenture, other evidence of indebtedness, or preferred stock shall be considered to be affiliated with the debtor or issuer of the preferred stock until such time as the Administrator promulgates the rule required under subsection (a).

SEC. 504. LIMITATION ON PILOT PROGRAMS.

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

“(qq) LIMITATION ON PILOT PROGRAMS.—

“(1) IN GENERAL.—The Administrator may only carry out a covered pilot program if in accordance with paragraphs (2) and (3).

“(2) EXISTING PILOT PROGRAMS.—With respect to a covered pilot program in operation on the date of enactment of this subsection, such program may only be carried out during the 3-year period beginning on such date of enactment.

“(3) NEW PILOT PROGRAMS.—With respect to a covered pilot program established after the date of enactment of this subsection, such program—

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

“(B) may not continue or be based on, in any manner, a previously established covered pilot program.

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

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

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

SEC. 505. ENSURING EQUITY IN SBIR AND STTR AWARDS TO INDIVIDUAL COMPANIES.

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

“(rr) ENSURING EQUITY IN SBIR AND STTR AWARDS TO INDIVIDUAL COMPANIES.—A small business concern, including affiliates of the small business concern, may not receive an SBIR or STTR award in a fiscal year if, at the time the award is made—

“(1) the small business concern has received an aggregate dollar amount of such awards in such fiscal year that exceeds 50 percent of the aggregate dollar amount of such awards received, in the preceding fiscal year, by the median State with respect to such aggregate amount; or

“(2) the small business concern has received an aggregate number of such awards in such fiscal year that exceeds 50 percent of the aggregate number of such awards received, in the preceding fiscal year, by the median State with respect to such aggregate number.”.

SEC. 506. 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. 507. TIMING.

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.

SEC. 508. PUBLICATION OF CERTAIN INFORMATION.

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

“(ss) 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 website 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.”.

SEC. 509. PREFERENCE FOR CLEAN COAL TECHNOLOGY RESEARCH.

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

“(tt) CLEAN COAL TECHNOLOGY RESEARCH PREFERENCE.—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research with respect to clean coal technology, including the gasification of coal.”.

SEC. 510. REPORT ON ENHANCEMENT OF MANUFACTURING ACTIVITIES.

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

“(uu) REPORT ON ENHANCEMENT OF MANUFACTURING ACTIVITIES.—Not later than October 1, 2011, 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 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 that includes—

“(1) a description of efforts undertaken by the head of the Federal agency to enhance 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 manufacturing technologies and processes; and

“(4) 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.”.

SEC. 511. EXPRESS AUTHORITY TO “FAST-TRACK” PHASE II AWARDS FOR PROMISING PHASE I RESEARCH.

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

“(vv) AUTHORITY TO ‘FAST-TRACK’ PHASE II AWARDS FOR PROMISING PHASE I RESEARCH.—To address the delay between an award for Phase I of an SBIR program and the application for and extension of an award for Phase II of such program, each Federal agency with an SBIR program may develop ‘fast-track’ programs to eliminate such delay by issuing Phase II SBIR awards as soon as practicable, including in appropriate cases simultaneously with the issuance of the Phase I SBIR award. The Administrator shall encourage the development of such ‘fast-track’ programs.”.

SEC. 512. INCREASED PARTNERSHIPS BETWEEN SBIR AWARDEES AND PRIME CONTRACTORS, VENTURE CAPITAL INVESTMENT COMPANIES, AND LARGER BUSINESSES.

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

“(ww) INCREASED PARTNERSHIPS.—

“(1) IN GENERAL.—Each agency required by this section to conduct an SBIR program shall establish initiatives by which the agency encourages partnerships between SBIR awardees and prime contractors, venture capital investment companies, business incubators, and larger businesses, for the purpose of facilitating the progress of the SBIR awardees to Phase III.

“(2) DEFINITION.—In this subsection, the term ‘business incubator’ means an entity that provides coordinated and specialized services to entrepreneurial businesses which meet selected criteria during the businesses’ startup phases, including providing services such as shared office space and office services, access to equipment, access to telecommunications and technology services, flexible leases, specialized management assistance, access to financing, mentoring and training services, or other coordinated business or technical support services designed to provide business development assistance to entrepreneurial businesses during these businesses’ startup phases.”.

SEC. 513. PREFERENCE FOR ACID MINE DRAINAGE RESEARCH.

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

“(xx) ACID MINE DRAINAGE RESEARCH PREFERENCE.—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research related to reducing the environmental impact, including with respect to water quality, of acid mine drainage.”.

SEC. 514. PREFERENCE FOR HYDRAULIC FRACTURING RESEARCH.

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

“(yy) HYDRAULIC FRACTURING RESEARCH PREFERENCE.—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research re-

lated to reducing the environmental impact, including with respect to water quality, of the use of hydraulic fracturing during natural gas exploration activities.”

II. PURPOSE OF THE BILL AND SUMMARY

The Creating Jobs Through Small Business Innovation Act of 2011 extends through fiscal year 2014 the Federal government’s largest small business research and development programs. The legislation modernizes and reauthorizes the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, changing the legislative guidelines and policies in order to update the programs in response to the unique challenges facing small research companies and the changing research priorities of federal agencies.

The legislation is aimed at three broad goals. First, the bill seeks to encourage greater commercialization by instituting commercialization initiatives at federal agencies that administer SBIR programs. Under current law, certain federal agencies have the authority to develop commercialization programs. This bill extends to all agencies the authority to develop programs designed to support the commercialization of SBIR-funded research. Second, the bill seeks to encourage greater participation in SBIR. An increase in the number of small businesses applying for SBIR is critical to the success of the program. Thirdly, the bill permits small companies that are majority-owned by qualifying venture capital, private equity and hedge funds to participate in the programs. A 2003 ruling by the Small Business Administration has made small firms with investments from venture capital companies ineligible to participate in the SBIR program. The SBA ruling forces many small businesses to choose between accepting investments from private firms and participating in the Federal government’s largest research and development program for small business concerns.

Additionally, the bill seeks to codify the programmatic flexibility that federal agencies need in order to administer SBIR awards in a manner that is most consistent with the agency’s specific mission. While granting federal agencies greater autonomy, the bill also requires federal agencies to establish more concrete goals and objectives with respect to their SBIR programs. Finally, the bill improves oversight by requiring agencies to provide more detailed periodic reports to Congress.

ADVANCING COMMERCIALIZATION OF SBIR-FUNDED RESEARCH AND DEVELOPMENT PROJECTS

To support the successful commercialization of SBIR-funded research, the bill permits an agency to grant one additional Phase II award to a particularly promising concept and requires agencies to establish initiatives designed to encourage partnerships between SBIR awardees and prime contractors, private investment companies, and larger businesses. The legislation also allows an agency to issue a Phase II award to a qualifying applicant, even if the applicant’s research proposal had not been awarded a Phase I grant.

The legislation also increases from \$4,000 to \$5,000 the amount of discretionary technical assistance that SBIR and STTR agencies can contract out to provide to awardees for both Phase I and Phase II awards. The technical assistance that can be obtained can run

the gamut from developing business plans all the way to commercialization support.

The bill further defines “Phase III” of the SBIR program and permits agencies to establish Commercialization Readiness Programs (at a pilot program status) that support the progress of SBIR awardees towards Phase III of the SBIR program. The legislation also makes permanent the Commercialization Pilot Program at the Department of Defense (DOD) and renames it the Commercialization Readiness Program (CRP). Given the Committee’s position that the SBIR program is designed to commercialize research in order to meet the needs of federal agencies and the specialized needs of the DOD, the CRP meets both of those objectives.

ENCOURAGING GREATER PARTICIPATION IN SBIR AND STTR

The legislation includes a number of provisions designed to encourage more small firms to apply for SBIR and STTR awards. The bill increases the size of SBIR and STTR awards for both Phase I and Phase II grants and establishes a 90-day timeline for issuing a final decision on an SBIR application after the solicitation is closed and requires agencies, to the greatest extent possible, to shorten the time between the notification of an award and the time of disbursement of funds to the small business.

The bill authorizes agencies to use a portion of the funds allocated for an agency’s administrative, oversight, and contract processing costs. This will ensure that agencies have sufficient funds to expand outreach and bring new firms into the programs.

PERMITTING SMALL COMPANIES THAT ARE MORE THAN 50%-OWNED BY QUALIFYING PRIVATE INVESTMENT FIRMS TO PARTICIPATE IN SBIR

To qualify for SBIR awards, small firms must affirm that they meet certain ownership criteria, such as being 51 percent or more owned by individuals who are U.S. citizens or permanent resident aliens. In 2003, an SBA administrative law judge issued a decision that venture capital firms could not be considered as “individuals” for the purpose of satisfying the ownership criteria of the SBIR program. As a result, a number of firms that are majority-owned by venture capital firms that had once been eligible to participate in the SBIR program before the 2003 ruling are no longer eligible. Small venture-backed companies that have been ruled ineligible for SBIR are unable to secure necessary funding to conduct important research activities.

The ruling created confusion among program participants and has led some firms to steer away from the program. Many of the small research companies that are rendered ineligible by the SBA’s 2003 ruling have fewer than 100 employees and—in the case of small biotechnology companies—no revenue.

With the advent and expansion of private equity and hedge fund investment in small companies, the Committee believes it prudent to clearly define and address these newer funding mechanisms and finds that venture capital companies should not be placed at a disadvantage to other entities (such as hedge funds or private equity firms) that provide capital to businesses. As a result, the Committee treats private equity and hedge funds the same way it treats venture capital companies.

Legislation is needed so that small firms with significant private investment can compete for and win SBIR awards. However, legislation should also prohibit small firms from receiving and competing for SBIR awards if either: (1) a single private investment company owns a majority of the small firm; or (2) a single private investment company controls a majority of the small business concern's board of directors' seats.

The bill includes provisions that establish clear guidelines governing the participation of small businesses with substantial private investment from venture capital, private equity, or hedge fund companies in the SBIR program. The provisions will allow the National Institutes of Health, the Department of Energy, the National Aeronautics and Space Administration, and the National Science Foundation to award up to 45 percent of all grants to companies that are majority-owned by qualifying private investment firms, and up to 35 percent of such awards at all other participating agencies.

The provisions will allow a small company that is majority-owned by qualifying private investment firms to participate in the SBIR program, so long as the small business concerns do not have (1) a single private investment company owning a majority of the small business concern or (2) private investment company controlling a majority of the small business concern's board of directors' seats. Additional safeguards are included to limit the ability of large corporations to use subsidiaries to participate in these programs.

RETAINING PROGRAMMATIC FLEXIBILITY

The Committee's legislation makes these meaningful changes to the SBIR program without reducing the programmatic flexibility that is a central feature of the SBIR program as it is currently administered.

III. BACKGROUND AND NEED FOR LEGISLATION

In 1982, Congress passed the Small Business Innovation Development Act which established the SBIR program. The intent of the Act was to increase government funding of small, innovative companies for the performance of research and development with commercial potential. Supporters of the SBIR program argued that while small companies were highly innovative, such firms traditionally were underrepresented in federal research and development activities.

The potential of small companies to be sources of significant innovation led Congress to establish the SBIR program. From the program's original development, SBIR has been intended to stimulate technological innovation related to each participating agency's goals and mission, use small businesses for federal research and development needs and increase private sector commercialization of innovations derived from federal research and development expenditures. To meet these objectives, the Act required that Federal departments with an extramural research budget of \$100 million or more set aside a small percentage of their agency's overall research budget and award technology development contracts to small firms. The percentage of research and development activities to be con-

ducted by small firms originally was set at 1.25 percent but has increased to 2.5 percent where it now stands.

Currently, eleven agencies have research budgets large enough to require participation in the SBIR program. In 2010, Federal agencies awarded more than \$2 billion to small research firms through the SBIR program. That year, the Department of Defense alone awarded more than \$1 billion to small firms for the development of advanced technologies. From the program's inception in FY1983 through FY2010, over \$29 billion have been awarded through 92,000 grants.

A key element of the SBIR program is that it establishes a three-phase development system for participants. During Phase I, participating agencies fund a proposed idea to determine if it has scientific and technical merit and is feasible. Projects that demonstrate potential after the initial endeavor can compete for Phase II awards (lasting one or two years) to perform the principal research and, more importantly, the development of a prototype. Generally, Phase I and Phase II awards may not exceed \$100,000 and \$750,000, respectively. A third phase of the program (Phase III), aimed at the commercialization of a product or process developed in the earlier phases, is intended to be funded by the private sector or non-SBIR federal dollars.

INDEPENDENT EVALUATIONS OF THE SBIR PROGRAM

Since the first awards were made in 1983, the program has been the focus of numerous studies, assessments, and evaluations. The Government Accountability Office (GAO) has issued a series of reports on the implementation of the Small Business Development Act. The National Academies of Science completed a comprehensive three-year evaluation of the SBIR program in 2007. Additionally, participating agencies have also provided assessments of their agency's SBIR program.

A 1987 GAO study found that both the evaluation and selection processes were sufficient to "reasonably" ensure awards were based on technical merit. In 1989, GAO reported that agency heads found the SBIR effort to be beneficial and met the organizations' research and development needs. A GAO report issued in May 1992 noted that almost two-thirds of the projects already had sales or received additional funding (primarily from the private sector) totaling approximately \$1.1 billion. Another GAO study, released in April 1998, noted that between 35% and 50% of SBIR projects had resulted in sales or additional private sector investment. A June 2005 GAO report found that the effort appears to be achieving its goal of "enhanced" participation of small business in federal research and development.

As part of the reauthorization of the SBIR program in 2000, Congress directed the National Research Council (NRC) of the National Academies of Science to "conduct a comprehensive study of how the SBIR program has stimulated technological innovation and used small businesses to meet Federal research and development needs"¹ and make any appropriate recommendations with respect

¹ Small Business Reauthorization Act of 2000, § 108(a)(1), 114 Stat. 2763, 2763A-6-71 (2000).

to the SBIR program.² After more than three years of research and analysis, the NRC study released its assessment of the SBIR program as administered by the five federal agencies (Department of Defense, National Institutes of Health, the National Aeronautics and Space Administration, the Department of Energy, and the National Science Foundation) that together make up some 96 percent of SBIR program expenditures in July 2007. The core finding of the study is that the SBIR program is sound in concept and effective in practice. In support of the report's core finding, the NRC concluded that the SBIR program is: (1) stimulating technological innovations; (2) increasing private sector commercialization of research; (3) using small businesses to meet federal research and development needs; and (4) providing widely distributed support for innovation activity.³

2009 NRC REPORT ON VENTURE CAPITAL FUNDING IN THE NATIONAL INSTITUTES OF HEALTH (NIH)⁴

A recent NRC report on the venture capital prohibition in the SBIR program found that the impact of the 2003 ruling falls disproportionately on the most promising firms i.e., those firms that have repeatedly been selected by both NIH for the promising technologies and by venture investors for their commercial potential.⁵

While the report does site a percentage of venture-backed firms likely excluded from the SBIR program (4.1 percent to 11.9 percent), it qualifies this by stating that there is a downward bias—meaning the percentage excluded is likely higher.⁶ This is due to the fact that venture capital investment in smaller firms considered by the study (1) was just beginning in the 1990s and (2) has matured dramatically in the last five years to favor investment in commercially viable technologies and therapies. The result is that the level of exclusion is likely much higher than the report states.

The report concludes that restricting access to SBIR funding for firms that benefit from venture investments would thus appear to disproportionately affect some of the most commercially promising small firms. To this extent, the SBA ruling has the potential to diminish the positive impact of the nation's investments in research and development in the biomedical area.⁷ The restriction then is contrary to one of the four key research goals of the SBIR program, the commercialization of federal research. The implementation of the SBA ruling appears to be negatively affecting current participation by firms and the long-term commercialization potential of the NIH SBIR program.

THE NEED TO REAUTHORIZE AND MODERNIZE THE SBIR AND STTR PROGRAMS

The SBIR program has been reauthorized three times since its enactment, first in 1986 and subsequently in 1993 and 2000. The latest authorization was set to expire on September 30, 2008 but

²*Id.*

³National Research Council, National Academies of Science, *An Assessment of The Small Business Innovation Research Program* 49 (2007).

⁴National Research Council, National Academies of Science, *Benture Funding and the NIH SBIR Program* (2009).

⁵*Id.* at 3.

⁶*Id.*

⁷*Id.*

has been temporarily extended by Congress through September 30, 2011. The STTR program was last reauthorized in 2000 and has the same expiration date as SBIR.

The positive evaluations of the SBIR program issued by independent research organizations and testimony presented to the Committee on Small Business during the 110th, 111th, and 112th Congresses in support of the SBIR and STTR programs create the basis of support for H.R. 1425. Small companies, federal agencies, patient advocacy groups, economic development organizations, and academics have testified in strong support of reauthorization of the SBIR and STTR programs.

During the eleven years that have elapsed since Congress last authorized the SBIR and STTR programs, the country's research and development priorities and the role of small innovative companies in the economy have changed. The manner in which the participating federal agencies administer their SBIR programs has also changed in the past eleven years. Reflective of these changes, participating small firms, participating federal agencies, research organizations and other interested parties support modernizing the SBIR program. Specifically, expert witnesses have testified that legislation is necessary to make the following important changes to the SBIR program.

EXPAND COMMERCIALIZATION OPPORTUNITIES FOR SBIR AND STTR RESEARCH AND DEVELOPMENT PROJECTS

Witnesses have testified before the Committee that small businesses face serious challenges in commercializing their research following Phases I and II. Many potential partners and investors require that a product achieve a certain degree of technological readiness before they are willing to support or invest in a given product's later stage development. This is described as the "valley of death," where promising research is derailed because the small business does not have the funding required to develop the product to the requisite technological readiness. Witnesses have described how SBIR- and STTR-funded projects can stall or fail at the end of a Phase II award due to a lack of available funding to continue developing the product.

