111th Congress
1st Session

H. R. 2965

AN ACT

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

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Enhancing Small Business Research and Innovation Act of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—PROGRAM EXTENSION AND VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT

Sec. 101. Extension of termination dates.
Sec. 102. Ensuring that innovative small businesses with substantial investment from venture capital operating companies are able to participate in the SBIR and STTR programs.

TITLE II—COMMERCIALIZATION ACTIVITIES AND RESEARCH TOPICS DESERVING SPECIAL CONSIDERATION

Sec. 201. Focus on commercialization.
Sec. 202. Inclusion of renewable energy-related research topics and rare disease-related research topics as deserving “special consideration” as SBIR research topics.
Sec. 203. Nanotechnology-related research topics.
Sec. 204. Clarifying the definition of “Phase Three”.
Sec. 205. Agency research goals.
Sec. 206. Commercialization programs.

TITLE III—RURAL DEVELOPMENT AND OUTREACH

Sec. 301. Outreach and support activities.
Sec. 302. Preferences.
Sec. 303. Obtaining SBIR applicant’s consent to release contact information to economic development organizations.
Sec. 304. Increased partnerships between SBIR awardees and prime contractors, venture capital investment companies, and larger businesses.

TITLE IV—SBIR AND STTR ENHANCEMENT

Sec. 401. Increased number of research topic solicitations annually and shortened period for final decisions on applications.
Sec. 402. Agencies should fund vital R&D projects with the potential for commercialization.
Sec. 403. Federal agency engagement with SBIR awardees that have been awarded multiple Phase One awards but have not been awarded Phase Two awards.
Sec. 404. Funding for administrative, oversight, and contract processing costs.
Sec. 405. Comptroller general audit of how Federal agencies calculate extramural research budgets.
Sec. 406. Agency databases to support program evaluation.
Sec. 407. Agency databases to support technology utilization.
Sec. 408. Interagency Policy Committee.
Sec. 409. National Research Council SBIR Study.
Sec. 410. Express authority to “fast-track” Phase Two awards for promising Phase One research.
Sec. 411. Increased SBIR and STTR award levels.
Sec. 412. Express authority for an agency to award sequential Phase Two awards for SBIR-funded projects.
Sec. 413. First phase required.
Sec. 414. Involvement of Chief Counsel for Advocacy.
Sec. 415. Minority institution program.
Sec. 416. Areas that have lost a major source of employment.
Sec. 417. Enhancing veteran participation in SBIR.
Sec. 418. Veteran preference.
Sec. 419. Medical technology.

TITLE V—IMPROVING WATER USE AND TRANSMISSION TECHNOLOGY

Sec. 501. Improving water use and transmission technology.

TITLE VI—GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT

Sec. 601. GAO study with respect to venture capital operating company involvement.

1 TITLE I—PROGRAM EXTENSION AND VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT

5 SEC. 101. EXTENSION OF TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking “2008” and inserting “2011”.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking “2009” and inserting “2011”.

•HR 2965 EH
SEC. 102. ENSURING THAT INNOVATIVE SMALL BUSINESSES WITH SUBSTANTIAL INVESTMENT FROM VENTURE CAPITAL OPERATING COMPANIES ARE ABLE TO PARTICIPATE IN THE SBIR AND STTR PROGRAMS.

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

“(aa) VENTURE CAPITAL OPERATING COMPANIES.—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 (or with any other business that the venture capital operating company has financed) if—

“(A) the venture capital operating company does not own 50 percent or more of the business concern; and
“(B) employees of the venture capital operating company 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;

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

“(C) there is no single venture capital operating company the employees of which constitute a majority of the board of directors of the business concern.

“(4) If a venture capital operating company controlled by a business with more than 500 employees (in this paragraph referred to as a ‘VCOC under large business control’) has an ownership interest in a small business concern that is owned in majority part by venture capital operating companies, the small business concern is eligible to receive an award under the SBIR or STTR program only if—
“(A) not more than two VCOCs under large business control have an ownership interest in the small business concern; and

“(B) the VCOCs under large business control do not collectively own more than 20 percent of the small business concern.

