

Public Law 102-564
102d Congress

An Act

To provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

Oct. 28, 1992
[S. 2941]

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Small Business Research and Development Enhancement Act of 1992”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Sec. 101. Short title.

Sec. 102. Findings and purposes.

Sec. 103. Amendments to small business innovation research program.

Sec. 104. Extension of SBIR program.

Sec. 105. Reports of the Comptroller General.

Sec. 106. Recommendations of the Secretary of Defense.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

Sec. 201. Short title.

Sec. 202. Establishment of small business technology transfer pilot program.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Discretionary technical assistance to SBIR awardees.

Sec. 302. Extension of the technology transfer demonstration program.

Sec. 303. Reporting requirements.

Sec. 304. Small Business Institutes.

Sec. 305. Additional SBIR and STTR provisions.

Sec. 306. Sense of the Congress concerning American-made equipment and products.

Sec. 307. Technical corrections.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the “Small Business Innovation Research Program Reauthorization Act of 1992”.

SEC. 102. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982 (hereafter in this Act referred to as the “SBIR” program) has been a successful method of involving small business concerns in Federal research and development;

Small Business
Research and
Development
Enhancement
Act of 1992.
15 USC 631
note.

Small Business
Innovation
Research
Program
Reauthorization
Act of 1992.
15 USC 631
note.

15 USC 638
note.

(2) the small business innovation research program has been an effective catalyst for the development of technological innovations by small business concerns;

(3) small business innovation research program participants have provided high quality research and development in a cost-effective manner;

(4) the innovative products and services developed by small business concerns participating in the small business innovation research program have been important to the national defense, as well as to the missions of the other participating Federal agencies;

(5) the small business innovation research program has effectively stimulated the commercialization of technology developed through Federal research and development, benefiting both the public and private sectors of the Nation;

(6) by encouraging the development and commercialization of technological innovations, the small business innovation research program has created jobs, expanded business opportunities for small firms, stimulated the development of new products and services, and improved the competitiveness of the Nation's high technology industries;

(7) the small business innovation research program has also helped to increase exports from small business concerns;

(8) despite the general success of the small business innovation research program, the proportion of Federal research and development funds received by small business concerns has not increased over the life of the program, but has remained at 3 percent; and

(9) although the participating Federal agencies have successfully implemented most aspects of the small business innovation research program, additional outreach efforts are necessary to stimulate increased participation of socially and economically disadvantaged small business concerns.

(b) PURPOSES.—The purposes of this title are—

(1) to expand and improve the small business innovation research program;

(2) to emphasize the program's goal of increasing private sector commercialization of technology developed through Federal research and development;

(3) to increase small business participation in Federal research and development; and

(4) to improve the Federal Government's dissemination of information concerning the small business innovation research program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

SEC. 103. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) DEFINITION OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—Section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential, as described in subparagraph (B)(ii)," after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

“(B) a second phase, to 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) the small business concern’s record of successfully commercializing SBIR or other research;

“(ii) the existence of second phase funding commitments from private sector or non-SBIR funding sources;

“(iii) the existence of third phase, follow-on commitments for the subject of the research; and

“(iv) the presence of other indicators of the commercial potential of the idea; and

“(C) where appropriate, a third phase—

“(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; and

“(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; and”.

(b) **REQUIRED EXPENDITURES FOR SBIR BY FEDERAL AGENCIES.**—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended to read as follows:

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

“(1) **REQUIRED EXPENDITURE AMOUNTS.**—Each Federal agency which has an extramural budget for research or research and development in excess of \$100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

“(A) not less than 1.5 percent of such budget in each of fiscal years 1993 and 1994;

“(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; and

“(C) not less than 2.5 percent of such budget in each fiscal year thereafter,

specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

“(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 of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

“(3) **EXCLUSION OF CERTAIN FUNDING AGREEMENTS.**—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an SBIR program shall

not be considered to meet any portion of the percentage requirements of paragraph (1).”