In order to address the "valley of death," several federal agencies have developed initiatives within their SBIR programs that offer commercialization support to SBIR awardees. These initiatives include business planning assistance, business-to-business mentoring, manufacturing assistance, technology transition assistance, and/or additional funding. Although these initiatives are only a few years old, early anecdotal evidence from these agencies suggest that the programs are increasing commercialization of SBIR-funded research and development projects.

RESOURCES FOR SBIR MANAGEMENT AND EVALUATION

Under current law, participating federal agencies are prohibited from using any of the 2.5 percent SBIR set aside to fund the program's administrative costs, including costs associated with salaries and expenses. Federal agencies that set aside special funds to pay for SBIR management expenses have asserted that they have more effective programs than agencies that do not set aside special funds for the administration.

In their 2007 study, the NRC stressed that increased funding is needed to provide effective oversight, program review, systematic third party assessments, and other necessary management activities. Legislation is necessary to change the statutory prohibition on using a small portion of SBIR funds to administer the program.

INCREASE AWARD SIZE AND SIMPLIFY APPLICATION PROCESS

According to witnesses, the SBIR application process may be overly burdensome and applicants often do not receive a timely decision. Witnesses also have recommended that the size of SBIR awards be increased. The award levels set out in the legislation have not increased since 1992 and the value of awards has been eroded by inflation. Simplifying the application process and increasing the award levels would, according to witness testimony, increase competition for SBIR awards, and provide more useful assistance to firms, and generate a greater likelihood of commercialization success.

IV. HEARINGS

In the 112th Congress, the Committee on Small Business held two hearings on the SBIR and STTR programs and related legislation. On March 16, 2011, the Committee convened a hearing titled “Spurring Innovation and Job Creation: The SBIR Program.” Testimony was received from small business owners, academics, and disease research groups that use, support, and study these programs in a wide variety of arenas. Following that hearing, on April 7, 2011, the Subcommittee on Healthcare and Technology held a hearing titled “The Creating Jobs Through Small Business Innovation Act of 2011.” The purpose of this hearing was for witnesses to discuss the legislation in its draft form.

In the 111th Congress, the Committee on Small Business held three hearings on the SBIR and STTR programs and related legislation. On June 17, 2009, the Committee convened a hearing entitled “Legislative Initiatives to Strengthen and Modernize the SBIR and STTR Programs.” Testimony was taken from a wide range of small businesses that use these programs in the defense, health care, and energy arenas. This hearing followed a previous full Committee hearing on April 22, 2009, which explored issues related to the overall effectiveness of the SBIR program and a legislative hearing in the Committee’s Contracting and Technology Subcommittee on June 4, 2009.

In the 110th Congress, the Committee on Small Business also convened three hearings on the reauthorization of the SBIR and STTR programs. On January 29, 2008, the House Committee on Small Business convened a hearing entitled “SBIR: America’s Technology Development Incubator.” The hearing explored the numerous contributions that the SBIR program makes to national security priorities, economic development objectives and America’s international economic competitiveness. On February 13, 2008 the House Committee on Small Business Subcommittee on Investigations and Oversight convened a hearing entitled “SBIR: Advancing Medical Innovations.” The Subcommittee hearing examined the impact of the SBIR program on the development of innovative medical technologies, therapies and products. On March 13, 2008, the

Committee on Small Business held a hearing to review a Committee Print of proposed legislation that would reauthorize and modernize the SBIR program.

V. COMMITTEE CONSIDERATION

The Committee on Small Business met in open session on May 11, 2011 and ordered H.R. 1425 reported, as amended to the House by a voice vote. Twenty-four amendments were offered at the markup. The amendments listed below are in numerical order and not in the order in which the amendments were considered during the Committee markup.

Ms. Velázquez, the Ranking Democratic Member (D-NY), offered Amendment 001 that failed by a roll call vote of 8 yeas to 13 nos. The amendment sought to strike Section 310 of the bill, authorizing SBIR participating agencies to use three percent of the funding allocated to the program for administrative, oversight, and contract processing costs.

Ms. Velázquez, the Ranking Democratic Member (D-NY), offered Amendment 003 that failed by a roll call vote of 10 yeas to 15 nos. The amendment sought to strike Sections 202 and 203, and in its place institute a voucher program for technology development, testing, evaluation and commercialization assistance for SBIR and STTR technologies.

Mr. Tipton (R-CO) offered Amendment 007 that was accepted by voice vote. The amendment requires the SBA to establish and maintain a website collecting information on applications and awards for all agencies participating in the SBIR program.

Mr. Tipton (R-CO) offered Amendment 008 that was accepted by voice vote. The amendment changes the word “shall” to “may” concerning the establishment of a Phase 0 Proof of Concept Partnership pilot program.

Mr. Tipton (R-CO) offered Amendment 009 that was accepted by voice vote. The amendment requires that agencies participating in the SBIR program attempt to shorten the time between the notification stage of winning an award and the subsequent release of funding for that award.

Mr. Cicilline (D-RI) offered Amendment 009 that failed by a roll call vote of 9 yeas to 15 nos. The amendment sought to create an outreach program to provide grants to states for the purpose of outreach, financial support, and technical assistance to technology-based small business concerns participating in or interested in participating in an SBIR or STTR program.

Mr. Cicilline (D-RI) offered Amendment 010 that was accepted by voice vote. The amendment requires agencies with over \$50 million in SBIR grants to report on efforts to enhance manufacturing activities.

Mr. Cicilline (D-RI) offered Amendment 011 that failed by a roll call vote of 10 yeas to 14 nos. The amendment sought to allocate 2 percent of the 10 percent of agency funding for commercialization programs to carry out an outreach program to technology-based small businesses owned and operated by a minority, woman, or veteran.

Mr. West (R-FL) offered Amendment 011 that was accepted by voice vote. The amendment requires an annual DOD report on the Commercialization Readiness Program. It also requires the DOD to

share more information about their efforts to include SBIR technology and companies in DOD programs. Finally, the amendment holds prime contractors harmless against those goals if they can certify that no suitable SBIR technology is available to include in such program.

Ms. Velázquez, the Ranking Democratic Member (D-NY), offered Amendment 012 that was accepted by voice vote. The amendment limits the SBA's authority to establish new pilot programs under Section 9 of the Small Business Act.

Mr. Critz (D-PA) offered Amendment 012 that was accepted by voice vote. The amendment directs each appropriate Federal agency with an SBIR program to give priority to proposals related to reducing the environmental impact of the use of hydraulic fracturing during natural gas exploration activities.

Ms. Velázquez, the Ranking Democratic Member (D-NY), offered Amendment 013 that was accepted by voice vote. The amendment prohibits any single SBIR or STTR awardee from obtaining more than one half of the median state's SBIR or STTR awards, be they in terms of dollars or number of awards.

Mr. Critz (D-PA) offered Amendment 013 that was accepted by voice vote. The amendment directs each appropriate Federal agency with an SBIR program to give priority to proposals related to reducing the environmental impact of acid mine drainage.

Mr. Critz (D-PA) offered Amendment 014 that was accepted by voice vote. The amendment directs each appropriate Federal agency with an SBIR program to give priority to research proposals related to clean coal technology, including the gasification of coal.

Mr. Critz (D-PA) offered Amendment 015 that failed by a roll call vote of 9 yeas to 15 nos. The amendment sought to add a new section to the bill creating a Clean Coal Technology Commercialization Pilot Program at the SBA to assist the commercialization of technologies developed in the SBIR program relating to clean coal, including the gasification of coal.

Mr. Schrader (D-OR) offered Amendment 015 that failed by a roll call vote of 10 yeas to 14 nos. The amendment sought to require that the SBA, rather than each participating agency, develop metrics to evaluate the effectiveness of the SBIR and STTR programs.

Mr. Schrader (D-OR) offered Amendment 017 that was accepted by voice vote. The amendment requires that the Offices of the Inspector General for the SBIR participating agencies submit an annual report on the actions taken to eliminate fraud in the SBIR program.

Ms. Chu (D-CA) offered Amendment 025 that failed by a roll call vote of 9 yeas to 15 nos. The amendment sought to increase the guideline amounts for Phase I and Phase II to \$225,000 and \$2,000,000 respectively. It also sought to increase the SBIR and STTR allocations by .5% and .2% respectively.

Ms. Chu (D-CA) offered Amendment 026 that failed by a roll call vote of 10 yeas to 14 nos. The amendment sought to create a minority institution program by taking part of the funding from Phase III commercialization programs and make them available to minority institutions in an effort to increase the number of applications submitted by minority-owned small businesses.

Ms. Chu (D-CA) offered Amendment 027 that was withdrawn. The amendment sought to require that members of the small business community be members of the Interagency Policy Committee.

Mr. Owens (D-NY) offered Amendment 029 that was accepted by voice vote. The amendment allows agencies to create Fast-Track programs that aim to decrease the time between Phase I and II awards, including the ability to simultaneously issue a Phase II award and Phase I award.

Mr. Owens (D-NY) offered Amendment 030 that was accepted by voice vote. The amendment requires agencies to establish initiatives that encourage partnerships between SBIR awardees and prime contractors, venture capital companies, business incubators, and larger businesses.

Mr. Owens (D-NY) offered Amendment 031 that failed by a roll call vote of 12 yeas to 12 nos. The amendment sought to create a veteran preference for SBIR applications and increases the amount of awards for these veteran-owned small businesses to \$300,000 for a Phase I and \$2.25 million for a Phase II.

Mr. King (R-IA) offered Amendment 191 that was accepted by a vote of 13 yeas to 11 nos. The amendment eliminated Section 504, a provision requiring agencies to seek applications from specific subcategories of small businesses.

VI. COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

AMENDMENT TO COMMITTEE PRINT OFFERED BY MS. VELÁZQUEZ OF NEW YORK

Beginning on page 69, line 3, strike section 310, and redesignate succeeding sections accordingly.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 9
 AMENDMENT NUMBER: Velazquez 1
 VOTE: Aye (8) No (13)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER				X
Mr. WEST		X		
Mrs. ELLMERS		X		
Mr. WALSH		X		
Mr. LANDRY		X		
Mr. BARLETTA		X		
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER	X			
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS				X
Mr. KEATING				X
Mr. OWENS				X
TOTALS	8	13		

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MS. VELÁZQUEZ OF NEW YORK

Beginning on page 25, line 8, strike sections 202 and 203, and insert the following, redesignating succeeding sections accordingly:

SEC. 202 VOUCHER PROGRAM.

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

“(hh) PILOT PROGRAM.—The Administrator shall establish a voucher program under which small business concerns may apply for vouchers for technology development, testing, evaluation, and commercialization assistance for SBIR and STTR technologies from the head of each Federal agency participating in the SBIR program or the STTR program. The head of each such Federal agency may allocate not more than 10 percent of the funds allocated to the SBIR program and the STTR program of the Federal agency for such vouchers.”.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 8
 AMENDMENT NUMBER: Velazquez 3
 VOTE: Aye (10) No (13)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER				X
Mr. WEST		X		
Mrs. ELLMERS		X		
Mr. WALSH		X		
Mr. LANDRY		X		
Mr. BARLETTA		X		
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER	X			
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS	X			
Mr. KEATING				X
Mr. OWENS	X			
TOTALS	10	13		

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MR. TIPTON OF COLORADO

Add, at the end of the bill, the following (and conform the table of contents accordingly):

SEC. 505. PUBLICATION OF CERTAIN INFORMATION.

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

“(qq) PUBLICATION OF CERTAIN INFORMATION.—In order to increase the number of small businesses concerns 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 website 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.”.

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MR. TIPTON OF COLORADO

Page 42, line 22, strike “shall” and insert “may”.

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MR. TIPTON OF COLORADO

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. TIMING.

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.

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MR. CICILLINE OF RHODE ISLAND

Page 26, after line 8, insert the following and redesignate subsequent paragraphs accordingly:

(5) in paragraph (4), by inserting after “under this subsection” the following: “and to establish and carry out an outreach program described in subsection (qq)”.

Page 28, line 12, strike “(A) for awards” and insert the following: “(A)(i) for awards”.

Page 28, line 16, strike “(B) to support” and insert the following: “(ii) to support”.

Page 28, line 19, strike the period at the end and insert the following “; and”.

Page 28, after line 19, insert the following:

“(B) to establish and carry out an outreach program described in subsection (qq)”.

Add, at the end of the bill, the following:

SEC. 505. OUTREACH PROGRAM.

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

“(qq) OUTREACH PROGRAM.—

“(1) An outreach program described in this subsection is a program that provides grants to States for the purpose of outreach, financial support, and technical assistance to technology-based small business concerns participating in or interested in participating in an SBIR program or STTR program, including initiatives—

“(A) to make grants or loans to companies to pay a portion or all of the cost of developing SBIR or STTR proposals;

“(B) to establish or operate a mentoring program to provide business advice and counseling that will assist small business concerns that have been identified by program managers of participating SBIR agencies, the Administration, or other entities that are knowledgeable about the SBIR and STTR programs as good candidates for the SBIR and STTR programs;

“(C) to create or participate in a training program for individuals providing SBIR or STTR outreach and assistance at the State and local levels; and

“(D) to encourage the commercialization of technology developed through funding under the SBIR program or the STTR program.

“(2) The Administrator shall ensure that the outreach program described in this subsection receives funds in accordance with subsections (y)(4) and (hh)(1)(B).”.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 1
 AMENDMENT NUMBER: Cicilline 9
 VOTE: Aye (9) No (15)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER		X		
Mr. WEST		X		
Mrs. ELLMERS		X		
Mr. WALSH		X		
Mr. LANDRY		X		
Mr. BARLETTA		X		
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER		X		
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS	X			
Mr. KEATING				X
Mr. OWENS	X			
TOTALS	9	15		

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MR. CICILLINE OF RHODE ISLAND

Add at the end the following:

SEC. 505. REPORT ON ENHANCEMENT OF MANUFACTURING ACTIVITIES.

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

“(qq) REPORT ON ENHANCEMENT OF MANUFACTURING ACTIVITIES.—Not later than October 1, 2011, 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 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 that includes—

“(1) a description of efforts undertaken by the head of the Federal agency to enhance 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. 38; 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 manufacturing technologies and processes; and

“(4) 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.”.

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY MR. CICILLINE
OF RHODE ISLAND, FOR HIMSELF AND MS. CHU OF CALIFORNIA,
MR. RICHMOND OF LOUISIANA, AND MS. CLARKE OF NEW YORK

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. OUTREACH PROGRAM.

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

“(qq) OUTREACH PROGRAM.—

“(1) IN GENERAL.—An outreach program described in this paragraph is a program that provides outreach and technical assistance to technology-based small business concerns owned and operated by a minority, woman, or veteran, including initiatives—

“(A) to increase the participation of such businesses in the programs under this section; and

“(B) to create training programs for such businesses when seeking to participate in the programs under this section.

“(2) FUNDING.—Applicable Federal agencies shall carry out an outreach program described in paragraph (1) each fiscal year using 2 percent of the 10 percent of funds allocated for commercialization activities under subsections (y)(4) and

(hh)(1), and the allocation for activities under those subsections may not be increased as a result of funds being made available for such an outreach program.”.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 2
 AMENDMENT NUMBER: Cicilline 11
 VOTE: Aye (10) No (14)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER		X		
Mr. WEST		X		
Mrs. ELLMERS		X		
Mr. WALSH		X		
Mr. LANDRY		X		
Mr. BARLETTA		X		
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER	X			
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS	X			
Mr. KEATING				X
Mr. OWENS	X			
TOTALS	10	14		

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MR. WEST OF FLORIDA

Page 26, strike line 9 and insert the following:

(5) in paragraph (5)—

(A) by striking “the Committee on Armed Services and the Committee on Small Business of the House of Representatives” and inserting “the Committee on Armed Services, the Committee on Small Business, and the Committee on Science, Space, and Technology of the House of Representatives”; and

(B) by striking “shall include” and inserting “shall include, in addition to the information described in paragraph (6)(C)”;

(6) by redesignating paragraph (5) as paragraph (7);

(7) by striking paragraph (6); and

Page 26, line 10, strike “(6)” and insert “(8)”.

Page 26, line 17, strike “and”.

Page 26, line 22, strike “projects.” and insert “projects; and”.

Page 26, after line 22, insert the following:

“(C) take action to ensure that, if a prime contractor on such a contract, after consultation with the Secretary, certifies that an appropriate Phase III technology is not available to be incorporated into a project of the prime contractor, such project shall be excluded from any determination of whether goals under subparagraph (A) have been met.

Page 27, strike lines 12 through 19 and insert the following:

“(C) include in the annual report under paragraph (7)—

“(i) the 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).”.

Page 72, strike lines 5 through 7 and insert the following:

(ii) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

Page 73, strike lines 8 through 10 and insert the following:

(i) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MS. VELÁZQUEZ OF NEW YORK

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. LIMITATION ON PILOT PROGRAMS.

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

“(qq) LIMITATION ON PILOT PROGRAMS.—

“(1) IN GENERAL.—The Administrator of the Small Business Administration may only carry out a covered pilot program if in accordance with paragraphs (2) and (3).

“(2) EXISTING PILOT PROGRAMS.—With respect to a covered pilot program in operation on the date of enactment of this subsection, such program may only be carried out during the 3-year period beginning on such date of enactment.

“(3) NEW PILOT PROGRAMS.—With respect to a covered pilot program established after the date of enactment of this subsection, such program—

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

“(B) may not continue or be based on, in any manner, a previously established covered pilot program.

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

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

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

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MR. CRITZ OF PENNSYLVANIA

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. PREFERENCE FOR HYDRAULIC FRACTURING RESEARCH.

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

“(qq) HYDRAULIC FRACTURING RESEARCH PREFERENCE.—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research related to reducing the environmental impact, including with respect to water quality, of the use of hydraulic fracturing during natural gas exploration activities.”.

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MS. VELÁZQUEZ OF NEW YORK

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. ENSURING EQUITY IN SBIR AND STTR AWARDS TO INDIVIDUAL COMPANIES.