“(5) The term ‘venture capital operating company’ means a business concern—

“(A) that—

“(i) is a Venture Capital Operating Company, as that term is defined in regulations promulgated by the Secretary of Labor; or

“(ii) is an entity that—

“(I) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–51 et seq.); or

“(II) is an investment company, as defined in subsection (a)(1) of section 3 of such Act (15 U.S.C. 80a–3), which is not registered under such Act because of an exemption under subsection (c)(1) or subsection (c)(7) of such section; and
“(B) that is itself organized or incor-
porated and domiciled in the United States, or
is controlled by a business concern that is incor-
porated and domiciled in the United States.”.

TITLE II—COMMERCIALIZATION
ACTIVITIES AND RESEARCH
TOPICS DESERVING SPECIAL
CONSIDERATION

SEC. 201. FOCUS ON COMMERCIALIZATION.
Section 9(a) of the Small Business Act (15 U.S.C.
638(a)) is amended by adding at the end the following:
“It is further the policy of Congress that the programs
established in this section should focus on promoting re-
search and development of projects governed by commer-
cial business plans, which have significant potential to
produce products or services for the marketplace or for
acquisition by Federal agencies.”.

SEC. 202. INCLUSION OF RENEWABLE ENERGY-RELATED
RESEARCH TOPICS AND RARE DISEASE-RE-
LATED RESEARCH TOPICS AS DESERVING
“SPECIAL CONSIDERATION” AS SBIR RE-
SEARCH TOPICS.

Section 9(g)(3) of the Small Business Act (15 U.S.C.
638(g)(3)) is amended—
(1) in the matter preceding subparagraph (A) by inserting after “critical technologies” the following: “or pressing research priorities (including renewable energy-related technologies)”;

(2) in subparagraph (A) by striking “or” at the end; and

(3) by adding at the end the following:

“(C) the National Academy of Sciences, in the final report issued by the ‘America’s Energy Future: Technology Opportunities, Risks, and Tradeoffs’ project, and in subsequent reports issued by the National Academy of Sciences on sustainability, energy, and alternative fuels;

“(D) the National Institutes of Health, in the annual report on the rare diseases research activities of the National Institutes of Health for fiscal year 2005, and in subsequent reports issued by the National Institutes of Health on rare diseases research activities; or

“(E) the National Academy of Sciences, in the final report issued by the ‘Transit Research and Development: Federal Role in the National Program’ project and the ‘Transportation Research, Development and Technology Strategic Plan (2006–2010)’ issued by the United States
Department of Transportation Research and
Innovative Technology Administration, and in
subsequent reports issued by the National
Academy of Sciences and United States Depart-
ment of Transportation on transportation and
infrastructure;”.

SEC. 203. NANOTECHNOLOGY-RELATED RESEARCH TOPICS.

(a) SBIR.—Section 9(g)(3) of the Small Business
Act (15 U.S.C. 638(g)(3)), as amended, is further amend-
ed—

(1) in subparagraph (D) by striking “or” at the
end;

(2) in subparagraph (E) by adding “or” at the
end; and

(3) by adding at the end the following:

“(F) the national nanotechnology strategic
plan required under section 2(c)(4) of the 21st
Century Nanotechnology Research and Develop-
ment Act (15 U.S.C. 7501(c)(4)) and in subse-
quently issued reports by the National Science
and Technology Council Committee on Tech-
nology, focusing on areas of nanotechnology
identified in such plan;”.

(b) STTR.—Section 9(o)(3) of the Small Business
Act (15 U.S.C. 638(o)(3)) is amended—
(1) in subparagraph (A) by striking “or” at the end;

(2) in subparagraph (B) by adding “or” at the end; and

(3) by adding at the end the following:

“(C) by the national nanotechnology strategic plan required under section 2(c)(4) of the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501(c)(4)) and in subsequent reports issued by the National Science and Technology Council Committee on Technology, focusing on areas of nanotechnology identified in such plan;”.