(c) **INCLUSION OF CERTAIN DEPARTMENT OF DEFENSE RESEARCH AND DEVELOPMENT ACTIVITIES.**—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended in paragraph (1), by striking “for the Department of Defense” and all that follows through “development” and inserting “for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs”.

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

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) unilaterally determine research topics within the agency’s SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified by—

“(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; or

“(B) the Secretary of Defense, in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority.”

(e) **DEADLINE FOR FINAL PAYMENT UNDER SBIR FUNDING AGREEMENTS.**—Section 9(g)(7) of the Small Business Act (15 U.S.C. 638(g)(7)) (as redesignated by subsection (d)(1)) is amended by inserting before the semicolon the following: “and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements”.

(f) **MODIFICATIONS TO SBIR POLICY DIRECTIVES.**—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(3) by inserting before “The Small Business Administration” the following:

“(1) **POLICY DIRECTIVES.**—”; and

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

“(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) retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of not less than 4 years;

“(B) continued use by a small business concern participating in the third phase 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

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 of such program;

"(C) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program enters into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production;

"(D) an increase to \$100,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to \$750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations;

"(E) a process for notifying the participating SBIR agencies and potential SBIR participants of the 1991, 1992, and the current critical technologies, as identified—

"(i) by the National Critical Technologies Panel (or its successor), in accordance with section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(ii) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(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 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 of an SBIR program and the application for and extension of an award for the second phase of such program;

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

"(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992."

(g) **ELIMINATION OF SURVEYING AND REPORTING REQUIREMENT.**—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

"(k) [Reserved]."

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

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

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

“(1) SINGLE PROPOSAL.—If a Federal agency required to establish an SBIR program under subsection (f) makes an award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in its next quarterly report to the Administration and in the agency's next annual report required under subsection (g)(8).

“(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 of an SBIR program during the reporting period to entities that have received more than 15 awards for the second phase of an SBIR program during the preceding 5 fiscal years.

“(3) CRITICAL TECHNOLOGY AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8), an accounting of the number of awards it has made to critical technology topics, as defined in subsection (g)(3), including an identification of the specific critical technologies topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such critical technology topics.”

(2) CONFORMING AMENDMENT.—Section 9(g)(5) of the Small Business Act (15 U.S.C. 638(g)(5)) (as redesignated by subsection (d)) is amended by inserting “subject to subsection (l),” before “unilaterally”.

(i) INFORMATION ON ALLOWABLE EXPENSES.—Section 9(g)(5) of the Small Business Act (as redesignated by subsection (d)) is amended by inserting before the semicolon the following: “and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement”.

SEC. 104. EXTENSION OF SBIR PROGRAM.

(a) REPEAL PROVISION.—Section 5 of the Small Business Innovation Development Act of 1982 is hereby repealed.

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

“(m) TERMINATION.—The authorization to carry out the Small Business Innovation Research Program under this section shall terminate on October 1, 2000.”

SEC. 105. REPORTS OF THE COMPTROLLER GENERAL.

(a) INTERIM REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress an interim report concerning the quality of research performed under SBIR program funding agreements entered into during fiscal year 1993 and thereafter. Copies of the interim report shall be furnished to each agency that has participated in the SBIR program in fiscal year 1993 or thereafter.

(2) CONTENTS OF REPORT.—The Comptroller General shall include in the interim report required under paragraph (1)—

15 USC 638
and note.

15 USC 638
note.

(A) an assessment of the quality of the research performed under the SBIR program funding agreements entered into by each agency that has participated in the SBIR program beginning in fiscal year 1993 or thereafter, specifically addressing—

(i) with respect to each such agency, whether or not there has been a demonstrable reduction in research quality; and

(ii) in the case of such reduction, whether an increase in each such agency's required SBIR participation in accordance with section 9(f)(1) of the Small Business Act (as amended by subsection (b) of this section) would adversely affect the performance of the agency's research programs;

(B) an analysis of the program authorized by section 301 of the Small Business Research and Development Enhancement Act of 1992, considering, among other things—

(i) the extent to which each SBIR agency has implemented the program and the extent to which the program has improved the quality of agency-sponsored research and development;

(ii) the effect of the program on recipient companies' ability to develop and commercialize technology;

(iii) the cost of the program and the average cost per recipient company; and

(iv) the extent to which SBIR companies continue to use the service after completion of the program; and

(C) such other factors as the Comptroller General may deem appropriate.