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

“(qq) ENSURING EQUITY IN SBIR AND STTR AWARDS TO INDIVIDUAL COMPANIES.—A small business concern, including affiliates of the small business concern, may not receive an SBIR or STTR award in a fiscal year if, at the time the award is made—

“(1) the small business concern has received an aggregate dollar amount of such awards in such fiscal year that exceeds 50 percent of the aggregate dollar amount of such awards re-

ceived, in the preceding fiscal year, by the median State with respect to such aggregate amount; or

“(2) the small business concern has received an aggregate number of such awards in such fiscal year that exceeds 50 percent of the aggregate number of such awards received, in the preceding fiscal year, by the median State with respect to such aggregate number.”.

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MR. CRITZ OF PENNSYLVANIA

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. PREFERENCE FOR ACID MINE DRAINAGE RESEARCH.

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

“(qq) ACID MINE DRAINAGE RESEARCH PREFERENCE.—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research related to reducing the environmental impact, including with respect to water quality, of acid mine drainage.”.

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MR. CRITZ OF PENNSYLVANIA

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. PREFERENCE FOR CLEAN COAL TECHNOLOGY RESEARCH.

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

“(qq) CLEAN COAL TECHNOLOGY RESEARCH PREFERENCE.—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research with respect to clean coal technology, including the gasification of coal.”.

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MR. CRITZ OF PENNSYLVANIA

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. CLEAN COAL TECHNOLOGY.

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

“(qq) CLEAN COAL TECHNOLOGY COMMERCIALIZATION PILOT PROGRAM.—The Administrator of the Small Business Administration shall establish a program to assist the commercialization of technologies—

“(1) related to clean coal, including the gasification of coal; and

“(2) that were developed under the SBIR program.”.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 4
 AMENDMENT NUMBER: Critz 15
 VOTE: Aye (9) No (15)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER		X		
Mr. WEST		X		
Mrs. ELLMERS		X		
Mr. WALSH		X		
Mr. LANDRY		X		
Mr. BARLETTA	X			
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER		X		
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS		X		
Mr. KEATING				X
Mr. OWENS	X			
TOTALS	9	15		

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MR. SCHRADER OF OREGON

Page 83, beginning on line 11, strike "The head of each Federal agency" through "or the STTR program" on line 13, and insert the following: "The Administrator".

Page 83, line 11, insert "OUTCOME-BASED PERFORMANCE" before "METRICS".

Page 83, line 14, insert "a single set of uniform outcome-based performance" before "metrics".

Page 83, beginning on line 15, strike "of the SBIR program" through "the Federal agency" on line 16 and insert "the SBIR programs and STTR programs of participating Federal agencies".

Page 83, beginning on line 21, strike subparagraph (B) and redesignate succeeding subparagraphs accordingly.

Page 83, line 23, strike the period at the end and insert "; and".

Page 83, after line 23, insert the following:

"(C) include factors relating to commercialization such as the number of projects for which Phase III awards were made, percentage of SBIR projects successfully integrated into a program of record, and the amount of Federal dollars received by SBIR projects through non-SBIR Federal contracts."

Page 83, beginning on line 24, strike "head of each Federal agency described in paragraph (1)" and insert "Administrator".

Page 84, line 1, insert "outcome-based performance" before "metrics".

Page 84, line 3, strike "program" and insert "programs".

Page 84, line 4, strike "program" and insert "programs".

Page 84, line 4, strike "the Federal agency" and insert "participating Federal agencies".

Page 84, line 6, strike "program" and insert "programs".

Page 84, line 7, strike "program" and insert "programs".

Page 84, line 7, strike "the Federal agency" and insert "participating Federal agencies".

Page 84, beginning on line 9, strike "head of each Federal agency described in paragraph (1)" and insert "Administrator".

Page 84, line 12, strike "and the Administrator".

Page 84, beginning on line 16, strike "head of each Federal agency described in paragraph (1)" and insert "Administrator".

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 3
 AMENDMENT NUMBER: Schrader 15
 VOTE: Aye (10) No (14)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER		X		
Mr. WEST		X		
Mrs. ELLMERS		X		
Mr. WALSH		X		
Mr. LANDRY		X		
Mr. BARLETTA		X		
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER	X			
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS	X			
Mr. KEATING				X
Mr. OWENS	X			
TOTALS	10	14		

AMENDMENT TO THE COMMITTEE PRINT OFFERED BY
MR. SCHRADER OF OREGON

Page 87, after line 6, insert the following (and conform the table of contents accordingly):

SEC. 505. 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.

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MS. CHU OF CALIFORNIA

Page 4, line 6, strike “\$150,000” and insert “\$225,000”.
Page 4, line 8, strike “\$1,000,000” and insert “\$2,000,000”.
Page 4, line 13, strike “\$150,000” and insert “\$225,000”.
Page 4, line 15, strike “\$1,000,000” and insert “\$2,000,000”.
Add, at the end of the bill, the following:

SEC. 505. ADJUSTMENTS TO REQUIRED EXPENDITURE AMOUNTS.

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

- (1) in paragraph (2)(C), by striking “2.5 percent” and inserting “the lesser of 3 percent and any percentage specified in paragraph (4) for that fiscal year”;
- (2) by adding at the end the following:

“(4) PERCENTAGE ADJUSTMENTS.—The percentage specified in this paragraph shall be equal to—

- “(A) for fiscal year 2012, 2.6 percent;
- “(B) for fiscal year 2013, 2.7 percent;
- “(C) for fiscal year 2014, 2.8 percent; and
- “(D) for fiscal year 2015, 2.9 percent.”.

(b) STTR PROGRAMS.—Section 9(n) of the Small Business Act (15 U.S.C. 638(n)), as amended by this Act, is further amended—

- (1) in paragraph (1)(B)(ii) by striking “0.3 percent” and inserting “the lesser of 0.5 percent and any percentage specified in paragraph (4) for that fiscal year”; and
- (2) by adding at the end the following:

“(4) PERCENTAGE ADJUSTMENTS.—The percentage specified in this paragraph shall be equal to—

- “(A) for fiscal year 2012, 0.3 percent; and

“(B) for fiscal years 2013 and 2014, 0.4 percent.”

(c) APPLICATION.—The amendments made by this section shall apply to fiscal years beginning with fiscal year 2012.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 5
 AMENDMENT NUMBER: Chu 25
 VOTE: Aye (9) No (15)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER		X		
Mr. WEST		X		
Mrs. ELLMERS		X		
Mr. WALSH		X		
Mr. LANDRY		X		
Mr. BARLETTA		X		
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER		X		
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS	x			
Mr. KEATING				X
Mr. OWENS	X			
TOTALS	9	15		

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MS. CHU OF CALIFORNIA

Page 26, after line 8, insert the following and redesignate subsequent paragraphs accordingly:

(5) in paragraph (4), by inserting after “under this subsection” the following: “and to establish and carry out a minority institution program described in subsection (qq)”.

Page 28, line 12, strike “(A) for awards” and insert the following: “(A)(I) for awards”.

Page 28, line 16, strike “(B) to support” and insert the following: “(ii) to support”.

Page 28, line 19, strike the period at the end and insert the following “; and”.

Page 28, after line 19, insert the following:

“(B) to establish and carry out a minority institution program described in subsection (qq).”.

Add at the end of the bill the following:

SEC. 505. MINORITY INSTITUTION PROGRAM.

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

“(qq) MINORITY INSTITUTION PROGRAM.—

“(1) PROGRAM DESCRIBED.—A minority institution program described in this subsection is a program to make grants to minority institutions that partner with nonprofit organizations that have experience developing relationships between industry, minority institutions, and other entities, for the purpose of increasing the number of SBIR and STTR program applications by minority-owned small businesses.

“(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a minority institution shall submit an application to the head of the Federal agency carrying out the program at such time, in such manner, and containing such information and assurances as the head may require.

“(3) MATCHING REQUIREMENT.—As a condition of a grant under paragraph (1), the head of the Federal agency carrying out the program shall require that a minority institution provide a matching amount from a source other than the Federal Government that is equal to the amount of the grant.

“(4) MINORITY INSTITUTION DEFINED.—In this subsection, the term ‘minority institution’ has the meaning given that term in section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k(3)) and shall include Asian American Native American Pacific Islander Serving Institutions, Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities.”.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 6
 AMENDMENT NUMBER: Chu 26
 VOTE: Aye (10) No (14)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER		X		
Mr. WEST		X		
Mrs. ELLMERS		X		
Mr. WALSH		X		
Mr. LANDRY		X		
Mr. BARLETTA		X		
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER	x			
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS	x			
Mr. KEATING				X
Mr. OWENS	X			
TOTALS	10	14		

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MS. CHU OF CALIFORNIA

Page 31, line 16, insert after "Policy Committee." the following:
"The Interagency SBIR/STTR Policy Committee shall include representatives from small business concerns among its members."

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MR. OWENS OF NEW YORK

Add at the end of the bill the following:

SEC. 505. EXPRESS AUTHORITY TO "FAST-TRACK" PHASE TWO AWARDS FOR PROMISING PHASE ONE RESEARCH.

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

"(qq) AUTHORITY TO 'FAST-TRACK' PHASE TWO AWARDS FOR PROMISING PHASE ONE RESEARCH.—To address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program, each Federal agency with an SBIR program may develop 'fast-track' programs to eliminate such delay by issuing second phase SBIR awards as soon as practicable, including in appropriate cases simultaneously with the issuance of the first phase SBIR award. The Administrator shall encourage the development of such 'fast-track' programs."

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MR. OWENS OF NEW YORK

Add at the end of the bill the following:

SEC. 505. INCREASED PARTNERSHIPS BETWEEN SBIR AWARDEES AND PRIME CONTRACTORS, VENTURE CAPITAL INVESTMENT COMPANIES, AND LARGER BUSINESSES.

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

"(qq) INCREASED PARTNERSHIPS.—

"(1) IN GENERAL.—Each agency required by this section to conduct an SBIR program shall establish initiatives by which the agency encourages partnerships between SBIR awardees and prime contractors, venture capital investment companies, business incubators, and larger businesses, for the purpose of facilitating the progress of the SBIR awardees to the third phase.

"(2) DEFINITION.—In this subsection, the term 'business incubator' means an entity that provides coordinated and specialized services to entrepreneurial businesses which meet selected criteria during the businesses' startup phases, including providing services such as shared office space and office services, access to equipment, access to telecommunications and technology services, flexible leases, specialized management assistance, access to financing, mentoring and training services, or other coordinated business or technical support services designed to provide business development assistance to entrepreneurial businesses during these businesses' startup phases."

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MR. OWENS OF NEW YORK

Add, at the end of the bill, the following:

SEC. 505. ENHANCING VETERAN PARTICIPATION IN SBIR.

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

“(qq) ENHANCING VETERAN PARTICIPATION IN SBIR.—

“(1) SPECIAL RULES FOR AWARDS.—Notwithstanding any other provision of this section, a small business concern owned and controlled by veterans may—

“(A) receive a Phase I award in the amount of \$300,000 under an SBIR program and a Phase II award in the amount of \$2,250,000 under an SBIR program, with such amounts able to be exceeded if the Federal agency making the award notifies the Administrator of such excess; and

“(B) receive a Phase II award under an SBIR program with respect to a project without having received a Phase I award with respect to such project.

“(2) VETERAN PREFERENCE.—In making awards under this section, Federal agencies shall give priority to applications so as to increase the number of SBIR and STTR award recipients that are small business concerns owned and controlled by veterans.”.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 10
 AMENDMENT NUMBER: Owens 31
 VOTE: 12 (aye) 12 (no)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman		X		
Dr. BARTLETT		X		
Mr. CHABOT		X		
Mr. KING		X		
Mr. COFFMAN		X		
Mr. MULVANEY		X		
Mr. TIPTON		X		
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER		X		
Mr. WEST	X			
Mrs. ELLMERS		X		
Mr. WALSH	X			
Mr. LANDRY		X		
Mr. BARLETTA		X		
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member	X			
Mr. SCHRADER	X			
Mr. CRITZ	X			
Mr. ALTMIRE	X			
Ms. CLARK	X			
Ms. CHU	X			
Mr. CICILLINE	X			
Mr. RICHMOND	X			
Mr. PETERS	X			
Mr. KEATING				X
Mr. OWENS	X			
TOTALS	12	12		

AMENDMENT TO COMMITTEE PRINT OFFERED BY
MR. KING OF IOWA

Beginning on page 86, line 9, strike section 504.

COMMITTEE ON SMALL BUSINESS

DATE: 5/11
 ROLL CALL: 7
 AMENDMENT NUMBER: King 191
 VOTE: Aye (13) No (11)

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GRAVES, Chairman	X			
Dr. BARTLETT	X			
Mr. CHABOT	X			
Mr. KING	X			
Mr. COFFMAN	X			
Mr. MULVANEY	X			
Mr. TIPTON	X			
Mr. FLEISCHMANN				X
Ms. HERRERA BEUTLER	X			
Mr. WEST	X			
Mrs. ELLMERS	X			
Mr. WALSH	X			
Mr. LANDRY	X			
Mr. BARLETTA	X			
Mr. HANNA		X		
Ms. VELAZQUEZ, Ranking Member		X		
Mr. SCHRADER		X		
Mr. CRITZ		X		
Mr. ALTMIRE		X		
Ms. CLARK		X		
Ms. CHU		X		
Mr. CICILLINE		X		
Mr. RICHMOND		X		
Mr. PETERS		X		
Mr. KEATING				X
Mr. OWENS		X		
TOTALS	13	11		

VII. SECTION-BY-SECTION ANALYSIS OF H.R. 1425

TITLE 1—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

Sec. 101. Extension length

This section extends the SBIR and STTR programs for 3 years until September 30, 2014. A shorter authorization allows the Committee to make needed alterations in a program designed to commercialize the rapidly changing field of technological innovation.

Sec. 102. SBIR and STTR award levels

This section increases the maximum size of SBIR and STTR awards from \$100,000 to \$150,000 for Phase I and from \$750,000 to \$1 million for Phase II. The SBA also is required to make annual adjustments of the maximum award sizes for inflation. The provision prohibits any agency from issuing an SBIR or STTR award if the size of the award exceeds the award guidelines established in this section by more than 50 percent. Finally, the provision requires federal agencies to maintain information on awards exceeding the award guidelines including: the award amount; justifications for exceeding the guidelines; the identity and location of the recipient; the recipient firm's receipt, if any, of venture capital, hedge fund, or private equity investment; and the ownership stake by one or more venture capital companies, hedge funds, or private equity firms. Nothing shall prevent a federal agency from supplementing an award under the SBIR or STTR programs with federal funds that are outside of the SBIR and STTR allocations.

The award sizes in the program have not been raised since 1982—almost 30 years ago. As a result, award sizes need to change simply to cover the cost of inflation. To avoid such problems in the future, this section also authorizes the SBA to periodically adjust the size of the award to account for inflation.

The legislation contemplates allowing agencies to exceed the maximum award sizes. By requiring the collection of data on agency awards in excess of the statutory caps, it will enable Congress to adjust those award sizes in order to meet the needs of the program and the small businesses seeking to commercialize their technology.

Sec. 103. Agency and program flexibility

Section 103 allows SBIR and STTR applicants to receive awards for subsequent SBIR or STTR phases at another agency and also enables small business concerns which received SBIR or STTR awards to receive awards for subsequent phases in either the STTR or SBIR program, respectively. Given the range of agencies and technologies covered by the SBIR and STTR programs, one of its great strengths is the flexibility provided to the agencies. This section will authorize one agency to combine a SBIR or STTR award with that of another agency when both find the innovation promising, commercialization likely, and the needs of both agencies may be met by the one innovation.

Sec. 104. Elimination of Phase II invitations

This section requires that federal agencies conduct their solicitation of Phase II SBIR and STTR proposals without any invitation,

pre-screening, pre-selection, or down-selection (reduction in the number of contractors or sub-contractors working on a project as it moves from one phase to another) process between the first and second phase. The SBIR and STTR programs rely on open competitions to ensure that awards are made to the best possible technologies. If agencies limit competition at Phase II by invitation or screening of companies, it inhibits the competitive nature of the programs by favoring certain firms at the Phase II level. This section simply ensures that agencies do not structure any Phase II competitions in a way that inhibits all interested Phase I awardees from applying for a Phase II award.

Sec. 105. Phase flexibility

This section grants agencies the authority to provide a Phase II award if an agency finds that the small business concern has already completed the work typically done during Phase I. If a company has already completed the work that would typically be done during Phase I, no logical reason exists to require the business to first obtain a Phase I award. Spending scarce federal dollars when the research already has been performed is not a wise use of taxpayer dollars. Finally, allowing a business to obtain a Phase II award without going through a Phase I award will promote the commercialization of technology—the primary objective of the program.

Sec. 106. 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

Section 106 authorizes the Departments of Health and Human Services and Energy, the National Science Foundation and the National Aeronautics and Space Administration to permit firms majority-owned and controlled by one or more venture capital companies, one or more hedge funds, or one or more private equity firms to compete for up to 45 percent of the agency's SBIR funds. All other qualifying federal agencies shall allow majority-owned private investment backed small businesses to compete for up to 35 percent of the agency's SBIR funds.

The Committee believes that the capital structure of a small business concern is irrelevant for the purposes of the SBIR program. This is supported by the series of hearings conducted by the Committee over the last four years and independent research. The National Research Council (NRC) of the National Academy of Sciences found in its May 2009 research report that small businesses engaged in federal research require sufficient sources of external capital to successfully commercialize their research. This is readily apparent in the medical and defense industries, but also in other fields including transportation and energy. As a result, the Committee believes that the overriding policy focus should be on enhancing small firms' access to financing—including equity investment in the form of venture capital. The Committee believes that the recent NRC report provides further justification for restoring the SBIR program to its pre-2003 status when venture capital investment was permitted. Furthermore, the Committee finds that venture capital companies should not be placed at a disadvantage to other entities that provide capital to businesses, such as hedge

funds or private equity firms. As a result, the Committee treats private equity and hedge funds in the same manner as it treats venture capital companies.