SEC. 204. CLARIFYING THE DEFINITION OF “PHASE THREE”.

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

(1) in paragraph (4)(C) in the matter preceding clause (i) by inserting after “a third phase” the following: “, which shall consist of work that derives from, extends, or logically concludes efforts performed under prior SBIR funding agreements (which may be referred to as ‘Phase III’);”;

(2) in paragraph (8) by striking “and” at the end;
(3) in paragraph (9) by striking the period at the end and inserting ‘; and’; and

(4) by adding at the end the following:

“(10) the term ‘commercialization’ means the process of developing marketable products or services and producing and delivering products or services for sale (whether by the originating party or by others) to government or commercial markets.”.

SEC. 205. AGENCY RESEARCH GOALS.

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

“(h) AGENCY RESEARCH GOALS.—

“(1) IN GENERAL.—In addition to the requirements of subsection (f), each Federal agency that is required by this section to have an SBIR program and that awards annually $5,000,000,000 or more in procurement contracts shall, effective for fiscal year 2010 and each fiscal year thereafter, establish annual goals for commercialization of projects funded by SBIR awards.

“(2) SPECIFIC GOALS.—The goals required by paragraph (1) shall include specific goals for each of the following:
“(A) The percentage of SBIR projects that receive funding for the third phase (as defined in subsection (e)(4)(C)).

“(B) The percentage of SBIR projects that are successfully integrated into a program of record.

“(C) The amount of Federal dollars received by SBIR projects through Federal contracts, not including dollars received through the SBIR program.

“(3) Submission to Committees.—For each fiscal year for which goals are required by paragraph (1), the agency shall submit to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate—

“(A) not later than 60 days after the beginning of the fiscal year, the goals; and

“(B) not later than 90 days after the end of the fiscal year, data on the extent to which the goals were met, a description of the methodology used to collect such data, and a description of the reasons why the goals were met or not met.”.
SEC. 206. COMMERCIALIZATION PROGRAMS.

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

“(bb) COMMERCIALIZATION PROGRAMS.—

“(1) IN GENERAL.—Each agency required by this section to conduct an SBIR program shall establish a commercialization program that supports the progress of SBIR awardees to the third phase. The commercialization program may include activities such as partnership databases, partnership conferences, multiple second phases, mentoring between prime contractors and SBIR awardees, multiple second phases with matching private investment requirements, jumbo awards, SBIR helpdesks, and transition assistance programs. The agency shall include in its annual report an analysis of the various activities considered for inclusion in the commercialization program and a statement of the reasons why each activity considered was included or not included, as the case may be.

“(2) SPACE SHUTTLE PROGRAM.—Each agency required to establish a commercialization program under paragraph (1) and that carries out construction, assembly, or research and development activities with respect to the space shuttle program (also
known as the space transportation system) shall in-
clude, as part of such commercialization program,
activities to assist small business concerns affected
by the termination of the space shuttle program to
commercialize technologies through SBIR. Activities
to assist such small business concerns may include
activities described in paragraph (1) and other ac-
tivities to assist small business concerns making the
transition from work relating to the space shuttle
program to work in related or unrelated industries.

“(3) FUNDING FOR COMMERCIALIZATION PRO-
GRAMS.—

“(A) IN GENERAL.—From amounts made
available to carry out this paragraph, the Ad-
ministrator may, on petition by agencies re-
quired by this section to conduct an SBIR pro-
gram, transfer funds to such agencies to sup-
port the commercialization programs of such
agencies.

“(B) PETITIONS.—The Administrator shall
establish rules for making transfers under sub-
paragraph (A). The initial set of rules shall be
promulgated not later than 90 days after the
date of the enactment of this paragraph.
“(C) Authorization of Appropriations.—There is authorized to be appropriated to the Administrator to carry out this paragraph $27,500,000 for fiscal year 2010 and each fiscal year thereafter.