(b) **FINAL REPORT.**—The Comptroller General of the United States shall transmit to the Congress a final report containing—

(1) a review of the progress made by Federal agencies in meeting the requirements of section 9(f) of the Small Business Act (as amended by this Act), including increases in expenditures required by that subsection;

(2) an analysis of participation by small business concerns in the third phase of SBIR programs, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization;

(3) an analysis of the extent to which awards under SBIR programs are made pursuant to section 9(l) of the Small Business Act (as added by section 103(h)) in cases in which a program solicitation receives only 1 proposal;

(4) an analysis of the extent to which awards in the first phase of the SBIR program are made to small business concerns that have received more than 15 second phase awards under the SBIR program in the preceding 5 fiscal years, considering—

(A) the extent to which such concerns were able to secure Federal or private sector follow-on funding;

(B) the extent to which the research developed under such awards was commercialized; and

(C) the amount of commercialization of research developed under such awards, as compared to the amount of commercialization of SBIR research for the entire SBIR program;

(5) the results of periodic random audits of the extramural budget of each such Federal agency;

(6) a review of the extent to which the purposes of this title and the Small Business Innovation Development Act of 1982 have been met with regard to fostering and encouraging the participation of women-owned small business concerns and socially and economically disadvantaged small business concerns (as defined in the Small Business Act) in technological innovation, in general, and the SBIR program, in particular;

(7) an analysis of the effectiveness of the SBIR program in promoting the development of the critical technologies identified by the Secretary of Defense and the National Critical Technologies Panel (or its successor), as described in subparagraph 9(j)(2)(E) of the Small Business Act;

(8) an analysis of the impact of agency application review periods and funding cycles on SBIR program awardees' financial status and ability to commercialize; and

(9) recommendations to the Congress for tracking the extent to which foreign firms, or United States firms with substantial foreign ownership interests, benefit from technology or products developed as a direct result of SBIR research or research and development.

(c) DATES OF SUBMISSION.—The report required—

(1) under subsection (a), shall be submitted to the Congress not later than March 31, 1995; and

(2) under subsection (b), shall be submitted to the Congress not later than 5 years after the date of enactment of this title.

15 USC 638
note.

SEC. 106. RECOMMENDATIONS OF THE SECRETARY OF DEFENSE.

Not later than March 31, 1996, the Secretary of Defense shall submit a recommendation to the Congress addressing whether there has been a demonstrable reduction in the quality of research performed under the SBIR program since the beginning of fiscal year 1993, such that increasing the percentage under section 9(f)(1)(C) of the Small Business Act (as amended by section 103 of this Act) would adversely affect the performance of the research programs of the Department of Defense.

Small Business
Technology
Transfer
Act of 1992.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

15 USC 631
note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Technology Transfer Act of 1992".

SEC. 202. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM.

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

(1) in paragraph (4), by inserting "and small business technology transfer pilot programs" after "small business innovation research programs"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place such term appears.

(b) **SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM DEFINED.**—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

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

“(6) the term ‘Small Business Technology Transfer Program’ or ‘STTR’ means a pilot program under which a portion of a Federal 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) a first phase, to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

“(B) a second phase, to further develop proposed ideas to 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—

“(i) in which commercial applications of STTR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-STTR Federal funding awards; and

“(ii) for which awards from non-STTR 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;

“(7) the term ‘cooperative research and development’ means research or research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern, and not less than 30 percent of the work is performed by the research institution; and

“(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).”