Sec. 107. Ensuring that firms with substantial investment from multiple venture capital operating companies, hedge funds, or private equity firms participate in a portion of the SBIR and STTR programs

This section delineates the affiliations between various outside investors (such as venture capital companies, private equity firms, etc.) and small business concerns for purposes of determining whether the combination is eligible for an award under the SBIR program. Under the section, the Administrator shall not consider a business concern to be affiliated with a venture capital operating company, hedge fund, or private equity firm (or any other business that the venture capital operating company, hedge fund, or private equity firm has financed) if such outside investment companies do not own 50 percent or more of the business concern and employees of such private investment companies do not constitute a majority of the board of directors of the business concern. Further, a business concern shall be deemed to be “independently owned and operated” if: it is owned in majority part by one or more natural persons of venture capital operating companies, hedge funds, or private equity firms; there is no single venture capital operating company, hedge fund, or private equity firm that owns 50 percent or more of the business concern; and there is no single venture capital operating company, hedge fund, or private equity firm the employees of which constitute a majority of the board of directors of the business concern. The section further places limits to prevent large companies from participating in the program. A small business concern shall only be deemed eligible to participate in the SBIR or STTR program if not more than two venture capital operating companies hedge funds, or private equity firms under large business control have an ownership interest in the small business concern; and the venture capital operating companies, hedge funds, or private equity firms under large business control do not collectively own more than 20 percent of the small business concern.

The Committee concludes that the other portfolio companies owned by a venture capital company, hedge fund, or private equity firm are immaterial to the dealings of the small business concern participating in the SBIR or STTR program. As a result, this section clearly defines that the employees for the small business concern and the employees of the firm providing equity investment company are the only ones that shall be counted in determining eligibility pursuant to 13 C.F.R. 121.702(b) (or any successor regulation) for participation in the SBIR or STTR program. In essence, this section limits the reach and scope of the SBA’s affiliation rules set forth in 13 C.F.R. Part 121 for the purposes of the SBIR and STTR programs.

Sec. 108. SBIR and STTR special acquisition preference

This section codifies the language from the SBIR and STTR policy directives confirming the intent of Congress to establish a special acquisition preference for SBIR and STTR Phase III awards. The provision clarifies that agencies should, to the extent possible,

award contracts to those firms that developed technologies using SBIR or STTR funds. If the objective of the SBIR and STTR programs is to commercialize technology in order to meet the needs of federal agencies, then the firms that developed the technology using taxpayer dollars should be the preferred source for federal agencies. Moreover, the provision enhances a robust, competitive small business industrial base.

Sec. 109. Collaborating with federal laboratories and research and development centers

Section 109 expands opportunities for firms receiving SBIR or STTR grants to enter into cooperative research and development agreements with federal agencies and laboratories. The provision authorizes (but does not require) that an agency may award a grant under the SBIR or STTR program while simultaneously signing a cooperative research and development agreement with the same firm. Furthermore, it prevents an agency from requiring a firm to enter into a cooperative research and development agreement in order to obtain a SBIR or STTR award. Finally, the provision reduces fees that small businesses must pay when utilizing the facilities of a federal laboratory or federally funded research and development center.

The Committee believes that entering into a cooperative research and development agreement should not preclude a small business concern also from obtaining an SBIR or STTR award. The use of both funding channels may ensure that the small business has sufficient funds to commercialize its research and meet the needs of the government. Finally, by reducing fees that small businesses must pay to conduct their own research at federal laboratories, the provision will free up scarce financial resources that the small business can devote to other needs including commercialization of other technologies developed with SBIR and STTR funds.

Sec. 110. Notice requirement

The SBIR and STTR programs are run by multiple agencies and the SBA is not necessarily cognizant any time the SBIR or STTR program arises in an administrative or judicial challenge. This section requires such notification. By requiring notification when an issue arises under the SBIR and STTR programs, it will enable the SBA, in conjunction with the agency, to examine whether any policies, including the Policy Directives, issued by the SBA, need alteration as a result of the administrative or judicial challenge.

Sec. 111. Additional SBIR and STTR awards

Section 111 allows SBIR and STTR applicants to receive one additional Phase II award for a single project. It also requires agencies to verify that any activity to be performed with respect to a project with a Phase I and Phase II award has not been funded from another federal agency. By allowing agencies the flexibility to award an additional Phase II for further development of a promising technology, this provision will further the efforts of commercialization that is core goal of the SBIR and STTR programs.

TITLE II—COMMERCIALIZATION AND OUTREACH INITIATIVES

Sec. 201. Technical assistance for awardees

This section improves the ability of the SBIR and STTR awardees to obtain necessary technical assistance. It increases the amount of discretionary technical assistance from non-federal sources to \$5,000 for Phases I and II. Any federal agency contracts for the provision of technical assistance must ensure that assistance is provided to SBIR and STTR awardees rather than for some other purpose. In lieu of federal contracting for such services, the provision authorizes the SBIR or STTR awardee to obtain its own assistance and be reimbursed up to the amount authorized in this section. Technical assistance provided under this section will not increase an agency's overall SBIR or STTR award.

A significant number of small businesses have been started as a result of SBIR and STTR grants. While technically proficient, some innovators have very little, if any, prior business experience. The Committee believes that business management assistance, be it the development of business plans to commercialization strategies, will be a valuable asset to firms participating in the SBIR and STTR programs.

Sec. 202. Commercialization Readiness Program at Department of Defense

Section 202 makes permanent the SBIR Commercialization Pilot Program (CPP) at the Department of Defense (DOD), extends it to the Department's STTR program, and alters the name to reflect the permanency of the program. The provision requires both the Secretary and prime contractors for contracts in excess of \$100 million to utilize technologies developed by SBIR and STTR awardees in meeting the needs of the warfighter. The CPP was successful in commercializing technologies developed under the SBIR and STTR program and meeting the warfighting needs of DOD. Given the Committee's position that the SBIR and STTR programs are designed to commercialize research in order to meet the needs of federal agencies and the specialized needs of the DOD, the CPP program, with additional reporting requirements should be made permanent.

Sec. 203. Commercialization Readiness Pilot Program for civilian agencies

This section authorizes agencies other than the DOD to create Commercialization Readiness Pilot Programs (CRPs) by allocating no more than 10 percent of their program authorization to such pilot programs. In order for agencies to maximize effective use of these limited funds, the CRPs must focus on supporting advanced development of small business technologies which are facing high manufacturing or regulatory costs. The provision authorizes these agencies to grant post-Phase II awards up to three times the size of a Phase II Award (which is equal to \$3 million). Given the overall success of the DOD CPP, other agencies should have the opportunity to establish similar Phase III commercialization programs. It is the view of the Committee that such Phase III commercialization programs only should be established when the commercialization of Phase II technologies will, as it did with DOD, meet the pro-

curement needs of the agency. Although authorized to do so, no agency is required to establish such a program.

Sec. 204. Interagency Policy Committee

This section directs the Office of Science and Technology Policy to establish an SBIR and STTR Interagency Policy Committee to review and make policy recommendations on ways to improve the effectiveness and efficiency of the SBIR and STTR programs. While the SBA provides policy directives for the SBIR and STTR programs, there is no central mechanism for obtaining input by all the agencies covered under section 9 of the Small Business Act in order to determine which agencies have the best practices or otherwise modify their operations to maximize the benefits to small businesses. The Committee believes that an interagency policy board on which the SBA sits and which receives periodic input from the small business community would be the optimal mechanism for improving the SBIR and STTR programs.

Sec. 205. Clarifying definition of Phase III

This section revises the definition of “Phase Three” of the SBIR program to clarify that such work shall be directed toward commercial applications derived from research and development completed in Phase I or Phase II. This provision clearly defines “commercialization” as “the production and delivery of products, processes, technologies, or services for sale (whether by the originating party or by others) for use by the federal government or commercial markets.” By adopting this definition, the Committee is ensuring that Phase III focuses on commercialization of technology first for the federal government needs and then for commercial markets.

Sec. 206. Shortened period for final decisions on proposals and applications

Section 206 requires that not later than 90 days after, and if the Administrator authorizes an extension, then not later than 180 days from, the date on which the solicitation closes for SBIR and STTR programs, that the agency make a decision on each proposal submitted. It also allows the Director of NIH and the Director of the NSF to make an award under the SBIR or STTR programs only when an application for award undergoes a technical and scientific peer review.

The Committee has received testimony from numerous witnesses that the length of time it takes for the entire process to be completed from submission of a grant proposal to final notice of award is too long and overly erratic. This provision is necessary to provide applicants with certainty concerning whether they will or will not obtain an award. As a result, small businesses will be able to plan their future operations accordingly. Except for those awards necessitating a technical and scientific peer review, agencies should have the capability of making decisions on Phase I or Phase II in less than 90 days. Finally, the Committee believes that the SBIR and STTR programs should support the best science available; given the scope of research performed at NIH and NSF, it makes sense to require those agencies to seek out advice from appropriate experts, including ones outside the agency.

Sec. 207. Phase 0 proof of concept partnership pilot program

This section creates a three-year pilot program which terminates at the end of Fiscal Year 2014, under which the Director of the National Institutes of Health (NIH) may use \$10 million of the NIH STTR allocation to provide awards to qualifying universities and research institutions to set up “Proof of Concept” Partnerships. Grants of up to \$100,000 shall be awarded to qualifying universities or research institutions for the purposes of awarding smaller grants to individual researchers looking to start a small business to support translational proof-of-concept work including market analysis and mentoring activities. The proof-of-concept programs would be required to use an industry project management board composed of local, technical and business experts. This board would monitor the progress of grant recipients, imposing market-driven milestones and reporting requirements. The board also should be quick to eliminate any failing projects. Additionally, the NIH Director shall submit a report to the congressional committees of jurisdiction evaluating the activities of the program.

The committee believes that these grants can help researchers identify the most promising markets and direct their new small business accordingly. An initial “Phase 0” grant given to help researchers identify their most promising research can be beneficial to discovery of new technologies that can be applied to the SBIR or STTR programs and enhance the probability of success for the small business involved.

TITLE III—OVERSIGHT AND EVALUATION

Sec. 301. Streamlining annual evaluation requirements

Section 301 requires the Administrator to report to Congress, at least annually, the number of proposals and awards received from firms with venture capital, private equity, or hedge fund investment, including those owned and controlled by multiple venture capital, private equity, or hedge fund firms. It also requires the Administrator to report on efforts to increase outreach to firms owned and controlled by women and socially or economically disadvantaged individuals; the implementation and compliance with the allocation of funds for firms majority-owned and controlled by multiple venture capital, private equity or hedge fund companies; and appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR policy directives. Finally, the section requires the Administrator to coordinate the implementation of electronic databases at the participating agencies.

One of the most common complaints about the SBIR and STTR program is that the agencies are not required to collect enough specific information that enables Congress, the SBA, and the agencies themselves to assess the performance of the programs and make needed alterations in programs to maximize their utility to a wide range of small businesses. The metrics that must be collected and reported fills that gap. Another tool to assist in the assessment of the programs, as well as provide transparency to Congress and small business participants, is through the development of the central database required by this section.

Sec. 302. Data collection from agencies for SBIR

This section adds a new requirement that agencies with an SBIR program collect data annually on: the amount of investment, if any, from venture capital, private equity or hedge fund firms; majority ownership and control by multiple venture capital, private equity, or hedge fund firms; the amount of outside capital received at the time of award; any foreign investors and their identity; ownership by women or socially or economically disadvantaged individuals; and any university affiliation. The provision also requires agencies to justify awards given that exceed the statutory guidelines. Finally, agencies must collect data and report annually on whether or not the award winner is from a state receiving less federal research funding for small businesses than a majority of other states.

With the significant changes to the participation by small businesses with significant outside private investment in the SBIR program, the Committee believes that requiring agencies to collect this information is necessary for proper evaluation of the program. Furthermore, without such data, it would be impossible to ascertain whether the percentage limitations set forth elsewhere in this bill are actually met or exceeded. Since the bill also requires greater outreach to various sectors of American society, it is impossible to see whether that outreach is successful unless demographic data is collected. The provision also corrects the data gap on the propriety of agencies exceeding the statutory maximum on awards by requiring those justifications to be collected and reported.

Sec. 303. Data collection from agencies for STTR

This section requires agencies to collect the same information for their STTR programs as it does for the SBIR program. The rationale for the collection of such information for the SBIR program applies with equal force to the STTR program and will for the sake of brevity not be repastinated.

Sec. 304. Public database

This section requires that the public database maintained by the Administrator add the following elements: SBIR or STTR awardee ownership by venture capital, private equity or hedge fund investment; ownership by multiple venture capital, hedge fund or private equity firms; amounts of outside capital; ownership by certain specific demographic segments; and any university affiliation. The need for additional information in the public database is necessitated by other changes made to the program such as the need to collect more detailed demographic and financial information. The public database also enables interested parties to provide input on the operation of the SBIR and STTR programs. Finally, transparency to the public will help agencies identify possible waste, fraud, and abuse in the programs, especially with respect to firm eligibility.

Sec. 305. Government database

In addition to the information that must be collected pursuant to section 304 (as it amends the SBIR and STTR programs), section 305 adds the following data collection elements: the name, size, location and an identifying number assigned by the Administrator to the small business concern; an abstract of the project; the number

of employees of the small business concern; 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; contact information for each key individual; the percentage of effort each individual employee will contribute to the project; majority-ownership, if applicable, by multiple venture capital operating companies, hedge funds, or private equity firms; 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 the applications and making awards under the SBIR or STTR programs.

Given the fact that agencies and Congress need data on outside investors that benefit from the SBIR program, this provision collects the necessary data. The government database collects additional information, such as a description of the project receiving awards, the specific aim of the project receiving an award, the number of employees and certain proprietary information that should not be part of a public database. Ultimately, Congress will use this data along with other reports to expand or contract participation by firms with significant outside investment.

Sec. 306. Accuracy in funding base calculations

This section requires the Comptroller General of the United States (GAO) to conduct an audit of the SBIR and STTR programs to determine whether federal agencies are complying with the expenditure requirements. The Committee is unaware of any audits, either by the SBA or the agencies that operate the programs, demonstrating compliance with the requirement to set aside the percentage of appropriated funds required under section 9 of the Small Business Act. As the independent audit arm of the Congress and a recognized expert in appropriations matters, the Committee considered it logical to have GAO conduct the audit of the agencies to ascertain whether funds are being apportioned properly. Such transparency is vital to the proper functioning of the programs and the ability of Congress to oversee them.

Sec. 307. Continued evaluation by the National Academy of Sciences

Section 307 authorizes the NRC to continue its evaluation of the SBIR program. These evaluations are to be provided every four years. The evaluation is required to contain: an estimate of the job growth created through the programs; an assessment of other economic effects of the programs; an evaluation of federal agency use of Phase II award winners in fulfilling procurement needs; and an examination of the effectiveness of the programs.

In addition, the NRC is to perform a separate review of the STTR program focusing on the adequacy of the STTR allocation and whether it is sufficient to generate appropriate collaborations between small businesses and research universities. The review also shall include a comprehensive study on how the STTR program has stimulated technological innovation and technology transfer.

The NRC completed the most thorough and complete study of the SBIR program in 2007. That study is widely cited and used benchmark for determining the effectiveness and scope of the SBIR program. Given the quality of the study, the NRC's expertise in evalu-

ating scientific research, and the need for a third party (unaffiliated either with Congress or federal agencies) to examine the program, the Committee determined that periodic comprehensive assessments from the NRC would be the optimal tool to evaluate the SBIR and STTR programs during Congressional periodic reevaluations.

Sec. 308. Technology insertion reporting requirements

This section requires the Administrator to include in the annual report to Congress information on Phase III awards issued by SBIR and STTR agencies. The information in the report shall include: recipient name; dollar amount of award; and agency or subagency making the award. In the opinion of the Committee, the goal of the SBIR and STTR programs is not to find out the results of research, but to create products using innovative technologies that will be of utility to federal agencies in fulfilling their missions. Therefore, the end-result of the SBIR and STTR programs should be Phase III awards. Despite this goal, nothing in section 9 of the Small Business Act requires that agencies collect any data on Phase III. This section ameliorates that problem through the annual report by the Administrator to Congress.

Sec. 309. Obtaining consent from SBIR and STTR applicants to release contact information to economic development organizations

Section 309 requires each Federal agency that conducts an SBIR or STTR program to enable awardees to be identified to appropriate state and local economic development agencies or organizations. While the goal of the SBIR and STTR programs is to provide useful products to federal agencies, nothing prevents commercialization of the research in other sectors. State and local economic development organizations may be able to provide significant assistance in transferring the technology from federal agencies to other uses, be they non-federal governmental or commercial. However, such collaborative efforts necessitate that the awardees must be known to appropriate state and local organizations. This section simply gives the awardees the option of having their information supplied to such organizations.

Sec. 310. Pilot to allow funding for administrative, oversight, and contract processing costs

This section authorizes the participating agencies to utilize up to three percent of their allocations under the SBIR program for various administrative functions associated with operation of the SBIR and STTR programs. In addition to normal administrative functions, the funds authorized in this section also shall be used to increase agency detection of waste, fraud and abuse in their SBIR and STTR programs, including needed cooperation with the agency's Inspector General. For large research agencies, the administrative funds can be shared with the Inspector General in carrying out programs to eliminate waste, fraud, and abuse in the SBIR and STTR program.

Under current law, agencies are prohibited from using SBIR funds to manage the program. This section authorizes participating agencies to set aside 3 percent of their SBIR account for adminis-

trative, oversight, and outreach costs related to the SBIR and STTR programs. Over the years, the Committee has found that agencies are reluctant to use non-SBIR dollars to operate a program they do not view as part of their core missions. As a result, agencies may not be awarding anywhere near their 2.5 percent allocation. As a result, the Committee determined that utilization of a small amount of appropriated dollars dedicated to administration of the SBIR and STTR programs will ensure maximum funding of small business research. In essence, the Committee believes that it is better to have a full allocation of 2.425 percent (2.5 percent minus the administrative cost allocation) rather than some lower percentage (such as 2 percent) because the agency did not have the administrative resources to fully implement the program.

