

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

5 (b) TABLE OF CONTENTS.—The table of contents for
6 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 partici-
pate 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 dis-
ease-related research topics as deserving “special consider-
ation” 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 contrac-
tors, venture capital investment companies, and larger busi-
nesses.

TITLE IV—SBIR AND STTR ENHANCEMENT

Sec. 401. Increased number of research topic solicitations annually and short-
ened period for final decisions on applications.

Sec. 402. Agencies should fund vital R&D projects with the potential for com-
mercialization.

Sec. 403. Federal agency engagement with SBIR awardees that have been
awarded multiple Phase One awards but have not been award-
ed Phase Two awards.

Sec. 404. Funding for administrative, oversight, and contract processing costs.

Sec. 405. Comptroller general audit of how Federal agencies calculate extra-
mural 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**
2 **AND VENTURE CAPITAL OP-**
3 **ERATING COMPANY INVOLVE-**
4 **MENT**

5 **SEC. 101. EXTENSION OF TERMINATION DATES.**

6 (a) SBIR.—Section 9(m) of the Small Business Act
7 (15 U.S.C. 638(m)) is amended by striking “2008” and
8 inserting “2011”.

9 (b) STTR.—Section 9(n)(1)(A) of the Small Busi-
10 ness Act (15 U.S.C. 638(n)(1)(A)) is amended by striking
11 “2009” and inserting “2011”.

1 **SEC. 102. ENSURING THAT INNOVATIVE SMALL BUSI-**
2 **NESSES WITH SUBSTANTIAL INVESTMENT**
3 **FROM VENTURE CAPITAL OPERATING COM-**
4 **PANIES ARE ABLE TO PARTICIPATE IN THE**
5 **SBIR AND STTR PROGRAMS.**

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

8 “(aa) VENTURE CAPITAL OPERATING COMPANIES.—
9 Effective only for the SBIR and STTR programs the fol-
10 lowing shall apply:

11 “(1) A business concern that has more than
12 500 employees shall not qualify as a small business
13 concern.

14 “(2) In determining whether a small business
15 concern is independently owned and operated under
16 section 3(a)(1) or meets the small business size
17 standards instituted under section 3(a)(2), the Ad-
18 ministrator shall not consider a business concern to
19 be affiliated with a venture capital operating com-
20 pany (or with any other business that the venture
21 capital operating company has financed) if—

22 “(A) the venture capital operating com-
23 pany does not own 50 percent or more of the
24 business concern; and

1 “(B) employees of the venture capital oper-
2 ating company do not constitute a majority of
3 the board of directors of the business concern.

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

6 “(A) it is owned in majority part by one or
7 more natural persons or venture capital oper-
8 ating companies;

9 “(B) there is no single venture capital op-
10 erating company that owns 50 percent or more
11 of the business concern; and

12 “(C) there is no single venture capital op-
13 erating company the employees of which con-
14 stitute a majority of the board of directors of
15 the business concern.

16 “(4) If a venture capital operating company
17 controlled by a business with more than 500 employ-
18 ees (in this paragraph referred to as a ‘VCOC under
19 large business control’) has an ownership interest in
20 a small business concern that is owned in majority
21 part by venture capital operating companies, the
22 small business concern is eligible to receive an award
23 under the SBIR or STTR program only if—

1 “(A) not more than two VCOCs under
2 large business control have an ownership inter-
3 est in the small business concern; and

4 “(B) the VCOCs under large business con-
5 trol do not collectively own more than 20 per-
6 cent of the small business concern.

7 “(5) The term ‘venture capital operating com-
8 pany’ means a business concern—

9 “(A) that—

10 “(i) is a Venture Capital Operating
11 Company, as that term is defined in regu-
12 lations promulgated by the Secretary of
13 Labor; or

14 “(ii) is an entity that—

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

18 “(II) is an investment company,
19 as defined in subsection (a)(1) of sec-
20 tion 3 of such Act (15 U.S.C. 80a–3),
21 which is not registered under such Act
22 because of an exemption under sub-
23 section (c)(1) or subsection (c)(7) of
24 such section; and

1 “(B) that is itself organized or incor-
2 porated and domiciled in the United States, or
3 is controlled by a business concern that is incor-
4 porated and domiciled in the United States.”.