(c) **ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS BY CERTAIN FEDERAL AGENCIES.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

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

“(1) **REQUIRED EXPENDITURE AMOUNTS.**—Each Federal agency which has an extramural budget for research or research and development in excess of \$1,000,000,000 in fiscal year

Decorations,
medals,
awards.
Contracts.

1994, 1995, or 1996, is authorized to expend with small business concerns—

“(A) not less than 0.05 percent of such budget in fiscal year 1994;

“(B) not less than 0.1 percent of such budget in fiscal year 1995; and

“(C) not less than 0.15 percent of such budget in fiscal year 1996,

specifically in connection with STTR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

“(2) LIMITATIONS.—A Federal agency shall not—

“(A) use any of its STTR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses, or, in the case of a small business concern or a research institution, costs associated with salaries, expenses, and administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Acquisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act); 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 percentage specified in paragraph (1).

“(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an STTR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).

“(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) unilaterally determine categories of projects to be included in its STTR program;

“(2) issue STTR solicitations in accordance with a schedule determined cooperatively with the Administration;

“(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

“(A) by the National Critical Technologies Panel (or its successor) in reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

“(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

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

“(5) unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement;

“(6) administer its own STTR funding agreements (or delegate such administration to another agency);

“(7) make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of the completion of such requirements;

“(8) submit an annual report on the STTR program to the Administration and the Office of Science and Technology Policy; Reports.

“(9) develop a model agreement not later than July 31, 1993, to be approved by the Administration, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

“(10) develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers (as defined in subsection (e)(8)) that participate in STTR agreements—

“(A) are free from organizational conflicts of interests relative to the STTR program;

“(B) do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

“(C) use outside peer review, as appropriate; and

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

“(A) the small business concern’s record of successfully commercializing STTR or other research;

“(B) the existence of second phase funding commitments from private sector or non-STTR funding sources;

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

“(D) the presence of other indicators of the commercial potential of the idea.

“(p) STTR POLICY DIRECTIVE.—

“(1) ISSUANCE.—The Administrator shall issue a policy directive for the general conduct of the STTR programs within the Federal Government. Such policy directive shall be issued after consultation with—

“(A) the heads of each of the Federal agencies required by subsection (n) to establish an STTR program;

“(B) the Commissioner of Patents and Trademarks; and

“(C) the Director of the Office of Federal Procurement Policy.

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

“(A) simplified, standardized, and timely STTR solicitations;

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

“(i) the timely receipt and review of proposals;

“(ii) outside peer review, if appropriate;

“(iii) protection of proprietary information provided in proposals;

“(iv) selection of awardees;

“(v) retention by a small business concern of the rights to data generated by the concern in the performance of an STTR award for a period of not less than 4 years;

“(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 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 of such program;

“(vii) cost sharing;

“(viii) cost principles and payment schedules; and

“(ix) 1-year awards for the first phase of an STTR program, generally not to exceed \$100,000, and 2-year awards for the second phase of an STTR program, generally not to exceed \$500,000, greater or lesser amounts to be awarded at the discretion of the awarding agency;

“(C) minimizing regulatory burdens associated with participation in STTR programs;

“(D) guidelines for a model agreement, to be used by all agencies, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

“(E) procedures to ensure that—

“(i) a recipient of an STTR award is a small business concern, as defined in section 3 and the regulations promulgated thereunder; and

“(ii) such small business concern exercises management and control of the performance of the STTR funding agreement pursuant to a business plan providing for the commercialization of the technology that is the subject matter of the award; and

“(F) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for such research, development, or production.”

(d) **TIMING OF ISSUANCE OF POLICY DIRECTIVE.**—The policy directive required by section 9(p) of the Small Business Act (as added by subsection (c) of this section) shall be published—

(1) in proposed form (with an opportunity for public comment of not less than 30 days), not later than April 30, 1993; and

(2) in final form, not later than July 31, 1993.

(e) **REPORT OF THE COMPTROLLER GENERAL.**—Not later than March 31, 1996, the Comptroller General of the United States shall submit a report to the Congress and the head of each agency

Printing.
15 USC 638
note.