“(4) Funding Limitation.—For payment of expenses incurred to administer the commercialization programs described in this subsection, the head of an agency may use not more than an amount equal to 1 percent of the funds set aside for the agency’s 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 for the purpose of funding costs associated with salaries and expenses of employees of the Federal Government.”.

TITLE III—RURAL DEVELOPMENT AND OUTREACH

SEC. 301. OUTREACH AND SUPPORT ACTIVITIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended, is further amended by inserting after subsection (r) the following:

“(s) Outreach and Support Activities.—
“(1) IN GENERAL.—Subject to the other provi-
sions of this subsection, the Administrator shall
make grants on a competitive basis to organizations,
to be used by the organizations to do one or both
of the following:

“(A) To conduct outreach efforts to in-
crease participation in the programs under this
section.

“(B) To provide application support and
entrepreneurial and business skills support to
prospective participants in the programs under
this section.

“(2) AUTHORIZATION OF APPROPRIATIONS.—
There is authorized to be appropriated to the Ad-
ministrator $10,000,000 to carry out paragraph (1)
for each of fiscal years 2010 and 2011.

“(3) AMOUNT OF ASSISTANCE.—For each of
subparagraphs (A) and (B) of paragraph (1), the
amount of assistance provided to an organization
under that subparagraph in any fiscal year—

“(A) shall be equal to the total amount of
matching funds from non-Federal sources pro-
vided by the organization; and

“(B) shall not exceed $250,000.
“(4) DIRECTION.—An organization receiving funds under paragraph (1) shall, in using those funds, direct its activities at one or more of the following:

“(A) Small business concerns located in geographic areas that are underrepresented in the programs under this section.

“(B) 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.

“(C) Small business concerns owned and controlled by Native Americans.

“(D) Small business concerns located in geographic areas with an unemployment rate that exceeds the national unemployment rate.

“(5) ADVISORY BOARD.—

“(A) Establishment.—Not later than 90 days after the date of the enactment of this subsection, the Administrator shall establish an advisory board for the activities carried out under this subsection.
“(B) **NON-APPLICABILITY OF FACA.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

“(C) **MEMBERS.**—The members of the advisory board shall include the following:

“(i) The Administrator (or the Administrator’s designee).

“(ii) For each Federal agency required by this section to conduct an SBIR program, the head of the agency (or the designee of the head of the agency).

“(iii) Representatives of small business concerns that are current or former recipients of SBIR awards, or representatives of organizations of such concerns.

“(iv) Representatives of service providers of SBIR outreach and assistance, or representatives of organizations of such service providers.

“(D) **DUTIES.**—The advisory board shall have the following duties:

“(i) To develop guidelines for awards under paragraph (1), including guidelines relating to award sizes, proposal requirements, measures for monitoring awardee
performance, and measures for determining the overall value of the activities carried out by the awardees.

“(ii) To identify opportunities for coordinated outreach, technical assistance, and commercialization activities among Federal agencies, the recipients of the awards under paragraph (1), and applicants and recipients of SBIR awards, including opportunities such as—

“(I) podcasting or webcasting for conferences, training workshops, and other events;

“(II) shared online resources to match prospective applicants with the network of paragraph (1) recipients; and

“(III) venture capital conferences tied to technologies and sectors that cross agencies.

“(iii) To review and recommend revisions to activities under paragraph (1).

“(iv) To submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small
Business and the Committee on Science and Technology of the House of Representa-
tives an annual report on the activities carried out under paragraph (1) and the effectiveness and impact of those activities.

“(6) SELECTION CRITERIA.—In awarding grants under this subsection, the Administrator shall use selection criteria developed by the advisory board established under paragraph (5). The criteria shall include—

“(A) criteria designed to give preference to applicants who propose to carry out activities that will reach either an underperforming geographic area (including geographic areas with an unemployment rate that exceeds the national unemployment rate) or an underrepresented population group (as measured by the number of SBIR applicants);

“(B) criteria designed to give preference:
(i) to applicants serving underrepresented States and regions; and (ii) to applicants who are women-, service-disabled veterans-, or minority-owned.