5 **TITLE II—COMMERCIALIZATION**
6 **ACTIVITIES AND RESEARCH**
7 **TOPICS DESERVING SPECIAL**
8 **CONSIDERATION**

9 **SEC. 201. FOCUS ON COMMERCIALIZATION.**

10 Section 9(a) of the Small Business Act (15 U.S.C.
11 638(a)) is amended by adding at the end the following:
12 “It is further the policy of Congress that the programs
13 established in this section should focus on promoting re-
14 search and development of projects governed by commer-
15 cial business plans, which have significant potential to
16 produce products or services for the marketplace or for
17 acquisition by Federal agencies.”.

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

23 Section 9(g)(3) of the Small Business Act (15 U.S.C.
24 638(g)(3)) is amended—

1 (1) in the matter preceding subparagraph (A)
2 by inserting after “critical technologies” the fol-
3 lowing: “or pressing research priorities (including re-
4 newable energy-related technologies)”;

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

7 (3) by adding at the end the following:

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

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

20 “(E) the National Academy of Sciences, in
21 the final report issued by the ‘Transit Research
22 and Development: Federal Role in the National
23 Program’ project and the ‘Transportation Re-
24 search, Development and Technology Strategic
25 Plan (2006–2010)’ issued by the United States

1 Department of Transportation Research and
2 Innovative Technology Administration, and in
3 subsequent reports issued by the National
4 Academy of Sciences and United States Depart-
5 ment of Transportation on transportation and
6 infrastructure;”.

7 **SEC. 203. NANOTECHNOLOGY-RELATED RESEARCH TOPICS.**

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

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

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

15 (3) by adding at the end the following:

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

24 (b) STTR.—Section 9(o)(3) of the Small Business
25 Act (15 U.S.C. 638(o)(3)) is amended—

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

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

5 (3) by adding at the end the following:

6 “(C) by the national nanotechnology stra-
7 tegic plan required under section 2(c)(4) of the
8 21st Century Nanotechnology Research and De-
9 velopment Act (15 U.S.C. 7501(c)(4)) and in
10 subsequent reports issued by the National
11 Science and Technology Council Committee on
12 Technology, focusing on areas of nanotechnol-
13 ogy identified in such plan;”.

14 **SEC. 204. CLARIFYING THE DEFINITION OF “PHASE**
15 **THREE”.**

16 Section 9(e) of the Small Business Act (15 U.S.C.
17 638(e)) is amended—

18 (1) in paragraph (4)(C) in the matter preceding
19 clause (i) by inserting after “a third phase” the fol-
20 lowing: “, which shall consist of work that derives
21 from, extends, or logically concludes efforts per-
22 formed under prior SBIR funding agreements
23 (which may be referred to as ‘Phase III’)”;

24 (2) in paragraph (8) by striking “and” at the
25 end;

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

3 (4) by adding at the end the following:

4 “(10) the term ‘commercialization’ means the
5 process of developing marketable products or serv-
6 ices and producing and delivering products or serv-
7 ices for sale (whether by the originating party or by
8 others) to government or commercial markets.”.

9 **SEC. 205. AGENCY RESEARCH GOALS.**

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

13 “(h) AGENCY RESEARCH GOALS.—

14 “(1) IN GENERAL.—In addition to the require-
15 ments of subsection (f), each Federal agency that is
16 required by this section to have an SBIR program
17 and that awards annually \$5,000,000,000 or more
18 in procurement contracts shall, effective for fiscal
19 year 2010 and each fiscal year thereafter, establish
20 annual goals for commercialization of projects fund-
21 ed by SBIR awards.

22 “(2) SPECIFIC GOALS.—The goals required by
23 paragraph (1) shall include specific goals for each of
24 the following:

1 “(A) The percentage of SBIR projects that
2 receive funding for the third phase (as defined
3 in subsection (e)(4)(C)).

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

7 “(C) The amount of Federal dollars re-
8 ceived by SBIR projects through Federal con-
9 tracts, not including dollars received through
10 the SBIR program.

11 “(3) SUBMISSION TO COMMITTEES.—For each
12 fiscal year for which goals are required by paragraph
13 (1), the agency shall submit to the Committee on
14 Small Business and the Committee on Science and
15 Technology of the House of Representatives and the
16 Committee on Small Business and Entrepreneurship
17 of the Senate—

18 “(A) not later than 60 days after the be-
19 ginning of the fiscal year, the goals; and

20 “(B) not later than 90 days after the end
21 of the fiscal year, data on the extent to which
22 the goals were met, a description of the meth-
23 odology used to collect such data, and a de-
24 scription of the reasons why the goals were met
25 or not met.”.