15 USC 638
note.

that is required to make expenditures under the STTR program that—

(1) sets forth the Comptroller General's assessment, with respect to each such agency, of—

(A) the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program;

(B) whether or not the STTR program has affected the performance of that agency's research programs; and

(C) the commercial potential of research conducted under the STTR program, if sufficient data is available;

(2) contains the Comptroller General's assessment as to the effects of the STTR program, if any, on the research quality and goals of the SBIR program; and

(3) determines the agencies and the federally-funded research and development centers' compliance with the procedures developed under section 9(g)(10) of the Small Business Act, as amended by this section.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DISCRETIONARY TECHNICAL ASSISTANCE TO SBIR AWARDEES.

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

“(q) DISCRETIONARY TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in SBIR 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—

“(A) making better technical decisions concerning such projects;

“(B) solving technical problems which arise during the conduct of such projects;

“(C) minimizing technical risks associated with such projects; and

“(D) developing and commercializing new commercial products and processes resulting from such projects.

“(2) VENDOR SELECTION.—Annually, each agency may select a vendor for purposes of this subsection using competitive, merit-based criteria, to assist small business concerns to meet the goals listed in paragraph (1).

“(3) ADDITIONAL TECHNICAL ASSISTANCE.—

“(A) FIRST PHASE.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR award recipients in an amount equal to not more than \$4,000, 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.

SEC. 302. EXTENSION OF THE TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM.

Section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note) is amended—

- (1) in subsection (g), by striking “1993” and inserting “1995”; and
- (2) in subsection (i), by striking “1991, 1992, and” and inserting “1994 and 1995”.

SEC. 303. REPORTING REQUIREMENTS.

(a) REPORT ON DEFICIENT SUBCONTRACTING PLANS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

- (1) by striking paragraph (11); and
- (2) by redesignating paragraph (12) as paragraph (11).

(b) SMALL PURCHASES FROM FEDERAL PRISON INDUSTRIES.—Section 4124(c) of title 18, United States Code, is amended in the first sentence by striking “to the General Services Administration” and all that follows through “Procurement Policy Act” and inserting “acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions”.

SEC. 304. SMALL BUSINESS INSTITUTES.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended—

- (1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and
- (2) by inserting after subparagraph (D) the following:

“(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities.”.

SEC. 305. ADDITIONAL SBIR AND STTR PROVISIONS.

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

“(r) THIRD PHASE AGREEMENTS.—

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

“(2) DEFINITION.—In this subsection, the term ‘third phase 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).

“(3) INTELLECTUAL PROPERTY RIGHTS.—Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.”

SEC. 306. SENSE OF THE CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.

15 USC 638
note.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

Decorations,
medals,
awards.
Contracts.

(b) NOTICE TO SBIR AWARDEES.—Each Federal agency that awards funding agreements under the SBIR program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection (a).

SEC. 307. TECHNICAL CORRECTIONS.

(a) SMALL BUSINESS PARTICIPATION RATES.—Section 714(b)(4) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended by inserting “or other services in support of such contracts” after “(including surveying and mapping)”.

(b) MICROLOAN PROGRAM FUNDING.—Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended—

(1) in subparagraph (A), by adding at the end the following: “If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992.”; and

(2) in subparagraph (B), by striking “In the second” and inserting “In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second”.

(c) **DEFINITION OF INTERMEDIARY.**—Section 7(m)(11)(A)(ii) of the Small Business Act (15 U.S.C. 636(m)(11)(A)(ii)) is amended by inserting “private,” before “nonprofit”.

(d) **SECONDARY LOAN MARKETS.**—Section 5(f)(4) of the Small Business Act (15 U.S.C. 634(f)(4)) is amended by striking “5(e), 7(a)(6), or 7(a)(8)” and inserting “7(a)(6)(C) or subsection (e) of this section”.

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 2941:

CONGRESSIONAL RECORD, Vol. 138 (1992):

Oct. 3, considered and passed Senate.

Oct. 5, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.