“(C) criteria designed to give preference to applicants who propose to carry out activities
that complement, and are integrated into, the existing public-private innovation support system for the targeted region or population;

“(D) criteria designed to give preference to applicants who propose to measure the effectiveness of the proposed activities; and

“(E) criteria designed to give preference to applicants who include a Small Business Development Center program that is accredited for its technology services.

“(7) PEER REVIEW.—In awarding grants under this subsection, the Administrator shall use a peer review process. Reviewers shall include—

“(A) SBIR program managers for agencies required by this section to conduct SBIR programs; and

“(B) private individuals and organizations that are knowledgeable about SBIR, the innovation process, technology commercialization, and State and regional technology-based economic development programs.

“(8) PER-STATE LIMITATIONS.—

“(A) IN GENERAL.—To be eligible to receive a grant under this subsection, the applicant must have the written endorsement of the
Governor of the State where the targeted regions or populations are located (if the regions or populations are located in more than one State, the applicant must have the written endorsement of the Governor of each such State). Such an endorsement must indicate that the Governor will ensure that the activities to be carried out under the grant will be integrated with the balance of the State’s portfolio of investments to help small business concerns commercialize technology.

“(B) LIMITATION.—Each fiscal year, a Governor may have in effect not more than one written endorsement for a grant under paragraph (1)(A), and not more than one written endorsement for a grant under paragraph (1)(B).

“(9) SPECIFIC REQUIREMENTS FOR AWARDS.—In making awards under paragraph (1) the Administrator shall ensure that each award shall be for a period of 2 fiscal years. The Administrator shall establish rules and performance goals for the disbursement of funds for the second fiscal year, and funds shall not be disbursed to a recipient for such a fiscal year until after the advisory board established under
this subsection has determined that the recipient is
in compliance with the rules and performance
goals.”.

SEC. 302. PREFERENCES.

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

“(cc) PREFERENCES.—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 from areas with an unemployment rate
that exceeds the national unemployment rate, that are
from rural areas, or that are small business concerns
owned and controlled by Native Americans. The Adminis-
trator shall submit an annual report to Congress setting
forth how many small business concerns owned and con-
trolled by Native Americans were recipients of assistance
under this section.”.

SEC. 303. OBTAINING SBIR APPLICANT'S CONSENT TO RE-
LEASE CONTACT INFORMATION TO ECO-
NOMIC DEVELOPMENT ORGANIZATIONS.

Section 9 of the Small Business Act (15 U.S.C. 638),
as amended, is further amended by adding at the end the
following:
“(dd) 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 shall enable a small business concern that is an SBIR applicant to indicate to the agency whether the agency has its consent to—

“(A) identify the concern to appropriate local and State-level economic development organizations as an SBIR applicant; and

“(B) release the concern’s contact information to such organizations.

“(2) Rules.—The Administrator shall establish rules to implement this subsection. The rules shall include a requirement that the agency include in its SBIR application forms a provision through which the applicant can indicate consent for purposes of paragraph (1).”.

SEC. 304. 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, is further amended by adding at the end the following:
“(ee) INCREASED PARTNERSHIPS.—

“(1) IN GENERAL.—Each agency required by this section to conduct an SBIR program shall estab-lish 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 entrepre-neurial businesses which meet selected criteria dur-ing the businesses’ startup phases, including prov-id ing services such as shared office space and office services, access to equipment, access to telecommuni-cations and technology services, flexible leases, spe-cialized management assistance, access to financing, mentoring and training services, or other coordi-nated business or technical support services designed to provide business development assistance to entre-preneural businesses during these businesses’ start-up phases.”.
TITLE IV—SBIR AND STTR
ENHANCEMENT

SEC. 401. INCREASED NUMBER OF RESEARCH TOPIC SOLICITATIONS ANNUALLY AND SHORTENED PERIOD FOR FINAL DECISIONS ON APPLICATIONS.