Sec. 311. GAO Study with respect to outside investment involvement

This section requires that not later than 2 years after the date of the enactment of this Act, and every 2 years thereafter, GAO conduct a study on the impact of requirements relating to venture capital operating company, private equity firm, and hedge fund involvement in the SBIR and STTR programs. The bill allows small business concerns with significant outside investment from venture capital, hedge fund and private equity firms to participate in the program. Given the potential effects of firms with that type of financial backing, the Committee determined that a GAO evaluation on a more frequent basis than the NRC study authorized in section 307 is required.

Sec. 312. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse

In overseeing the operation of the program, the Administrator issues policy directives. Section 312 requires that the Administrator issue a new policy directive addressing the issues of fraud, waste and abuse in these programs. In addition to the material mandated by this section, the Administrator's policy directive is required to include input on the types of fraud detection mechanisms needed to remove vulnerabilities in the SBIR and STTR programs. In addition to the policy directive, this section requires the Administrator to establish a telephone hotline to receive reports of waste, fraud and abuse in the SBIR and STTR Program.

In 2009, the Senate Commerce Committee conducted an investigation into potential fraudulent practices by SBIR and STTR program participants. Their investigation found 29 cases of SBIR fraud between 1990 and 2009. These cases involved more than 300 SBIR or STTR contracts valued at more than \$100 million dollars. Obviously, insufficient attention was paid by program managers to the potential for fraud in these programs. Such fraud undermines trust in the program and reduces the amount of funds available to legitimate businesses seeking awards. In times of severe fiscal restraint, it is necessary to ensure optimal use of federal dollars directed to the purposes intended by Congress. By creating a more comprehensive fraud prevention and detection program, the provisions in Section 312 will ensure that funds reach legitimate small businesses interested in commercializing technology.

Sec. 313. Simplified paperwork requirements

This section directs the Administrator to issue regulations or guidelines (to the extent possible) to standardize SBIR and STTR applications and reporting forms across the disparate agency participants in the programs. The Committee has recognized that a one-size-fits-all approach to operation of the SBIR and STTR programs is not appropriate. Flexibility is needed simply because the missions (and the research to support them) vary widely among federal agencies. That flexibility creates problems for small businesses operating in more than one agency; the disparate application and reporting requirements impose unnecessary regulatory burdens on firms that should be focused on the development of new technologies rather than reporting requirements of diverse federal agencies. This section palliates that problem by requiring the Administrator to develop a common set of applications and reporting requirements. However, the Committee fully expects that those forms and reporting requirements will in no way undermine the flexibility that agencies have to operate the programs in the manner best meeting the needs of the agency.

Sec. 314. Reducing fraud, waste, and abuse

This section directs GAO to periodically study the effectiveness of the government and public databases in reducing vulnerabilities of the SBIR and STTR programs to fraud, waste, and abuse. In addition to the other fraud detection and prevention measures established elsewhere in this legislation, the Committee believes more can and should be done to prevent waste, fraud, and abuse. Thus, the Committee requires GAO to assess the adequacy of the public databases in uncovering waste, fraud and abuse.

TITLE IV—POLICY DIRECTIVES

Sec. 401. Conforming amendments to the SBIR and the STTR policy directives

This section requires the policy directives issued by the Administrator be conformed to the changes made in this legislation. Further, it requires such policy directives to be published in the Code of Federal Regulations. The legislation makes significant changes to the operation of the SBIR and STTR programs. As a result, the policy directives from the Administrator need to be updated as expeditiously as possible so that small businesses may utilize the program. In addition, the Committee recognizes that the current directives are nearly impossible to find and can be changed at the whim of the Administrator. By requiring codification in the Code of Federal Regulations, it ensures easy access to the directives (by visiting www.gpo.gov/fdsys/) while requiring the Administrator to use normal rulemaking procedures to modify the directives thereby ensuring input from agencies and small business participants in the programs.

TITLE V—OTHER PROVISIONS

Sec. 501. Report on SBIR and STTR program goals

This provision directs each federal agency that participates in an SBIR or STTR program to: develop metrics in conjunction with the

Interagency Policy Committee described in section 204 in order that they are able to evaluate the effectiveness and benefit of the programs; conduct an annual evaluation of their programs using such metrics; and report the evaluation results annually to the Administrator and relevant congressional committees. The Committee asserts that establishing viable performance metrics is critical to the improvement of the SBIR and STTR programs. The Committee believes that using the recommendations of the Interagency Policy Committee (those who are closest to the program on a day-to-day basis) is an effective strategy to provide the best metrics for program evaluation and enable Congress to consider appropriate legislative modifications.

Sec. 502. Competitive selection procedures for SBIR and STTR programs

This section requires all SBIR or STTR funds to be awarded pursuant to competitive and merit-based selection procedures. The primary benefit of the SBIR and STTR programs is their competitive nature, i.e., the agency selects the best science presented. Anything that undermines competition in these programs, in the opinion of the Committee, should be prohibited.

Sec. 503. SBA regulations on loan restrictions

Section 503 requires the Administrator to promulgate regulations concerning affiliation between a small business concern and a lender based on the restrictive covenants in the loan documents. The Committee is aware of firms (publicly traded) that, in return for debt capital, accept highly restrictive loan covenants. These limitations may include restraints on the alienation of property, restrictions on the types of businesses that the firms may enter, and requiring that certain levels of cash be maintained in specific bank accounts. These restrictions appear very similar to those currently used to identify affiliation for purposes of the Administrator's size standard regulations. As a result, it seems prudent to have the Administrator draft regulations for purposes of section 9 of the Small Business Act to determine what constitutes affiliation for these types of restrictive loan covenants. The purpose of these regulations is to ensure that firms cannot evade the affiliation rules simply by changing the form of their outside investment.

Sec. 504. Limitation on pilot programs

This section limits the SBA's authority to establish new pilot programs under Section 9 of the Small Business Act. Existing pilot programs would be limited to a three-year authorization following enactment of the legislation and new pilot programs would have a mandatory three-year sunset period. This section only corresponds to pilot programs related to the SBIR or STTR program and only to those pilot programs not specifically authorized in section 9 of the Small Business Act, as amended by this legislation. The Committee has longstanding concerns about the proliferation of pilot programs at the SBA created without direction from Congress. These pilots then undermine the ability of the SBA to implement programs mandated by Congress. The limitation on pilot programs in the implementation of section 9 is the Committee's first effort at ensuring that it gives first priority to directives from the branch

of the government vested by the Constitution with the legislative powers.

Sec. 505. Ensuring equity in SBIR and STTR awards to individual companies

This section prohibits any single SBIR or STTR awardee from obtaining more than one-half of the median state's SBIR or STTR awards, be they in terms of dollars or number of awards. Section 9(j)(2)(H) of the Small Business Act requires that any firm that receives more than 15 Phase II awards in a five-year period must be able to demonstrate the extent to which it received Phase III funding. This demonstrates congressional intent that the primary, if not sole, purpose of the SBIR and STTR programs is to commercialize technology. However, some firms have become expert at obtaining Phase I and Phase II awards without necessarily demonstrating any ability or interest in obtaining Phase III funding. For instance, one company which testified before the committee this year has received over 370 Phase I awards and over 185 Phase II awards for more than \$150 million over its life in the SBIR program. That one company has received more SBIR dollars than 26 states and territories including Missouri, Montana, Delaware, Rhode Island, and Iowa. In fact, this company by itself has won more in SBIR funds than Idaho, Mississippi, Wyoming, and North Dakota combined. The problem is not confined to just one company; there are many other examples in which one company has won hundreds of awards. The Committee finds these statistics troubling because it is evident that program administrators in covered agencies find it easier to make awards for Phase I and Phase II rather than finding a diverse set of small businesses that are interested in moving federally funded research to Phase III as recognized by Section 9(j)(2)(H). This then turns an effort at commercialization into nothing more than a procurement set-aside program for performing contract research needed by federal agencies. As a result, the Committee determined to impose limits on the ability of firms to win an unlimited number of Phase I and Phase II awards to ensure a diverse research and development industrial base interested in commercializing federally funded research. The Committee expects that this will refocus the SBIR and STTR programs on Phase III commercialization.

Sec. 506. Inspector General reports

This section requires that the Offices of the Inspector General for the SBIR participating agencies submit an annual report on the actions taken to eliminate fraud in the SBIR program. The changes made in this legislation require far greater input from Inspector Generals in detecting fraud, waste and abuse in the SBIR and STTR programs. This section simply requires that those activities be reported to Congress.

Sec. 507. Timing

This section requires that agencies participating in the SBIR program attempt to shorten the time between the notification stage of winning an award and the subsequent release of funding for that award. The Committee has heard from numerous SBIR participants that the time between notification of an award and the ac-

tual dispersal of funds for that award can be erratic. This provision simply eliminates the disparate and often lengthy delays in dispersal of funds by participating agencies.

Sec. 508. Publication of certain information

Section 508 requires the SBA to establish and maintain a website collecting information on applications and awards for all agencies participating in the SBIR program. There are a number of agencies with multiple research opportunities. For small businesses new to the SBIR or STTR programs, this can be a daunting task to navigate the application process. By requiring the Administrator to create a centralized database, it will enable small businesses to match more readily their capabilities with agency needs.

Sec. 509. Preference for clean coal technology research

This section directs each appropriate federal agency with an SBIR program to give priority to research proposals related to clean coal technology, including the gasification of coal. Given the reliance on imported fossil fuels in the United States and the abundance of coal, the Committee believes that using the SBIR and STTR programs to uncover new and innovative ways to provide clean coal technology makes sense.

Sec. 510. Report on enhancement of manufacturing activities

This section requires agencies with over \$50 million in SBIR grants to report on efforts to enhance manufacturing activities. Manufacturing is important to American economic growth. And technological innovation is crucial to a strong manufacturing sector. Given the multitude of small businesses involved in manufacturing, the Committee believes that greater effort should be made by certain agencies to utilize the SBIR and STTR programs to enhance the capability of America's manufacturers.

Sec. 511. Express authority to "Fast Track" Phase II awards for promising Phase I research

This section permits agencies to create "Fast-Track" programs that aim to decrease the time between Phase I and II awards, including the ability to simultaneously deliver a Phase II award in conjunction with a Phase I award. If the purpose of the SBIR and STTR programs is to commercialize research, a business should not necessarily have to submit separate applications for research and development if it is ready to undertake both tasks when it applies for a Phase I award. This section ensures that a business prepared to quickly move from research to construction of a prototype can take advantage of a "Fast Track" simultaneous grant of a Phase I and Phase II award.

Sec. 512. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses

This section requires agencies to establish initiatives that encourage partnerships between SBIR awardees and prime contractors, venture capital companies, business incubators, and larger businesses. SBA contracting programs are replete with efforts to encourage joint ventures or other types of collaboration among

businesses, including between large and small businesses. If these types of strategic partnerships can assist small businesses in other government contracting arenas, they also should help in the context of the SBIR and STTR programs. This section requires participating agencies to develop such partnerships. Given the expertise of the SBA, the Committee would expect that the agencies consult with the SBA to determine the best mechanisms for increasing the collaboration sought by Congress.

Sec. 513. Preference for acid mine drainage research

This section directs each appropriate federal agency with an SBIR program to give priority to proposals related to reducing the environmental impact of acid mine drainage. If the SBIR and STTR programs are going to increase the utilization of clean coal, it also makes sense that agencies utilize small business innovations to ameliorate any adverse environmental consequences associated with the mining of coal.

Sec. 514. Preference for hydraulic fracturing research

This section directs each appropriate federal agency with an SBIR program to give priority to proposals related to reducing the environmental impact of the use of hydraulic fracturing during natural gas exploration activities. Given the increased development of natural gas from shale formations, agencies should use the SBIR and STTR programs to find innovative technologies developed by small businesses to address any environmental consequences from the extraction of natural gas from shale.

VIII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 1425 would extend and expand programs that require certain federal agencies to set aside portions of their research and development budgets for small businesses. The bill would also require participating agencies to collect and report information about program participants that would be used both for program evaluation and for business development. In addition, H.R. 1425 would authorize the Government Accountability Office (GAO) and the National Academy of Sciences (NAS) to study the operation and effectiveness of the programs.

Based on information from the Small Business Administration (SBA) and other participating agencies, CBO estimates that implementing H.R. 1425 would cost \$14 million over the 2012–2016 period, subject to appropriation of the necessary amounts. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 2, 2011.

Hon. SAM GRAVES,
Chairman, Committee on Small Business, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1425, the Creating Jobs Through Small Business Innovation Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Enclosure.

H.R. 1425—Creating Jobs Through Small Business Innovation Act of 2011

Summary: H.R. 1425 would extend and expand programs that require certain federal agencies to set aside portions of their research and development budgets for small businesses. The bill also would require participating agencies to collect and report information about program participants that would be used both for program evaluation and for business development. In addition, H.R. 1425 would authorize the Government Accountability Office (GAO) and the National Academy of Sciences (NAS) to study the operation and effectiveness of the programs.

Based on information from the Small Business Administration (SBA) and other participating agencies, CBO estimates that implementing H.R. 1425 would cost \$14 million over the 2012–2016 period, subject to appropriation of the necessary amounts. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

H.R. 1425 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the federal government: The estimated budgetary impact of H.R. 1425 is shown in the following table. The costs of this legislation fall within several budget functions, including 050 (national defense), 250 (general science, space, and technology), and 550 (health).

	By fiscal year, in millions of dollars—					
	2012	2013	2014	2015	2016	2012–2016
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
National Academy of Science Study:						
Estimated Authorization Level	6	0	0	0	8	14
Estimated Outlays	1	2	2	1	1	7
Additional Agency Activities:						
Estimated Authorization Level	3	2	1	1	1	8
Estimated Outlays	2	2	1	1	1	7
Total Changes Under H.R. 1425:						
Estimated Authorization Level	9	2	1	1	9	22
Estimated Outlays	3	4	3	2	2	14

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2011 and that the necessary funds will be appropriated near the start of each year. Based on information from SBA and participating agencies, CBO estimates that implementing H.R. 1425 would cost \$14 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

Under current law, the Small Business Innovation Research (SBIR) program requires federal agencies with extramural budgets for research and development (R&D) that exceed \$100 million per

year to set aside 2.5 percent of that budget for contracts with small businesses. (Extramural budgets consist of expenditures for activities not performed by agency employees.) Likewise, the Small Business Technology Transfer (STTR) program requires federal agencies with extramural budgets for R&D that exceed \$1 billion per year to set aside 0.3 percent of that budget for cooperative research between small businesses and a federal laboratory or nonprofit research institution. Eleven agencies currently participate in one or both programs, including the Departments of Defense, Health and Human Services, Energy, Agriculture, and Homeland Security, as well as the National Aeronautics and Space Administration, the National Science Foundation, and the Environmental Protection Agency.

The cost of those programs to the participating agencies consists primarily of personnel and associated overhead expenses to solicit applications, award contracts, prepare reports, and track outcomes. The organizational structure of the program offices varies. Some agencies have full-time staff members devoted to the SBIR and STTR programs, with other staff assisting as part of their duties; other agencies, however, have employees working part-time on the program.

NATIONAL ACADEMY OF SCIENCES STUDY

H.R. 1425 would direct certain agencies participating in the SBIR program to enter into an agreement with the NAS for the National Research Council to study the degree to which the SBIR and STTR programs have stimulated innovation and encouraged the use of small businesses to meet federal R&D needs. Reports presenting results of the studies would be due four years after enactment and every four years thereafter. Using those results, NAS also would develop recommendations for improving the SBIR and STTR programs. Based on information from NAS, CBO estimates that conducting the studies as required by H.R. 1425 would cost \$7 million over the 2012–2016 period.

ADDITIONAL AGENCY ACTIVITIES

H.R. 1425 would require SBA to upgrade the data systems used to consolidate information from participating agencies and evaluate their performance. The bill also would require SBA to develop new performance measures and regulations to reflect changes in the SBIR and STTR programs. Based on information from SBA, CBO estimates that those new efforts would cost \$5 million over the 2012–2016 period, assuming appropriation of the necessary amounts.

The bill also would require GAO to conduct several studies for the Congress, including one to determine whether the agencies participating in the SBIR and STTR programs are complying with the programs' requirements to allocate a specific portion of their R&D budgets and another to assess whether agencies participating in the SBIR program are sufficiently protecting the intellectual property rights of the small businesses that receive awards under the program. CBO estimates that conducting such studies would cost about \$2 million over the 2012–2016 period, subject to the availability of appropriated funds.

REAUTHORIZATION AND EXPANSION OF THE SBIR AND STTR PROGRAMS

The bill would extend both the SBIR and STTR programs through 2014; under current law, both programs are scheduled to terminate on September 30, 2011.

To cover the administrative costs of the programs, H.R. 1425 would establish a three-year pilot program that would authorize participating agencies to use up to 3 percent of the R&D amounts set aside for the SBIR program, rather than paying those costs from general operating funds. The pilot program also would allow agencies to use R&D funds to provide outreach and technical assistance to recipients of awards and to carry out additional duties as required under the bill. CBO estimates that the amount allocated for administrative expenses under the pilot program would equal the costs that would be incurred by participating agencies in 2012, 2013, and 2014, when authorization for the programs would expire.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 1425 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would create a grant program to assist public universities in the commercialization of research and technology. Any costs to universities would be incurred voluntarily.

Previous CBO estimate: On May 18, 2011, CBO transmitted a cost estimate for H.R. 1425, the Creating Jobs through Small Business Innovation Act of 2011, as ordered reported by the House Committee on Science, Space, and Technology on May 4, 2011. The bill as ordered reported by the Committee on Small Business contains several provisions that are not included in the version ordered reported by the Committee on Science, Space, and Technology that would affect how awards are granted by participating agencies. Those differences would not significantly affect the cost of implementing the bill; therefore, the cost estimates for both versions of the bill are the same.

On March 11, 2011, CBO transmitted a cost estimate for S. 493, the SBIR/STTR Reauthorization Act of 2011, as ordered reported by the Senate Committee on Small Business and Entrepreneurship on March 9, 2011. The Senate bill would extend the programs through 2019 and raise the amounts that participating agencies would set aside for the SBIR and STTR programs. The Senate bill also would authorize funds for the Federal and State Technology Partnership Program. CBO estimates that implementing S. 493 would cost \$150 million over the 2012–2016 period.

