

H.R. 2965, The Enhancing Small Business Research and Innovation Act of 2009

Sec. 1. Short Title

Sets a short title for the Act.

Title 1. Program Extension and Venture Capital Investment

Sec. 101. Authorization Period

Amends the Small Business Act to extend through FY2011 the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs of the Small Business Administration (SBA).

Sec. 102. Venture Capital Investment Standards

Provides that, effective only for the SBIR and STTR programs: (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, the SBA Administrator shall not consider a business concern to be affiliated with a venture capital operating company if the venture capital operating company (VCOC) does not own 50% or more of the business concern and employees of the VCOC do not constitute a majority of the board of directors of the business concern; and (3) 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 or VCOCs, there is no single VCOC that owns 50% or more of the business concern, and there is no single VCOC the employees of which constitute a majority of the board of directors of the business concern. States that, if a VCOC controlled by a business with more than 500 employees has an ownership interest in a small business owned in majority by VCOCs, that small business is eligible to receive an SBIR or STTR award only if: (1) not more than two of such VCOCs have an ownership interest in the small business; and (2) such VCOCs do not collectively own more than 20% of the small business.

Title II. Commercialization and Research Priorities

Sec. 201. Focus on Commercialization

Amends section 9 to modify the purpose and policy of the SBIR and STTR programs as follows:

“It is further the policy of Congress that the purpose of the programs established in this section should focus on promoting research and the development of projects governed by commercial business plans, which have significant potential to produce products or services for the marketplace or for acquisition by federal agencies.”

Sec. 202. Rare Disease and Energy-related Research Focus and Priorities

Includes energy-related and rare disease-related research topics as “special consideration” SBIR research topics. Such designation will increase the likelihood of federal SBIR agencies making awards in these areas.

Sec. 203. Nanotechnology Research Focus and Priority

Includes nanotechnology research topics as “special consideration” SBIR research topics. Such designation will increase the likelihood of federal SBIR agencies making awards in this area.

Sec. 204. Definition of Phase Three

Revises the definition of “Phase Three” of the SBIR program so that it is clear that such work shall be directed toward commercial applications and derives from research and development completed in earlier phases.

Sec. 205. Agency Research Goals

Requires agencies to establish annual goals for: (1) the percentage of SBIR projects that receive private sector funds during Phase Three; (2) the percentage of SBIR projects that are integrated into a program of record; and (3) the amount of non-SBIR federal funds received by SBIR projects through federal contracts.

Sec. 206. SBIR Commercialization Program

Requires each agency to establish a commercialization program that supports the progression of SBIR awardees to Phase Three. Such program shall focus on technology development and transfer from the SBIR program to the agency acquisition process. Requires commercialization program information and progress reports to be submitted to Congress. Each agency is required to report to Congress on how they intend to incorporate acquisition managers into the commercialization process. Authorizes \$27.5 million in funding for this purpose to SBA.

Title III. Outreach and Partnerships

Sec. 301. Outreach and Support Activities

Directs the Administrator to make two-year grants to organizations to: (1) conduct SBIR outreach efforts to increase small business participation; and (2) provide application support and entrepreneurial and business skills support to prospective participants. Provides assistance limits. Requires organizations receiving grants to direct activities towards small business concerns located in underrepresented geographic areas and/or small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, and small business concerns owned and

controlled by minorities. Provides per-state limits on grant awards, with specific requirements for awards under the SBA's FAST (Federal and State Technology Partnership) program.

Sec. 302. Rural Preference

Requires agencies to give a priority to SBIR and STTR award applications submitted by rural companies.

Sec. 303. Privacy and Applicants Consent Required

Requires each agency to receive an SBIR applicant's consent to the release of contact information to economic development organizations. The term “economic development organization” is defined to mean a State or local governmental entity that has as a primary purpose the furtherance of economic growth and job creation.

Sec. 304. Partnering

Directs each agency to establish initiatives to encourage partnerships between SBIR awardees and prime contractors, venture capital investment companies, business incubators, and larger businesses in order to facilitate the progression of SBIR awardees to Phase Three. The Administrator shall establish by regulation protections so that small firms retain a substantial benefit from any joint venture that results from this section. In addition, the Administrator shall establish by regulation joint venture size standards and affiliations requirements for this section

Title IV. SBIR and STTR Enhancement

Sec. 401. Research Solicitations

The Administrator shall establish by regulation a process in which each agency conducts at least two rounds of SBIR research solicitations per year, and to render a final decision on each proposal within 90 days after the solicitation closes (with an authorized extension to 180 days on a case-by-case basis). Agencies shall include acquisition executives in the development of the SBIR topics to ensure that SBIR topics are truly addressing future procurement needs.

Sec. 402. Phase One Reporting Requirements

Requires the SBA Administrator to submit annually to the small business committees a list of small businesses that, during the previous five-year period, received 15 or more Phase One awards and no Phase Two awards.

Sec. 403. Phase One Performance Measures

Requires each agency to engage with SBIR awardees that have been awarded multiple Phase One awards but no Phase Two awards, and to develop performance metrics to measure awardee progress in the SBIR program.

Sec. 404. SBIR Agency Administration and Oversight

Authorize funding at SBA for administrative, oversight, and contract processing costs related to SBIR. Allow the SBIR program offices in each of the Federal agencies to withdraw funds from this account at SBA that is equal up to 3 percent of their respective agencies total SBIR set-aside. Appropriations are authorized in the amount of \$27.5 million for each of fiscal years 2010 and 2011.

Sec. 405. Extramural Budget

GAO study to determine size of agencies extramural research budgets.

Sec. 406. Outcomes Database

Requires: (1) SBIR and STTR small business participants to provide updated project information for purposes of updating agency databases which evaluate the outcome of Phase One and Two awards; and (2) participating agencies to develop and maintain such databases. This shall include milestones where appropriate.

Sec. 407. Databases to Support Technology Utilization

Requires each agency to create and maintain a technology utilization database, available to the public, containing data supplied by award recipients.

Sec. 408. Interagency Policy Committee and Reports

Requires: (1) the Director of the Office of Science and Technology Policy to establish an Interagency SBIR/STTR Policy Committee; and (2) specified Committee reports to the small business committees.

Sec. 409. NRC SBIR Study

Amends the Small Business Reauthorization Act of 2000 to remove the requirement that the National Research Council provide an updated report on the SBIR program.

Sec. 410. Fast Track Authority

Authorizes agencies to develop fast-track programs to eliminate funding delays by issuing Phase Two SBIR awards as soon as practicable, including simultaneously with the issuance of the Phase One award.

Sec. 411. Award Size Increase and Authority to Exceed Awards Levels

Increases, for both the SBIR and STTR programs, the individual small business award levels from: (1) \$100,000 to \$250,000, for participation at a Phase One level; and (2) \$750,000 to \$2 million, for participation at a Phase Two level. Provides for a readjustment to these levels every five years to reflect economic conditions and programmatic changes.

Sec. 412. Multiple Phase Two Awards

Requires the Administrator to issue directives to ensure that: (1) a small business that receives a Phase Two award for an SBIR project remains eligible to receive additional Phase Two awards; and (2) agencies are expressly authorized to provide additional Phase Two awards for testing and evaluation assistance for the insertion of SBIR technologies into technical or weapons systems.

Sec. 413. First Phase Required

A company shall not be permitted to evade Phase I of the SBIR program. An exception is granted for companies that can demonstrate to agency SBIR proposal evaluators that the company has completed phase one work.