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

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

•HR 2965 EH
SEC. 402. AGENCIES SHOULD FUND VITAL R&D PROJECTS WITH THE POTENTIAL FOR COMMERCIALIZATION.

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

“(ff) MULTIPLE FIRST PHASE SBIR AWARDS REPORT.—The Administrator shall, on an annual basis, submit to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a list identifying each small business concern that, for the period covered by the preceding 5 fiscal years, received 15 or more first phase SBIR awards and no second phase SBIR awards.”.

SEC. 403. FEDERAL AGENCY ENGAGEMENT WITH SBIR AWARDEES THAT HAVE BEEN AWARDED MULTIPLE PHASE ONE AWARDS BUT HAVE NOT BEEN AWARDED PHASE TWO AWARDS.

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

“(gg) REQUIREMENTS RELATING TO FEDERAL AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE SBIR Awardees.—Each Federal agency required by this section to conduct an SBIR program shall engage with
SBIR awardees that have been awarded multiple first phase SBIR awards but have not been awarded any second phase SBIR awards and shall develop performance measures with respect to awardee progression in the SBIR program.”.

SEC. 404. FUNDING FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.

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

“(hh) Assistance for Administrative, Oversight, and Contract Processing Costs.—

“(1) In general.—From amounts made available to carry out this subsection, the Administrator may, on petition by Federal agencies required by this section to conduct an SBIR program, transfer funds to such agencies to assist with the administrative, oversight, and contract processing costs relating to such program.

“(2) Petitions.—The Administrator shall establish rules for making transfers under paragraph (1). The initial set of rules shall be promulgated not later than 180 days after the date of the enactment of this subsection.
“(3) LIMIT ON TRANSFER.—A Federal agency may not receive under this subsection in a fiscal year an amount greater than 3 percent of the SBIR budget of such agency for such fiscal year.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $27,500,000 for each of fiscal years 2010 and 2011.”.

SEC. 405. COMPTROLLER GENERAL AUDIT OF HOW FEDERAL AGENCIES CALCULATE EXTRAMURAL RESEARCH BUDGETS.

The Comptroller General of the United States shall carry out a detailed audit of how Federal agencies calculate extramural research budgets for purposes of calculating the size of the agencies’ Small Business Innovation Research Program and Small Business Technology Transfer Program budgets. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and the Committee on Science and Technology of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report on the results of the audit.
SEC. 406. AGENCY DATABASES TO SUPPORT PROGRAM EVALUATION.

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

(1) in paragraph (2)(A)—

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

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

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

“(iv) information on the ownership structure of award recipients, both at the time of receipt of the award and upon completion of the award period;”;

(2) by amending paragraph (3) to read as follows:

“(3) UPDATING INFORMATION FOR DATABASE.—

“(A) IN GENERAL.—A Federal agency shall not make a Phase I or Phase II payment to a small business concern under this section unless the small business concern has provided all information required under this subsection and available at the time with respect to the award under which the payment is made, and

HR 2965 EH
with respect to any other award under this sec-
tion previously received by the small business
concern or a predecessor in interest to the small
business concern.

“(B) APPORTIONMENT.—In complying
with this paragraph, a small business concern
may apportion sales or additional investment
information relating to more than one second
phase award among those awards, if it notes
the apportionment for each award.

“(C) ANNUAL UPDATES UPON TERMIN-
ATION.—A small business concern receiving an
award under this section shall—

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

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

“(iii) in the case of a small business
concern applying for a subsequent first
phase or second phase award, be required
to update such information annually there-
after for a period of 5 years.”; and
(3) by adding at the end the following new
paragraph:
“(6) AGENCY PROGRAM EVALUATION DATA-
bases.—Each Federal agency required to establish
an SBIR or STTR program under this section shall
develop and maintain, for the purpose of evaluating
such programs, a database containing information
required to be contained in the database under para-
graph (2). Each such database shall be designed to
be accessible to other agencies that are required to
maintain a database under this paragraph. Each
such database shall be developed and operated in a
manner to ensure that each such database is rel-
evant to and contributes to the agency’s oversight
and evaluation of the SBIR and STTR programs.
Paragraphs (4) and (5) apply to each database
under this paragraph.”.