Estimate prepared by: Federal costs: Susan Willie and Martin von Gnechten; Impact on state, local, and tribal governments: Elizabeth Cove Delisle; Impact on the private sector: Sam Wice.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

IX. NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by

the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

X. OVERSIGHT FINDINGS

In accordance with clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 1425 are incorporated into the descriptive portions of this report.

XI. STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the authority for this legislation in Art. I, § 8, cl. 2; Art. I, § 8, cl. 7; Art. I, § 8, cl. 11; and Art. I, § 8, cl. 12.

XII. COMPLIANCE WITH LAW 104-4

H.R. 1425 contains no unfunded mandates.

H.R. 1425 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

XIII. CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 1425 does not relate to the terms and conditions of employment or access to public services or accommodations with the meaning of section 102(b)(3) of P.L. 104-1.

XIV. FEDERAL ADVISORY COMMITTEE STATEMENT

This legislation does not establish or authorize the establishment of any new advisory committees.

XV. STATEMENT OF NO EARMARKS

Pursuant to clause 9 of rule XXI, H.R. 1425 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

XVI. PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 1425 includes a number of provisions designed to modernize and make more effective the SBIR and STTR programs.

XVII. APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

XVIII. EXCHANGE OF LETTERS REGARDING JURISDICTION

HOWARD P. "BUCK" MCKEON, CALIFORNIA, CHAIRMAN
 ROSCOE G. BARTLEY, MARYLAND
 MAC THORNBERRY, TEXAS
 WALTER B. JONES, NORTH CAROLINA
 W. TODD Akin, MISSOURI
 J. RAYMOND COOPER, VIRGINIA
 JEFF MILLER, FLORIDA
 JUD WILSON, SOUTH CAROLINA
 FRANK A. LOBIONDO, NEW JERSEY
 MICHAEL TURNER, OHIO
 JOHN KLINE, MINNESOTA
 MIKE ROGERS, ALABAMA
 TREVY FRANKS, ARIZONA
 BILL SHUSTER, PENNSYLVANIA
 K. MICHAEL CONNORWAY, TEXAS
 DOUG LAMBOURN, COLORADO
 RICH WITTMAN, VIRGINIA
 DUNCAN HUNTER, CALIFORNIA
 JOHN C. FLEMING, M.D., LOUISIANA
 MIKE COFFMAN, COLORADO
 TOM ROONEY, FLORIDA
 TODD RUSSELL PLATT, PENNSYLVANIA
 SCOTT RIGELL, VIRGINIA
 CHRIS OBSON, NEW YORK
 VICKY HARTZLER, MISSOURI
 JOE HECK, NEVADA
 BOBBY SCHILLING, ILLINOIS
 JON RUIJAN, NEW JERSEY
 ALSTIN SCOTT, GEORGIA
 TIM GRIFFIN, ARKANSAS
 STEVEN PALAZZO, MISSISSIPPI
 ALLEN B. WEST, FLORIDA
 MARTHA ROBY, ALABAMA
 MC BRIDE, ALABAMA
 TODD YOUNG, INDIANA

COMMITTEE ON ARMED SERVICES

U.S. House of Representatives

Washington, DC 20515-6035

ONE HUNDRED TWELFTH CONGRESS

June 30, 2011

ADAM SMITH, WASHINGTON
 SILVESTRE REYES, TEXAS
 LORETTA SANCHEZ, CALIFORNIA
 MIKE MCINTYRE, NORTH CAROLINA
 ROBERT ANDREWS, NEW JERSEY
 ROBERT A. BRADY, PENNSYLVANIA
 SUSAN A. DAVIS, CALIFORNIA
 JAMES R. LANGRISH, RHODE ISLAND
 RICK LARSEN, WASHINGTON
 JIM COOPER, TENNESSEE
 MADELENE Z. BORRULLO, GUAM
 JOE COURTNEY, CONNECTICUT
 DAVE LOEBACK, IOWA
 GABRIELLE GIFFORDS, ARIZONA
 NIKI TSONGAS, MASSACHUSETTS
 CHELLIE PINGREE, MAINE
 LARRY KISSELL, NORTH CAROLINA
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 BILL OWENS, NEW YORK
 JOHN R. GARAMENDI, CALIFORNIA
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 TIM RYAN, OHIO
 C.A. CLUTCH HUPPERSBERGER, MARYLAND
 HANK JOHNSON, GEORGIA
 KATHY CASTOR, FLORIDA
 BETTY SUTTON, OHIO
 COLLEEN HANAUSSA, HAWAII

ROBERT L. SIMMONS, II, STAFF DIRECTOR

Honorable Sam Graves
 Chairman, Committee on Small Business
 U.S. House of Representatives
 2361 Rayburn House Office Building
 Washington, D.C. 20515

Dear Chairman Graves:

I am writing to you concerning the bill H.R. 1425, Creating Jobs Through Small Business Innovation Act of 2011, as amended. This legislation includes provisions that deal with Department of Defense Commercialization Pilot Program, which fall within the Rule X jurisdiction of the Committee on Armed Services.

Our committee recognizes the importance of H.R. 1425, and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over this legislation, the Committee on Armed Services will waive further consideration of H.R. 1425. I do so with the understanding that by waiving consideration of the bill, the Committee on Armed Services does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction. I request that you urge the Speaker to name members of this committee to any conference committee which is named to consider such provisions.

Please place this letter and your committee's response into your committee report on H.R. 1425, as amended, and into the *Congressional Record* during consideration of the measure on the House floor. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

Sincerely,



Howard P. "Buck" McKeon
 Chairman

cc: Honorable John A. Boehner
 Honorable Adam Smith
 Honorable Nydia M. Velázquez
 Honorable John V. Sullivan

SAM GRAVES, MISSOURI
CHAIRMAN

NYDIA M. VELAZQUEZ, NEW YORK
RANKED MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515
June 30, 2011

The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
United States House of Representatives
2120 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman McKeon:

Thank you for your letter regarding H.R. 1425, the "Creating Jobs Through Small Business Innovation Act of 2011." Section 202 of H.R. 1425 amends § 9(y) of the Small Business Act and alters and makes permanent the Commercialization Pilot Program (CPP) and renames it the Commercialization Readiness Program (CRP).

Given the House Small Business Committee's position that the SBIR program is designed to commercialize research in order to meet the needs of federal agencies and the specialized needs of the Department of Defense (DOD), we believe the CPP meets the objectives of both the SBIR program and the DOD. The purpose of the CPP was to increase DOD SBIR technology transition and commercialization success, thereby accelerating the fielding of capabilities to soldiers and benefiting the nation through stimulated technological innovation, improved manufacturing capability, and increased competition, productivity, and economic growth. The evidence before the Committee indicated that the CPP at the DOD has been successful in increasing commercialization rates and has proven beneficial to the DOD.

After consultations with your staff, we have agreed to include language in H.R. 1425 that requires an annual DOD report on the Commercialization Readiness Program. The provision also requires the DOD to share more information about their efforts to include SBIR technology and companies in DOD programs. Finally, the language holds prime contractors harmless against those goals if they can certify that no suitable SBIR technology is available to include in such program. This language was included via an amendment offered by Congressman Allen West (FL-22) that was supported by the Chair and accepted via voice vote during the Committee on Small Business markup of H.R. 1425 on May 11, 2011.

I appreciate your willingness to forgo consideration of the bill, and I acknowledge that by agreeing to waive its consideration of the bill, the Committee on Armed Services does not waive, reduce, or affect its jurisdiction over these provisions. I will include a copy of your letter and this response for inclusion in the *Congressional Record* during consideration of H.R. 1425 on the House floor.

Thank you for your assistance in this matter.

Sincerely,



Sam Graves
Chairman

cc: The Honorable John Boehner
The Honorable Adam Smith
The Honorable Nydia Velázquez
The Honorable John V. Sullivan

XIX. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

* * * * *
SEC. 3. (a)(1) * * *

* * * * *
(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)).

* * * * *
SEC. 9. (a) * * *

(b) It shall be the duty of the Administration, and it is hereby empowered—

(1) * * *

* * * * *
(7) to report not less than annually to the Committee on Small Business of the Senate, and to the Committee on Science and the Committee on Small Business of the House of Representatives, on the SBIR and STTR programs of the Federal agencies and the Administration’s information and monitoring efforts related to the SBIR and [STTR programs, including the data] *STTR programs, including—*

(A) the data on output and outcomes collected pursuant to subsections [(g)(10), (o)(9), and (o)(15), the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns under each of the SBIR and STTR programs, and a description] (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 and social or economically dis-

advantaged 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; and

(F) a description of the extent to which Federal agencies are providing in a timely manner information needed to maintain the database described in subsection (k); [and]

(8) to provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing).]; and

(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.

* * * * *

(e) For the purpose of this section—

(1) * * *

* * * * *

(4) the term “Small Business Innovation Research Program” or “SBIR” means a program under which a portion of a Federal agency’s research or research and development effort is reserved for award to small business concerns through a uniform process having—

(A) * * *

(B) a second phase, [to further] which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for Phase II, that will further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal’s commercial potential, as evidenced by—

(i) * * *

* * * * *

(C) where appropriate, a third phase for work that derives from, extends, or completes efforts made under prior funding agreements under the SBIR program—

(i) * * *

(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or [scientific review criteria] merit-based selection procedures;

* * * * *

(6) the term “Small Business Technology Transfer Program” or “STTR” means a program under which a portion of a Fed-

eral agency's extramural research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having—

(A) * * *

(B) a second phase, [to further develop proposed ideas to] *which shall not include any invitation, pre-screening, pre-selection, or down-selection process for eligibility for Phase II, that will further develop proposals that meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and*

(C) where appropriate, a third phase *for work that derives from, extends, or completes efforts made under prior funding agreements under the STTR program—*

(i) * * *

* * * * *

(8) the term “research institution” means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto); [and]

(9) the term “commercial applications” shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either [the second or the third phase] *Phase II or Phase III* of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection[.];

(10) *the term “commercialization” means—*

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

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

(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).
 (f) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

(1) * * *

(2) LIMITATIONS.—A Federal agency [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] *shall not make available for the purpose* of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

[Effective on the first day of the fourth full fiscal year following the date of enactment, section 310(b)(3)(A) of H.R. 1425 provides for amendments to section 9(f)(2) of the Small Business Act as follows:]

(2) LIMITATIONS.—A Federal agency [shall not make available for the purpose] *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 of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

* * * * *

(g) Each Federal agency required by subsection (f) to establish a small business innovation research program shall, in accordance with this Act and regulations issued hereunder—

(1) * * *

* * * * *

(4)(A) unilaterally receive and evaluate proposals resulting from SBIR proposals; *and*

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

(i) not later than 90 days after the date on which the solicitation closes; or

(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;

* * * * *

(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—*

(A) whether an awardee—

(i) has venture capital, hedge fund, or private equity firm investment or is majority-owned by multiple ven-

ture 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); and

(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;

[(8)] (9) make an annual report on the SBIR program to the Small Business Administration and the Office of Science and Technology Policy;

[(9)] (10) include, as part of its annual performance plan as required by subsections (a) and (b) of section 1115 of title 31, United States Code, a section on its SBIR program, and shall submit such section to the Committee on Small Business of the Senate, and the Committee on Science and the Committee on Small Business of the House of Representatives;

[(10) collect, and maintain in a common format in accordance with 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); and]

(11) provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing)[.]; and

(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.

* * * * *

(i) ANNUAL REPORTING.—

(1) IN GENERAL.—Each Federal agency required by this section to have an SBIR program or to establish goals shall report annually to the Small Business Administration the number of

awards (*including awards under subsection (y)*) pursuant to grants, contracts, or cooperative agreements over \$10,000 in amount and the dollar value of all such awards, identifying SBIR awards and comparing the number and amount of such awards with awards to other than small business concerns.

* * * * *

(j)(1) POLICY DIRECTIVES.—The Small Business Administration, after consultation with the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, and the Intergovernmental Affairs Division of the Office of Management and Budget, shall, within one hundred and twenty days of the enactment of the Small Business Innovation Development Act of 1982, issue policy directives for the general conduct of the SBIR programs within the Federal Government, including providing for—

(A) * * *

(B) a simplified, standardized funding process which provides for (i) the timely receipt and review of proposals; (ii) outside peer review for at least **[phase two]** *Phase II* proposals, if appropriate; (iii) protection of proprietary information provided in proposals; (iv) selection of awardees; (v) retention of rights in data generated in the performance of the contract by the small business concern; (vi) transfer of title to property provided by the agency to the small business concern if such a transfer would be more cost effective than recovery of the property by the agency; (vii) cost sharing; and (viii) cost principles and payment schedules;

* * * * *

(2) MODIFICATIONS.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

(A) * * *

(B) continued use by a small business concern participating in **[the third phase]** *Phase III* of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in **[the second phase]** *Phase II* of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in **[the third phase]** *Phase III* of such program;

* * * * *

(D) an increase to **[\$100,000]** *\$150,000* in the amount of funds which an agency may award in **[the first phase]** *Phase I* of an SBIR program, and to **[\$750,000]** *\$1,000,000* in **[the second phase]** *Phase II* of an SBIR program, and an adjustment of such amounts **[once every 5 years to reflect economic adjustments and programmatic considerations]** *every year for inflation*;

* * * * *

(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by

women in technological innovation and in SBIR programs, including **the third phase** *Phase III* of such programs, and the collection of data to document such participation;

(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for **the first phase** *Phase I* of an SBIR program and the application for and extension of an award for **the second phase** *Phase II* of such program;

(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for **the first phase** *Phase I* of an SBIR program and that has received more than 15 **second phase** *Phase II* SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure **third phase** *Phase III* funding to develop concepts resulting from previous **second phase** *Phase II* SBIR awards; and

* * * * *

(3) ADDITIONAL MODIFICATIONS.—Not later than 120 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator shall modify the policy directives issued pursuant to this subsection—

(A) to clarify that the rights provided for under paragraph (2)(A) apply to all Federal funding awards under this section, including **the first phase** (as described in subsection (e)(4)(A)) *Phase I*, **the second phase** (as described in subsection (e)(4)(B)) *Phase II*, and **the third phase** (as described in subsection (e)(4)(C)) *Phase III*;

(B) to provide for the requirement of a succinct commercialization plan with each application for a **second phase** *Phase II* award that is moving toward commercialization;

* * * * *

(k) DATABASE.—

(1) PUBLIC DATABASE.—Not later than 180 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000, the Administrator shall develop, maintain, and make available to the public a searchable, up-to-date, electronic database that includes—

(A) the name, size, location, and an identifying number assigned by the Administrator, of each small business concern that has received a **first phase** *Phase I* or **second phase** *Phase II* SBIR or STTR award from a Federal agency;

(B) a description of each **first phase** *Phase I* or **second phase** *Phase II* SBIR or STTR award received by that small business concern, including—

(i) * * *

* * * * *

(D) information regarding mentors and Mentoring Networks, as required by section 35(d); **and**

(E) with respect to assistance under the STTR program only—

(i) * * *

* * * * *

(iv) how the proceeds from commercialization, marketing, or sale of technology resulting from each assisted STTR project were allocated (by percentage) between the small business concern and the research institution[.]; and

(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; or

(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).

(2) GOVERNMENT DATABASE.—[Not later than 180 days after the date of the enactment of the Small Business Innovation Research Program Reauthorization Act of 2000] *Not later than 90 days after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011*, the Administrator, in consultation with Federal agencies required to have an SBIR program pursuant to subsection (f)(1) or an STTR program pursuant to subsection (n)(1), shall develop and maintain a database to be used exclusively for SBIR and STTR program evaluation that—

(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, and an identifying number assigned by the Administration of the small business concern;

(ii) an abstract of the 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 (iv) 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;

[(A)] (B) contains for each [second phase] Phase II award made by a Federal agency—

(i) * * *

(ii) information collected in accordance with paragraph (3) on additional investment from any source, other than [first phase] Phase I or [second phase] Phase II SBIR or STTR awards, to further the research and development conducted under the award; and

* * * * *

[(B)] (C) includes any narrative information that a small business concern receiving a [second phase] Phase II award voluntarily submits to further describe the outputs and outcomes of its awards;

[(C) includes for each applicant for a first phase or second phase award that does not receive such an award—

[(i) the name, size, and location, and an identifying number assigned by the Administration;

[(ii) an abstract of the project; and

[(iii) the Federal agency to which the application was made;]

(D) includes, for each awardee—

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

(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 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;

[(D)] (E) includes any other data collected by or available to any Federal agency that such agency considers may be useful for SBIR or STTR program evaluation; [and]

[(E)] (F) is available for use solely for program evaluation purposes by the Federal Government or, in accordance with policy directives issued by the Administration, by other authorized persons who are subject to a use and non-disclosure agreement with the Federal Government covering the use of the database[.]; and

(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.

(3) UPDATING INFORMATION FOR DATABASE.—

(A) IN GENERAL.—A small business concern applying for a [second phase] Phase II award under this section shall be required to update information in the database established under this subsection for any prior [second phase] Phase II award received by that small business concern. In complying with this paragraph, a small business concern may apportion sales or additional investment information relating to more than one [second phase] Phase II award among those awards, if it notes the apportionment for each award.

(B) ANNUAL UPDATES UPON TERMINATION.—A small business concern receiving a [second phase] Phase II award under this section shall—

(i) * * *

* * * * *

(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.

(1) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

(1) * * *

(2) MULTIPLE AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for the [first phase] Phase I of an SBIR program during the reporting period to entities that have received more than 15

awards for the [second phase] *Phase II* of an SBIR program during the preceding 5 fiscal years.

* * * * *

(m) [TERMINATION.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the authorization] *TERMINATION*.—The authorization to carry out the Small Business Innovation Research Program established under this section shall terminate on September 30, [2008] 2014.

