

A First-Look
Analysis of the new
SBIR / STTR*
Re-Authorization Law

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** Federal Small Business Innovation Research & Small Business Technology Transfer Programs*

Difficult Meticulous Work

- Portion of the National Defense Authorization Act of 2012 (NDAA) HR.1540
- 106 pages of Congressional Gobbledegook

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

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

(B) in subsection (y)—

(i) by striking paragraph (4); and

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

More Work To Be Done

- This is just a “first-look” analysis of the law
- Takes the point of view of potential applicant
(still needs more analysis from this point of view)
- Other points of view yet to be analyzed:
 - economic development
 - investor
 - agencies
 - legal analysis (prior laws, case law, etc.)

Basic & Most Important

- Extends SBIR & STTR Program terminations to 30 September 2017
- Increases SBIR set aside portion of agency extramural R&D budgets by 0.1% annually from 2.5% in 2011 to 3.2% in 2017 & beyond
- Increases STTR set aside portion of agency extramural R&D budgets by 0.05% bi-annually from 0.3% in 2011 to 0.45% in 2016 & beyond

Higher Award Limits

- Authorizes agencies to make awards of up to:
 - \$ 150,000 for Phase I (*50% increase*)
 - \$1,000,000 for Phase II (*33% increase*)
- Limits “super awards”* to just 50% higher:
 - \$ 225,000 for Phase I (*125% increase*)
 - \$1,500,000 for Phase II (*100% increase*)
- Provides for annual inflation adjustments

**must be justified and limited in number*

Strange Goings On

- Provides awardees \$5,000 per year of *extra* funding to procure “technical assistance”
- Allows for ***direct*** Phase II awards (*no Phase I required*) at DoD, NIH & Edu
- Allows two (2) ***sequential*** Phase II awards on any one project (i.e. *PI, PII then another PII*)
- Encourages agencies to “supplement” SBIR/STTR set-aside funding with other funds.

Even Stranger Provisions

- Allows firms that are majority-owned by large firms* to compete in SBIR/STTR with others
 - * *must be “**multiple** venture capital operating companies, hedge funds, or private equity firms” – see Section 13(h)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(2))*
- In same provision - *Intent of Congress statement:*
“preserve and maintain the integrity of the SBIR program as a program for small business concerns in the United States by prohibiting large businesses or large entities or foreign-owned businesses or foreign-owned entities from participation in the program”

And Stranger Yet

- Foreign ownership is declared “OK” as long as it conforms to certain standards.
- Encourages civilian agencies to develop “Commercialization Readiness Pilot Programs” which are allowed to siphon off 10% of their basic award budgets.

Some Onerous Provisions

- Agencies allowed to siphon off up to 3% of SBIR and STTR budgets to administer these programs.
- Agencies encouraged, to “blackball” any firms perceived as making inadequate progress toward commercialization

Crossover Flexibility

- Allows for Phase II awards at non-awarding agencies
(PI at one agency, PII at another)
- Allows STTR Phase II follow on to SBIR Phase I's and vice versa
(crosses traditional SBIR/STTR boundary).

Timelines

- Law became effective on 1 Jan 2012
- Law sunsets on 30 September 2017
- preliminary SBA policy – June 2012
- Final SBA SBIR/STTR policy – Dec. 2012
- Interagency SBIR/STTR Policy Committee

Disclaimers*

The foregoing presentation was
by no means
the whole list of changes in this law.

Most of the other changes include subtleties and complications which require more study to discern their import / implications.

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** We are not attorneys and do not provide legal advice*

The Good News

FUNDING ADDERS (*good news for applicants*):

- adds 0.1 % to the SBIR funding pool each year
(at these operative levels, that is about a 4% annual increase in total SBIR funding)
- adds 0.05% to the SBIR funding pool each year
(at these operative levels, that is about a 16% annual increase in total STTR funding)
- agencies are encouraged to supplement SBIR/STTR set-aside funds with other money

The Bad News

FUNDING LEAKERS (*bad news for applicants*):

- increases award sizes 50% and 33% (\$725K extra per project)
- “super awards” to \$225K and \$1,500K per award
- inflation adjustments likely to wipe out funding increases
- 15% (25% at some agencies) going to previously ineligible firms
- DoD to increase # of PIIs (~ \$1 to \$1.5 million per award).
- direct Phase II’s to usurp Phase I funds (\$1 – 1.5 million each)
- multiple Phase II projects (consuming 6 - 10 times Phase I \$)
- \$3% of SBIR/STTR funds re-allocated to administration
- \$5000 per award, per year re-directed for other support
- 10% of civilian agency funds to divert to Phase III support
- \$5 million per year NIH Phase Zero Pilot Program

Together, these can reduce # of Phase I awards > 50%.

COMPETITION

Be Aware That With

- more money in the SBIR/STTR pot,
- larger & multiple awards becoming available,
- large-firm backed companies now eligible

there will likely be many more applicants.

Implications For You

- Has been hard enough to win at 1/9 win ratio
- Now moving to something like 1/20 win ratio
- Now competing with larger, rich, experienced applicants (professional proposal teams?)

So, make the investment to DO IT RIGHT, or you'll just be wasting your time/resources!

Thank You For Attending

We wish you the “best of luck” and
“good hunting” in your pursuit of
SBIR / STTR and all of
their attendant, long term
business advantages.

The SBIR Center's Mission

Help applicants secure SBIR/STTR funding, and their *sole-source federal marketing positions*, at the least possible investment of time and money.

We do that by providing innovative, up-to-date low cost resources (tools, training & services).

We stand ready to serve you.



The Intelligent Choice

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