SEC. 407. AGENCY DATABASES TO SUPPORT TECHNOLOGY
UTILIZATION.
Section 9(k) of the Small Business Act (15 U.S.C.
638(k)), as amended, is further amended by adding at the
end the following new paragraph:
“(7) Agency databases to support technology utilization.—Each Federal agency with an SBIR or STTR program shall create and maintain a technology utilization database, which shall be available to the public and shall contain data supplied by the award recipients specifically to help them attract customers for the products and services generated under the SBIR or STTR project, and to attract additional investors and business partners. Each database created under this paragraph shall include information on the other databases created under this paragraph by other Federal agencies. Participation in a database under this paragraph shall be voluntary, except that such participation is required of all award recipients who received supplemental payments from SBIR and STTR program funds above their initial Phase II award. Each database created under this paragraph shall be developed and operated in a manner to ensure that each such database is relevant to and contributes to the agency’s oversight and evaluation of the SBIR and STTR programs.”.

SEC. 408. INTERAGENCY POLICY COMMITTEE.

(a) Establishment.—The Director of the Office of Science and Technology Policy shall establish an Inter-
agency SBIR/STTR Policy Committee comprised of one representative from each Federal agency with an SBIR program and the Office of Management and Budget.

(b) COCHAIRS.—The Director of the Office of Science and Technology Policy and the Director of the National Institute of Standards and Technology shall jointly chair the Interagency SBIR/STTR Policy Committee.

(c) 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) (1) and (2) of the Small Business Act (15 U.S.C. 638(k) (1) and (2)).

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

(3) Commercialization assistance best practices in 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 business concerns face after Phase II but before commercialization.
(4) Development and incorporation of 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 individual agency programs.

(d) REPORTS.—The Interagency SBIR/STTR Policy Committee shall transmit to the Committee on Science 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 subsections (c)(1) and (c)(4) not later than 1 year after the date of enactment of this Act;

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

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

SEC. 409. NATIONAL RESEARCH COUNCIL SBIR STUDY.

Section 108(d) of the Small Business Reauthoriza-
propriations Act, 2001 (Public Law 106–554), is amended—

(1) by striking “of the Senate” and all that follows through “not later than 3” and inserting “of the Senate, not later than 3”; and

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

SEC. 410. 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, is further amended by adding at the end the following:

“(ii) 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.”.
SEC. 411. INCREASED SBIR AND STTR AWARD LEVELS.

(a) SBIR Award Level and Annual Adjustments.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended by adding at the end the following:

“(4) Further Additional Modifications.—Not later than 180 days after the date of enactment of this paragraph and notwithstanding paragraph (2)(D), the Administrator shall modify the policy directives issued pursuant to this subsection to provide for an increase to $250,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to $2,000,000 in the second phase of an SBIR program, and a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations.”.

(b) STTR Award Level and Annual 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 “$750,000” and inserting “$250,000” and “$2,000,000”, respectively; and

(2) by striking “greater or lesser amounts” and inserting “with a mandatory annual adjustment of such amounts to reflect economic adjustments and programmatic considerations, and with lesser amounts”.
(c) LIMITATION ON CERTAIN AWARDS.—Section 9 of
the Small Business Act (15 U.S.C. 638), as amended, is
further amended by adding at the end the following:

“(jj) LIMITATION ON PHASE I AND II AWARDS.—No
Federal agency shall issue an award under the SBIR pro-
gram or the STTR program if the size of the award ex-
ceeds the amounts established under subsections (j)(4)
and (p)(2)(B)(ix).”.

SEC. 412. EXPRESS AUTHORITY FOR AN AGENCY TO AWARD
SEQUENTIAL PHASE TWO AWARDS FOR SBIR-
FUNDED PROJECTS.