[(2) EXCEPTION FOR DEPARTMENT OF DEFENSE.—The Secretary of Defense and the Secretary of each military department are authorized to carry out the Small Business Innovation Research Program of the Department of Defense until September 30, 2010]

(n) REQUIRED EXPENDITURES FOR STTR BY FEDERAL AGENCIES.—

(1) REQUIRED EXPENDITURE AMOUNTS.—

(A) [IN GENERAL.—

[(i) FEDERAL AGENCIES GENERALLY.—Except as provided in clause (ii), with respect] *IN GENERAL*.—*With respect* to each fiscal year through fiscal year [2009] 2014, each Federal agency that has an extramural budget for research, or research and development, in excess of \$1,000,000,000 for that fiscal year, shall expend with small business concerns not less than the percentage of that extramural budget specified in subparagraph (B), specifically in connection with STTR programs that meet the requirements of this section and any policy directives and regulations issued under this section.

[(ii) DEPARTMENT OF DEFENSE.—The Secretary of Defense and the Secretary of each military department shall carry out clause (i) with respect to each fiscal year through fiscal year 2010.]

* * * * *

(o) FEDERAL AGENCY STTR AUTHORITY.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

(1) * * *

* * * * *

(4)(A) unilaterally receive and evaluate proposals resulting from STTR solicitations; and

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

(i) not later than 90 days after the date on which the solicitation closes; or

(ii) if the Administrator authorizes an extension for a solicitation, not later than 180 days after the date on which the solicitation closes;

* * * * *

[(9) collect such data from awardees as is necessary to assess STTR program outputs and outcomes;]

(9) collect annually, and maintain in a common format in accordance with the simplified reporting requirements under sub-

section (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 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 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; and

(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;

* * * * *

(13) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

(A) * * *

(B) the existence of [second phase] *Phase II* funding commitments from private sector or non-STTR funding sources;

(C) the existence of **third phase** *Phase III* follow-on commitments for the subject of the research; and

* * * * *

[(15) collect, and maintain in a common format in accordance with subsection (v), such information from awardees as is necessary to assess the STTR program, including information necessary to maintain the database described in subsection (k); and]

[(16) (15) provide for and fully implement the tenets of Executive Order No. 13329 (Encouraging Innovation in Manufacturing).]; and

(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.

(p) STTR POLICY DIRECTIVE.—

(1) * * *

(2) CONTENTS.—The policy directive required by paragraph (1) shall provide for—

(A) * * *

(B) a simplified, standardized funding process that provides for—

(i) * * *

* * * * *

(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in **the second phase** *Phase II* of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in **the third phase** *Phase III* of such program;

* * * * *

(ix) 1-year awards for **the first phase** *Phase I* of an STTR program, generally not to exceed **[\$100,000]** *\$150,000*, and 2-year awards for **the second phase** *Phase II* of an STTR program, generally not to exceed **[\$750,000]** *\$1,000,000, (each of which the Administrator shall adjust for inflation annually)* greater or lesser amounts to be awarded at the discretion of the awarding agency, and shorter or longer periods of time to be approved at the discretion of the awarding agency where appropriate for a particular project;

* * * * *

(3) MODIFICATIONS.—Not later than 120 days after the date of enactment of this paragraph, the Administrator shall modify the policy directive issued pursuant to this subsection to clarify that the rights provided for under paragraph (2)(B)(v) apply to all Federal funding awards under this section, including **the first phase** (as described in subsection (e)(6)(A)) *Phase I*, **the second phase** (as described in subsection (e)(6)(B)) *Phase II*, and **the third phase** (as described in subsection (e)(6)(C)) *Phase III*.

(q) DISCRETIONARY TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Each Federal agency required by this section to conduct an SBIR program or *STTR program* may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in **[SBIR projects]** *SBIR or STTR projects* with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through on-line data bases, for the purpose of assisting such concerns in—

* * * * *

(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed **[3 years]** *5 years*. Such selection shall be competitive and shall utilize merit-based criteria.

(3) ADDITIONAL TECHNICAL ASSISTANCE.—

(A) **[FIRST PHASE]** *PHASE I*.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to **[first phase]** *Phase I SBIR or STTR* award recipients in an amount equal to not more than **[\$4,000]** *\$5,000*, which shall be in addition to the amount of the recipient's award.

[B] *SECOND PHASE*.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than \$4,000 per year.]

(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.*

(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.*

(r) **[THIRD PHASE]** *PHASE III AGREEMENTS*.—

(1) IN GENERAL.—In the case of a small business concern that is awarded a funding agreement **for the second phase** for *Phase II* of an SBIR or STTR program, a Federal agency may enter into a **third phase** *Phase III* agreement with that business concern for additional work to be performed during or after the **second phase period** *Phase II period*. The **second phase** *Phase II* funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to **third phase** *Phase III* agreements with that agency or any other agency.

(2) DEFINITION.—In this subsection, the term “**third phase** *Phase III* agreement” means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

* * * * *

(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.*

* * * * *

(u) COORDINATION OF TECHNOLOGY DEVELOPMENT PROGRAMS.—

(1) * * *

(2) COORDINATION REQUIREMENTS.—Each Federal agency that is subject to subsection (f) and that has established a technology development program may, in each fiscal year, review for funding under that technology development program—

(A) * * *

(B) any proposal for **the first phase** *Phase I* of the SBIR program, if the proposal, though meritorious, is not funded through the SBIR program for that fiscal year due to funding restraints, from a small business concern located in—

(i) * * *

* * * * *

(v) **SIMPLIFIED REPORTING REQUIREMENTS.**—**The Administrator** *REDUCING PAPERWORK AND COMPLIANCE BURDEN.*—

(1) *STANDARDIZATION OF REPORTING REQUIREMENTS.*—*The Administrator shall work with the Federal agencies required by this section to have an SBIR or STTR program to standardize reporting requirements for the collection of data from SBIR or STTR applicants and awardees, including data for inclusion in the database under subsection (k), taking into consideration the unique needs of each agency, and to the extent possible, permitting the updating of previously reported information by electronic means. Such requirements shall be designed to minimize the burden on small businesses.*

(A) * * *

(2) *SIMPLIFICATION OF APPLICATION AND AWARD PROCESS.*—*Not later than one 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.

* * * * *

(y) **COMMERCIALIZATION [PILOT] READINESS PROGRAM.—**

(1) **IN GENERAL.—**The Secretary of Defense and the Secretary of each military department is authorized to create and administer a “Commercialization [Pilot] Readiness Program” to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program or *Small Business Technology Transfer Program* to Phase III, including the acquisition process. *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).*

(2) **IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—**In carrying out the Commercialization [Pilot] Readiness Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program or *Small Business Technology Transfer Program* that have the potential for rapid transitioning to Phase III and into the acquisition process.

* * * * *

[(4) FUNDING.—For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to 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. Such funds—

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

[(B) shall not be used to make Phase III awards.]

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

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

(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; and

(C) take action to ensure that, if a prime contractor on such a contract, after consultation with the Secretary, certifies that an appropriate Phase III technology is not available to be incorporated into a project of the prime contractor, such project shall be excluded from any determination of whether goals under subparagraph (A) have been met.

(5) 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 that 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 Creating Jobs Through Small Business Innovation Act of 2011, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

(C) include in the annual report under this subsection—

(i) the 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).

[(5)] (6) EVALUATIVE REPORT.—At the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and [the Committee on Armed Services and the Committee on Small Business of the House of Representatives] *the Committee on Armed Services, the Committee on Small Business, and the Committee on Science, Space, and Technology of the House of Representatives* an evaluative report regarding activities under the Commercialization [Pilot] Readiness Program. The report [shall include] *shall include, in addition to the information described in paragraph (5)(C)—*

(A) an accounting of the funds used in the Commercialization [Pilot] Readiness Program;

(B) a detailed description of the Commercialization [Pilot] Readiness Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and prime contractors; and

(C) a detailed compilation of results achieved by the Commercialization [Pilot] Readiness Program, including the number of small business concerns assisted and the number of projects commercialized.

[(6)] SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2010.]

[Effective on the first day of the fourth full fiscal year following the date of enactment, section 310(b)(3)(B) of H.R. 1425 provides for amendments to section 9(y) of the Small Business Act by inserting a paragraph (4) after paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, to read as follows:]

(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 Pilot 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.*

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

(A) * * *

* * * * *

[(5)] (6) *GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.*—*The Secretary of Defense shall—*

(A) * * *

* * * * *

[(6)] (7) *EVALUATIVE REPORT.*—*At the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services, the Committee on Small Business, and the Committee on Science, Space, and Technology of the House of Representatives an evaluative report regarding activities under the Commercialization Readiness Program. The report shall include, in addition to the information [described in paragraph (5)(C)] described in paragraph (6)(C)—*

(A) * * *

* * * * *

(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 award amount;*
- (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) *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.

(bb) *SUBSEQUENT PHASE II AWARDS.*—

(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).

(cc) *PHASE I REQUIRED.*—Under this section, a Federal agency shall provide to a small business concern an award under Phase II of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award under Phase I of an SBIR program with respect to such project or has completed the determinations described in subsection (e)(4)(A) with respect to such project despite not having been provided a Phase I award.

(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 a written determination described in paragraph (2) provided 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 an award is made—

(A) the Director of the National Institutes of Health, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and the Director of the National Science Foundation may award not more than 45 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; 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 35 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 the SBIR project.

(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.—

(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).

(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.*

(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.*

(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.*

(ee) *VENTURE CAPITAL OPERATING COMPANIES, HEDGE FUNDS, AND PRIVATE EQUITY FIRMS.*—*Effective only for the SBIR and STTR programs the following shall apply:*

(1) *A business concern that has more than 500 employees shall not qualify as a small business concern.*

(2) *In determining whether a small business concern is independently owned and operated under section 3(a)(1) or meets the small business size standards instituted under section 3(a)(2), the Administrator shall not consider a business concern to be affiliated with a venture capital operating company, hedge fund, or private equity firm (or with any other business that the venture capital operating company, hedge fund, or private equity firm has financed) if—*

(A) the venture capital operating company, hedge fund, or private equity firm does not own 50 percent or more of the business concern; and

(B) employees of the venture capital operating company, hedge fund, or private equity firm do not constitute a majority of the board of directors of the business concern.

(3) A business concern shall be deemed to be “independently owned and operated” if—

(A) it is owned in majority part by one or more natural persons or venture capital operating companies, hedge funds, or private equity firms;

(B) there is no single venture capital operating company, hedge fund, or private equity firm that owns 50 percent or more of the business concern; and

(C) there is no single venture capital operating company, hedge fund, or private equity firm the employees of which constitute a majority of the board of directors of the business concern.

(4) If a venture capital operating company, hedge fund, or private equity firm controlled by a business with more than 500 employees (in this paragraph referred to as a “VCOC, hedge fund, or private equity firm under large business control”) has an ownership interest in a small business concern that is owned in majority part by venture capital operating companies, hedge funds, or private equity firms, the small business concern is eligible to receive an award under the SBIR or STTR program only if—

(A) not more than two VCOCs, hedge funds, or private equity firms under large business control have an ownership interest in the small business concern; and

(B) the VCOCs, hedge funds, or private equity firms under large business control do not collectively own more than 20 percent of the small business concern.

(ff) 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—

(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 a SBIR or STTR award and a Federal lab-

oratory 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—

(A) have the flexibility to use the resources of the Federal laboratories and 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.

(gg) 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 one 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.

(hh) 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.—

(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 com-

elling 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;

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

(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.

(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.

(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 2014.

(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 the program established under paragraph (1).

(ii) NIH PEER REVIEW PROCESS.—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Institutes of Health may make an award under the SBIR program or the STTR program of the National Institutes of Health only if the application for the award has undergone technical and scientific peer review under section 492 of the Public Health Service Act (42 U.S.C. 289a).

(jj) NSF PEER REVIEW PROCESS.—Notwithstanding subsections (g)(4)(B) and (o)(4)(B), the Director of the National Science Foundation may make an award under the SBIR program or the STTR

program of the National Science Foundation only if the application for the award has undergone the National Science Foundation's technical and scientific peer review process and met all other applicable peer review procedures and guidelines pursuant to the National Science Foundation Act of 1950 (42 U.S.C. 1861, et seq.) and other applicable Federal law.

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

(1) IN GENERAL.—The Director of the National Institutes of Health may use \$10,000,000 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 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 2014.

(ll) 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 made by the Federal agency—

(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.

(mm) 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).

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

(1) IN GENERAL.—Subject to paragraph (2), for the 3 full 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 and personnel interviews;

(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) carrying out subsection (hh);

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

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

(2) **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).

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

(4) **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.

(oo) **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).

(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.

(pp) *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.

(qq) *LIMITATION ON PILOT PROGRAMS.*—

(1) *IN GENERAL.*—The Administrator may only carry out a covered pilot program if in accordance with paragraphs (2) and (3).

(2) *EXISTING PILOT PROGRAMS.*—With respect to a covered pilot program in operation on the date of enactment of this subsection, such program may only be carried out during the 3-year period beginning on such date of enactment.

(3) *NEW PILOT PROGRAMS.*—With respect to a covered pilot program established after the date of enactment of this subsection, such program—

(A) may only be carried out during the 3-year period beginning on the date on which such program is established; and

(B) may not continue or be based on, in any manner, a previously established covered pilot program.

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

(A) relating to an SBIR or STTR program; and

(B) not specifically authorized by law.

(rr) *ENSURING EQUITY IN SBIR AND STTR AWARDS TO INDIVIDUAL COMPANIES.*—A small business concern, including affiliates of the small business concern, may not receive an SBIR or STTR award in a fiscal year if, at the time the award is made—

(1) the small business concern has received an aggregate dollar amount of such awards in such fiscal year that exceeds 50 percent of the aggregate dollar amount of such awards received, in the preceding fiscal year, by the median State with respect to such aggregate amount; or

(2) the small business concern has received an aggregate number of such awards in such fiscal year that exceeds 50 percent of the aggregate number of such awards received, in the preceding fiscal year, by the median State with respect to such aggregate number.

(ss) *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 website 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.

(*tt*) **CLEAN COAL TECHNOLOGY RESEARCH PREFERENCE.**—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research with respect to clean coal technology, including the gasification of coal.

(*uu*) **REPORT ON ENHANCEMENT OF MANUFACTURING ACTIVITIES.**—Not later than October 1, 2011, 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 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 that includes—

(1) a description of efforts undertaken by the head of the Federal agency to enhance 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 manufacturing technologies and processes; and

(4) 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.

(*vv*) **AUTHORITY TO “FAST-TRACK” PHASE II AWARDS FOR PROMISING PHASE I RESEARCH.**—To address the delay between an award for Phase I of an SBIR program and the application for and extension of an award for Phase II of such program, each Federal agency with an SBIR program may develop “fast-track” programs to eliminate such delay by issuing Phase II SBIR awards as soon as practicable, including in appropriate cases simultaneously with the issuance of the Phase I SBIR award. The Administrator shall encourage the development of such “fast-track” programs.

(*ww*) **INCREASED PARTNERSHIPS.**—

(1) **IN GENERAL.**—Each agency required by this section to conduct an SBIR program shall establish initiatives by which the agency encourages partnerships between SBIR awardees and prime contractors, venture capital investment companies, business incubators, and larger businesses, for the purpose of facilitating the progress of the SBIR awardees to Phase III.

(2) **DEFINITION.**—In this subsection, the term “business incubator” means an entity that provides coordinated and specialized services to entrepreneurial businesses which meet selected criteria during the businesses’ startup phases, including providing services such as shared office space and office services, access to equipment, access to telecommunications and technology services, flexible leases, specialized management assistance, access to financing, mentoring and training services, or

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

(xx) ACID MINE DRAINAGE RESEARCH PREFERENCE.—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research related to reducing the environmental impact, including with respect to water quality, of acid mine drainage.

(yy) HYDRAULIC FRACTURING RESEARCH PREFERENCE.—In making awards under this section, a Federal agency shall give priority to applications in a manner that increases the number of SBIR and STTR award recipients conducting research related to reducing the environmental impact, including with respect to water quality, of the use of hydraulic fracturing during natural gas exploration activities.

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**SECTION 108 OF THE SMALL BUSINESS
REAUTHORIZATION ACT OF 2000**

SEC. 108 NATIONAL RESEARCH COUNCIL REPORTS.

(a) * * *

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(e) *EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—*

(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Creating Jobs Through Small Business Innovation 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 Creating Jobs Through Small Business Innovation 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) an evaluation of the program's success at commercializing technologies compared with other Federal technology transfer programs and the SBIR program;

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

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

(vi) an analysis of whether the existing STTR allocation has impacted the effectiveness of the program in achieving its goals;

(C) make recommendations with respect to the issues described in subparagraph (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.

(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—

(A) not later than 4 years after the date of enactment of the Creating Jobs Through Small Business Innovation 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); and

(B) not later than 2 years after the date of enactment of the Creating Jobs Through Small Business Innovation Act of 2011, 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 of preliminary findings and recommendations regarding the study conducted under paragraph (1)(B).

XX. DISSENTING VIEWS

I. BACKGROUND

The version of H.R. 1425, “Creating Jobs Through Small Business Innovation Act of 2011” reported out of the Small Business Committee does not adequately modernize the Small Business Innovation Research and Small Business Technology Transfer Programs.¹ The SBIR program was established by Congress in 1982 to increase government funding for research and development grants to small businesses that had ideas with commercial potential. However, rather than providing an environment for small businesses to develop their technology, the bill reduces the funding available to these firms, continues to place competition restrictions on the ability of those with the best chance of commercializing, and adds new regulatory and paperwork burdens, while failing to provide proper metrics of the program to safeguard taxpayer money.

Under the SBIR program, federal government departments with extramural research budgets of \$100 million or more dedicate a small percentage of their agency’s overall research budget for technology development contracts to be awarded to small firms. Currently, eleven federal agencies administer SBIR programs.² Since the first grants were awarded in FY1983, more than \$24 billion has been awarded to small research companies, funding in excess of 100,000 projects from FY1983 to FY2008. During the last decade, the Federal government’s extramural research budgets have grown and so have the number and amount of contracts awarded to small firms under the SBIR program. In FY2009, SBIR reported 5,809 awards totaling \$2.23 billion and STTR reported 843 awards totaling \$276 million, an all-time high. However, the provisions of this bill would reverse this upward trend with diverting portions of funding directly to Federal agencies and creating additional obstacles that small businesses must overcome to access SBIR awards.