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

“(kk) REQUIREMENTS RELATING TO ADDITIONAL
SECOND PHASE SBIR AWARDS.—

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

“(2) TECHNICAL OR WEAPONS SYSTEMS.—
Agencies are expressly authorized to provide addi-
tional second phase SBIR awards for testing and
evaluation assistance for the insertion of SBIR tech-
nologies into technical or weapons systems.”.
SEC. 413. FIRST PHASE REQUIRED.

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

“(ll) FIRST PHASE REQUIRED.—Under this section, a Federal agency shall provide to a small business concern an award for the second phase of an SBIR program with respect to a project only if such agency finds that the small business concern has been provided an award for the first phase 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 an award for the first phase.”.

SEC. 414. INVOLVEMENT OF CHIEF COUNSEL FOR ADVOCACY.

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

“(mm) INVOLVEMENT OF CHIEF COUNSEL FOR ADVOCACY.—The Chief Counsel for Advocacy, as described in section 201 of Public Law 94–305 (15 U.S.C. 634a), and any individual reporting to the Chief Counsel for Advocacy, without regard to whether such individual was hired under section 204 of Public Law 94–305 (15 U.S.C. 634d), may not provide to the Administrator, to any individual who reports directly or indirectly to the Adminis-
trator, or to any Federal agency any advice, guidance, oversight, or review with respect to the programs authorized under this section.”.

SEC. 415. MINORITY INSTITUTION PROGRAM.

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

“(nn) MINORITY INSTITUTION PROGRAM.—

“(1) ESTABLISHMENT.—From amounts made available to carry out this subsection, the Administrator shall establish and carry out 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 Administrator at such time, in such manner, and containing such information and assurances as the Administrator may require.

“(3) MATCHING REQUIREMENT.—As a condition of a grant under paragraph (1), the Adminis-
tractor 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)).

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $4,000,000 for each of fiscal years 2010 and 2011.”.

SEC. 416. AREAS THAT HAVE LOST A MAJOR SOURCE OF EMPLOYMENT.

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

“(oo) AREAS THAT HAVE LOST A MAJOR SOURCE OF EMPLOYMENT.—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 from geographic areas determined by the Administrator to have lost a major source of employment.”.
SEC. 417. ENHANCING VETERAN PARTICIPATION IN SBIR.

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

“(pp) ENHANCING VETERAN PARTICIPATION IN SBIR.—Notwithstanding any other provision of this section, a small business concern owned and controlled by veterans may—

“(1) receive an award in the amount of $300,000 in the first phase of an SBIR program and in the amount of $2,250,000 in the second phase of an SBIR program, with such amounts able to be exceeded if the Federal agency making the award notifies the Administrator of such excess; and

“(2) receive an award for the second phase of an SBIR program with respect to a project without having received a first phase award with respect to such project.”.

SEC. 418. VETERAN PREFERENCE.

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

“(qq) 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.”.

SEC. 419. MEDICAL TECHNOLOGY.

Section 9(g)(3) of the Small Business Act (15 U.S.C. 638(g)(3)), as amended, is further amended in the matter preceding subparagraph (A) by inserting after “broad research topics” the following: “and research topics relating to medical technology”.

TITLE V—IMPROVING WATER USE AND TRANSMISSION TECHNOLOGY

SEC. 501. IMPROVING WATER USE AND TRANSMISSION TECHNOLOGY.

Not later than 1 year after the date of the enactment of this Act, Federal agencies with an SBIR program, as appropriate, shall jointly develop and issue a small business innovation research solicitation that requests research proposals with respect to improving the efficiency of water delivery systems and usage patterns in the United States and its territories through the use of technology.
TITLE VI—GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT

SEC. 601. GAO STUDY WITH RESPECT TO VENTURE CAPITAL OPERATING COMPANY INVOLVEMENT.

The Comptroller General of the United States shall carry out a study of the impact of requirements relating to venture capital operating company involvement under section 9(aa) of the Small Business Act, as added by section 102 of this Act. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

Passed the House of Representatives July 8, 2009.

Attest:

Clerk.
111TH CONGRESS
H. R. 2965

AN ACT

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