II. THE NEED TO REAUTHORIZE AND MODERNIZE THE SBIR PROGRAM AND EXAMINATION OF HR 1425, AS REPORTED OUT OF COMMITTEE

The SBIR program has been reauthorized three times since its enactment, with the last full reauthorization expiring in September 2008. During both the 110th and 111th Congresses, the House passed SBIR reauthorization bills. However, the Senate failed to act upon these bills and as a result the programs have had to be continually reauthorized with short 3 and 4 month extensions.

¹ Hereinafter SBIR Program.

² Dept. of Agriculture, Dept. of Commerce, Dept. of Defense, Dept. of Education, Dept. of Energy, Dept. of Health & Human Services (HHS), Dept. of Homeland Security, Dept. of Transportation, Environmental Protection Agency, National Aeronautics & Space Administration and National Science Foundation.

The bipartisan measures previously passed by the House recognized the need to reauthorize this program. However, straight reauthorization of this program is not enough and, as noted by multiple experts, important changes are necessary to modernize the SBIR program to ensure the maximum amount of opportunities of commercializing new, innovative technology to all small businesses. Participating small firms, federal agencies, research organizations, and other interested parties have all expressed support for changing the program and strongly advocated for providing more opportunities to small businesses. Additionally, there have been calls to address issues that have arisen since the last reauthorization such as the increase in costs of R&D and decreased participation rates of certain groups. Yet, the bill ignores a number of recommendations made by small businesses, experts, and independent agencies like GAO. As a result, the bill at hand falls short of modernizing the SBIR program in such a way that would benefit the thousands of small businesses that participate.

Reducing the Amount of Funds Available for Awards to Small Businesses

Over the course of this three-year reauthorization, the legislation would allow participating agencies to siphon off as much as 10 percent of SBIR grant money to run the SBIR program at participating agencies and an additional 3 percent for administrative, oversight, and contract processing costs. Under current law, agencies request funding to pay for the costs associated with running the program in their general budget request. Under the legislation, it would allow agencies to now pay for these expenses using program funding—this will not only deprive small businesses of money, it will also create a precedent that will allow other programs to use funding to pay for administrative costs. In FY2009, over \$2.5 billion dollars were awarded to small businesses through the SBIR program. However, with a total reduction of 13 percent of funds available for these grants, there could be a decline of as many as 2,166 Phase I awards or 315 Phase II awards.

Two amendments were introduced at the Committee markup which would have addressed these problems. The amendments, which were not adopted, would have ensured that SBIR funding went towards grants to small businesses rather than back to fund participating agencies by eliminating the ability of agencies to pull these percentages from their budgets.³ These measures sought to ensure that small businesses rather than a Federal bureaucracy were the recipients of SBIR funds—as only then would they be used to develop innovative technology and create jobs. Nonetheless, these amendments were not adopted by the Committee and as a result Federal agencies, rather than small businesses, will be receiving this portion of SBIR funds.

The diversion of funds allowed by this bill to cover other costs will significantly impede the effectiveness of the program to not only create new technologies, but also expand job growth in this country. Research has shown that SBIR funds thousands of projects and helps over 1,500 new companies get off the ground.

³Representative Velázquez Amendment 001; Representative Velázquez Amendment 003.

Those startups develop innovative new products, make advances in technology and, most importantly, create new jobs. Experts have testified that the average annual rate of employment growth in SBIR-funded companies has grown much faster than the growth rate of the economy as a whole. Additionally, SBIR-funded projects leverage a number of activities of the company allowing it to grow through hiring new employees in areas related to but broader than the specific project. Yet, despite the proof that these awards create jobs, the bill seeks to take money from small businesses and give it to Federal agencies thereby hampering job growth and technological innovation.

Furthermore, an amendment was presented that would have increased the dollar amount for SBIR grants and increase the SBIR and STTR set-asides.⁴ The amount of money to research and develop a product has drastically increased since the inception of the program. This amendment sought to ensure that the grants would provide small businesses with a sufficient amount of money to move their research to the next phase in the development process. Additionally, the amendment would have increased the amount of money each agency would have had to set aside for the SBIR program. Small businesses representatives testified before the Committee in March 2011 and expressed their support for this measure as it would ensure that, as award amounts increased, the number of grants awarded in the program did not decrease. Moreover, small businesses that participate in this program have high levels of productivity. Companies supported by the SBIR and STTR programs often generate some of the most important breakthroughs each year in the U.S. For example, about 25 percent of R&D Magazine's Top 100 Innovations came from SBIR-funded small businesses. Likewise, small businesses have proven to be more innovative producing 13 times more patents per employee than large firms. Thus, despite the proof of the ability of small businesses to turn SBIR awards into jobs and innovative technologies, the Committee failed to adopt the amendment and as a result fewer small businesses will have receive grants to develop their technologies.

Restricts Participation Based Solely on Firm's Business Model

Under the bill reported by the Committee, Congress would for the first time dictate to small businesses the manner in which it could structure its business. This limits the ability of firms to access the majority of SBIR and STTR funds, allowing them to compete for only an arbitrary amount of the awards. In March, an expert witness testified that there were no economic grounds that would justify linking the business model of a firm to whether or not it was qualified for the SBIR program. According to research, firms with the restricted business structures would have a 26% higher probability of commercializing their product and can increase the overall success rate of the program.⁵

⁴Representative Chu Amendment 025.

⁵Albert N. Link & Christopher J. Ruhm, *Bringing Science to Market: Commercializing from NIH SBIR Awards* (2009).

Also, testimony presented to the Committee indicated it would be difficult to develop a method to determine a fair allocation of funds available to these firms. As a result there would be a negative impact on the program as restrictions would deter all firms from applying. Witnesses stated that businesses have this model because they show promising growth and that, in itself, the restricted business model is in no way indicative of the size of the company. However, the system put into place by this bill would allow a business with 222 employees and a net worth of \$43 million to compete for a majority of SBIR grants, while a business that had five employees and a \$1 million net worth would be left to compete for a smaller portion due solely to the structuring of the business. Therefore, the bill is limiting many small businesses with a high likelihood of achieving the goal of commercialization. It will also take many small businesses out of contention for SBIR awards due solely to their business model.

Increases the Regulatory and Paperwork Burdens

According to SBA's Office of Advocacy, the regulatory burden small firms face is 36 percent greater than their large counterparts, creating a staggering competitive disadvantage.⁶ For firms with 20 employees or less, the small business pays on average \$10,585 per employee to comply with regulatory requirements.⁷ These increased regulatory burdens are causing uncertainty for businesses all around the country. As a result groups like the U.S. Chamber of Commerce have indicated that these burdens are one of the key issues small businesses are facing today as it is the biggest single threat to job creation.⁸ However, rather than reducing the paperwork and regulatory burdens that small businesses face, the bill reported by the Committee creates additional hoops for entrepreneurs to jump through if they wish to participate in the SBIR program.

For example, to even qualify for available awards, small businesses with certain financial structures would have to register with the Small Business Administration; and even then, they would be limited to an arbitrary amount of funding. According to one GAO report, all businesses spend nearly 7 billion hours on information collection required by the government with small businesses being disproportionately burdened by federal regulatory requirements.⁹ This would require small firms to devote further time to filling out registration information, detracting their attention away from their research. Additionally, agencies would be required to write a justification as to why the award should be given to those businesses that are registered. The cost of research and development has more

⁶U.S. Senate Committee on Small Business and Entrepreneurship, Dr. Winslow Sargeant, Chief Counsel for Advocacy, *Next Steps for Main Street: Reducing the Regulatory and Administrative Burdens on America's Small Businesses* (Nov. 18, 2010), available at http://archive.sba.gov/advo/laws/test10_K1118.html.

⁷*Id.*

⁸See U.S. Chamber of Commerce, Small Business—Key Issues: Regulatory Reform, <http://www.uschambersmallbusinessnation.com/take-action/issue/regulatory-reform>; see also Thomas J. Donohue, President and CEO, U.S. Chamber of Commerce, *Addressing the Challenges of a Nation at Risk* (Nov. 17, 2010).

⁹GAO Report to the Honorable Sue W. Kelly Chairwoman, Regulatory Reform and Paperwork Subcommittee, House Committee on Small Business, *Federal Paperwork General Purpose Statistics and Research Surveys of Businesses*, GAO/GGD-99-169 (Sept. 1999).

than tripled in some industries such as biotechnology, thus, the grants awarded through SBIR are not enough to cover R&D costs. Yet, the legislation penalizes and singles out these small businesses with additional regulatory burdens imposing more regulatory costs for them to bear merely nothing more than securing funding to commercialize their products.

Eliminates Support for Minority and Women-Owned Small Businesses

One of the stated objectives of the SBIR program is to foster and encourage participation by socially and economically disadvantaged small business concerns and women-owned business concerns in the SBIR program. Yet, the legislation lacks any provisions in which to carry out this objective. The one measure in place that sought to increase participation by requiring agencies to encourage participation by these underrepresented groups was stricken from the bill in the course of the Committee's markup.¹⁰

In an effort to correct the deficiencies of this bill and provide meaningful assistance in order to foster and encourage participation by underrepresented groups, an amendment was introduced that would have made funds available to provide outreach to groups that have traditionally been underrepresented in the SBIR program.¹¹ In a March hearing on the SBIR program before the Committee, testimony was presented that participation of these groups in the SBIR program has declined. According to a National Academy of Sciences report, the share of DoD Phase I awards to minority-owned firms fell below 10% for the first time in 2004 and 2005. One witness indicated that this decrease in participation began about the same time outreach efforts ceased and that this could be one of the reasons that there has been a decline in participation. However, despite this evidence, the amendment failed to be adopted.

Fails to Support Veteran-Owned Small Businesses

Another segment of the population that has traditionally been underrepresented in this program, are veteran-owned businesses. In FY 2010, only 811 veteran-owned businesses received SBIR or STTR awards, equating to less than 1 percent. In an effort to increase their participation, an amendment was introduced that would have increased the award levels and created a program for awardee businesses that were owned and operated by veterans.¹² Currently, the U.S. has over 22 million veterans, with an average unemployment rate for all veterans under 8 percent but with an 11 percent unemployment rate for veterans coming home from the wars in Iraq and Afghanistan. With over 1,500 companies created annually, SBIR awards have been proven to create jobs. In order to combat unemployment in this important segment of the population, money should be directed towards the men and women that have tirelessly fought for our country. Though this amendment sought to invest in their businesses and provide opportunities for job creation in this segment of the population that is much needed,

¹⁰ Representative King (Iowa) Amendment 191.

¹¹ Representatives Cicilline, Chu, Richmond and Clarke Amendment 011.

¹² Representative Owens Amendment 031.

the Committee failed to adopt the provision and, as a result, veterans who seek to produce their innovative ideas will be underrepresented in the award of SBIR grants.

Fails to Provide Adequate Technical Assistance to Potential Participants

In previous legislation, measures were implemented to provide funding specifically to conduct technical assistance to potential and current SBIR participants. For example, the Federal and State Technology (FAST) Program provided grants to states so that they could promote participation in states that do not have a high volume of SBIR awards, and in low-income areas of all states. There are multiple states whose businesses receive hundreds of awards annually (e.g., California and Massachusetts), while there are those that receive less than ten (e.g., Iowa, Mississippi, and South Carolina). One business that testified before the Committee had received almost 400 awards—that is more awards than Idaho, Mississippi, Wyoming, North Dakota, and South Dakota combined.

In an effort to provide services that had previously been available under the FAST program, an amendment was introduced that would have provided funding to States so that they could provide outreach, financial assistance, and technical support, much like the activities described by witnesses, to small businesses interested in participating.¹³ Witnesses before this Committee indicated that providing funds so that states could conduct their own outreach could be used to increase the participation of underrepresented demographics. In attempt to generate proposals, one individual indicated that several states have implemented programs that link scientists and engineers with potential SBIR projects in their field. Furthermore, a witness cited one organization in Massachusetts that would review SBIR proposals for applicants and suggest changes that would enhance their application so as to make it more likely that they would receive a grant. In Pennsylvania, one organization assisted 338 distinct companies, 70 of which have won over \$18 million in federal SBIR awards, and the partnership has a SBIR win rate that is 33% higher than the national average. Yet, despite the clear discrepancy in awards, the success stories of state programs, and calls from small businesses to renew efforts to encourage and support small businesses in all fifty states to apply for SBIR awards, the Committee failed to adopt this important provision. As a result, the states with low participation rates will be unable to provide technical assistance to potential SBIR applicants.

Additionally, a measure was introduced that would have provided grants to minority institutions so that they could provide outreach services to underrepresented groups.¹⁴ Testimony before the Committee indicated that there should be avenues available to potential applicants in these groups that educate them about the program and help them with the basics of submitting a proposal and would open the doors to potential partnerships with universities. The testimony provided examples of universities that have offices set up to help researchers navigate their way through intellectual

¹³ Representative Cicilline Amendment 009.

¹⁴ Representative Chu Amendment 026.

property, FDA, funding and legal issues so that their discoveries could be transferred to a commercialized product. In some instances research has shown that university involvement increased the probability of commercialization by 12 points.¹⁵ This measure would have allowed minority institutions to provide technical assistance in order to increase the participation of minority-owned businesses in the SBIR program. However, despite the evidence presented about the success of these types of efforts and the proof of necessity to increase outreach to these particular groups, the Committee failed to adopt these measures.

Legislation Lacks Evaluation Measure of the SBIR Program and Puts Taxpayer Dollars at Risk

Under the SBIR program, each agency runs their own program in a manner that best suits the nature of their research and the mission of the agency. With this approach, there has been few efforts to measure the relative success rate of one agency versus another and maximize outcomes. To correct this problem, an amendment was presented to allow for a more efficient evaluation of the programs by requiring SBA, rather than each participating agency, to develop a standardized set of outcome-based performance metrics to be used by SBA to evaluate the program.¹⁶

Though each program is different, there are factors that can be measured similar to all agencies including level of sales, developmental funding, licensing arrangements, completed marketing efforts, and job creation. Therefore, a standardized set of metrics would have allowed for a side-by-side comparison of common factors at participating agencies. Metrics in other areas of the government have been found to create more efficient programs and save taxpayer dollars. For example, the DoD created metrics for the Joint Strike Fighter program and as a result the agency paid an estimated \$29 million less in fees in the 2 years since the policy changed than it might have when applying the former criteria.¹⁷ Additionally, research has shown that efficient performance in the government has increased in part because agencies are developing better performance measures and providing better information.¹⁸ However, though GAO, an independent third party, has long advocated for a uniform set of metrics, the Committee failed to adopt this amendment, further impeding Congress's ability to gauge the success of SBIR at each agency.

¹⁵ Albert N. Link & Christopher J. Ruhm, *Bringing Science to Market: Commercializing from NIH SBIR Awards* (2009).

¹⁶ Representative Schrader Amendment 015.

¹⁷ Gene L. Dodaro, Comptroller General of the United States, Testimony Before the Committee on Homeland Security and Governmental Affairs, U.S. Senate, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue GAO-11-635* (May 25, 2011).

¹⁸ See generally Jay Kiedrowski, *Obama and Performance Measurement: What to Do With the Performance Assessment Rating Tool* (Sept. 8, 2009).

Need to Reduce Fraud, Waste, and Abuse in the Program

The original bill considered before the Committee failed to include sufficient safeguards to reduce fraud, waste, and abuse that occur in the SBIR program. According a 2009 report, GAO found numerous instances of duplicative funding for similar research. Under federal law, it is illegal to receive concurrent SBIR awards from different agencies; however, this did not prevent a number of companies from receiving awards for the same proposals two, three, and even five times before agencies became aware of the duplication. An IG report for NASA indicated that the agency had paid out more than \$28.6 million in potential instances of duplicate awards and duplicate deliverables.¹⁹ Also, so-called “Mill Riding,” where some firms “game” the system the SBIR program by winning numerous awards but then fail to commercialize, has become a problem. Thus, reducing these instances of waste and fraud in the program is important so that goal of commercializing products is achieved.

Furthermore, according to the Federal Procurement Database System last year at least 60 companies received over 20 SBIR and STTR Phase I and Phase II awards. Out of these companies, 3 SBIR recipients each received over 100 grants accounting for 3 percent of all awards. The awards received by these companies are more Phase I and II grants than received by each of the following states: Alaska, Arkansas, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin, and Wyoming. Furthermore, awards received by companies in two states—California and Massachusetts—accounted for more than 30% of SBIR grants government-wide.

To correct these deficiencies in the program, an amendment was offered and passed in the Committee that prohibits a firm from receiving an SBIR award if the business has already received awards or dollar amount totaling more than 50% greater than that received by the median state.²⁰ Thus, this amendment will ensure that there is a fair distribution of awards in each and every state and that grant recipients are not concentrated in just a few areas of the country.

III. CONCLUSION

While the SBIR and STTR programs are important tools in helping rebuild our economy, the ability of participants to contribute to the recovery efforts is severely limited by the bill reported out of Committee. Participant businesses are the driving force behind job creation in the technological sector as awards allow businesses to expand and grow. Yet, the bill diverts money away from funds for awards to cover the cost of expenses for running the program, as opposed to innovative businesses. As a result, the legislation limits the ability of these small businesses to generate jobs through the

¹⁹ NASA, Office of the Inspector General, *Review of NASA's Management of Its Small Business Innovation Research Program* (Jan. 12, 2011).

²⁰ Representative Velázquez Amendment 013.

creation of new products and new industries. It also limits critical outreach components which are necessary to boost participation in the program. The bill makes the money that is available for awards harder for small businesses to access by adding additional regulatory hurdles and paperwork burdens—thereby making the program more cumbersome and discouraging many innovative companies from even applying.

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