1 **SEC. 206. COMMERCIALIZATION PROGRAMS.**

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

5 “(bb) COMMERCIALIZATION PROGRAMS.—

6 “(1) IN GENERAL.—Each agency required by
7 this section to conduct an SBIR program shall es-
8 tablish a commercialization program that supports
9 the progress of SBIR awardees to the third phase.
10 The commercialization program may include activi-
11 ties such as partnership databases, partnership con-
12 ferences, multiple second phases, mentoring between
13 prime contractors and SBIR awardees, multiple sec-
14 ond phases with matching private investment re-
15 quirements, jumbo awards, SBIR helpdesks, and
16 transition assistance programs. The agency shall in-
17 clude in its annual report an analysis of the various
18 activities considered for inclusion in the commer-
19 cialization program and a statement of the reasons
20 why each activity considered was included or not in-
21 cluded, as the case may be.

22 “(2) SPACE SHUTTLE PROGRAM.—Each agency
23 required to establish a commercialization program
24 under paragraph (1) and that carries out construc-
25 tion, assembly, or research and development activi-
26 ties with respect to the space shuttle program (also

1 known as the space transportation system) shall in-
2 clude, as part of such commercialization program,
3 activities to assist small business concerns affected
4 by the termination of the space shuttle program to
5 commercialize technologies through SBIR. Activities
6 to assist such small business concerns may include
7 activities described in paragraph (1) and other ac-
8 tivities to assist small business concerns making the
9 transition from work relating to the space shuttle
10 program to work in related or unrelated industries.

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

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

20 “(B) PETITIONS.—The Administrator shall
21 establish rules for making transfers under sub-
22 paragraph (A). The initial set of rules shall be
23 promulgated not later than 90 days after the
24 date of the enactment of this paragraph.

1 “(C) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There is authorized to be appropriated
3 to the Administrator to carry out this para-
4 graph \$27,500,000 for fiscal year 2010 and
5 each fiscal year thereafter.

6 “(4) FUNDING LIMITATION.—For payment of
7 expenses incurred to administer the commercializa-
8 tion programs described in this subsection, the head
9 of an agency may use not more than an amount
10 equal to 1 percent of the funds set aside for the
11 agency’s Small Business Innovation Research pro-
12 gram. Such funds—

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

15 “(B) shall not be used for the purpose of
16 funding costs associated with salaries and ex-
17 penses of employees of the Federal Govern-
18 ment.”.

19 **TITLE III—RURAL**
20 **DEVELOPMENT AND OUTREACH**

21 **SEC. 301. OUTREACH AND SUPPORT ACTIVITIES.**

22 Section 9 of the Small Business Act (15 U.S.C. 638),
23 as amended, is further amended by inserting after sub-
24 section (r) the following:

25 “(s) OUTREACH AND SUPPORT ACTIVITIES.—

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

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

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

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

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

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

24 “(B) shall not exceed \$250,000.

1 “(4) DIRECTION.—An organization receiving
2 funds under paragraph (1) shall, in using those
3 funds, direct its activities at one or more of the fol-
4 lowing:

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

8 “(B) Small business concerns owned and
9 controlled by women, small business concerns
10 owned and controlled by service-disabled vet-
11 erans, and small business concerns owned and
12 controlled by minorities.

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

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

18 “(5) ADVISORY BOARD.—

19 “(A) ESTABLISHMENT.—Not later than 90
20 days after the date of the enactment of this
21 subsection, the Administrator shall establish an
22 advisory board for the activities carried out
23 under this subsection.

1 “(B) NON-APPLICABILITY OF FACA.—The
2 Federal Advisory Committee Act (5 U.S.C.
3 App.) shall not apply to the advisory board.

4 “(C) MEMBERS.—The members of the ad-
5 visory board shall include the following:

6 “(i) The Administrator (or the Ad-
7 ministrator’s designee).

8 “(ii) For each Federal agency re-
9 quired by this section to conduct an SBIR
10 program, the head of the agency (or the
11 designee of the head of the agency).

12 “(iii) Representatives of small busi-
13 ness concerns that are current or former
14 recipients of SBIR awards, or representa-
15 tives of organizations of such concerns.

16 “(iv) Representatives of service pro-
17 viders of SBIR outreach and assistance, or
18 representatives of organizations of such
19 service providers.

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

22 “(i) To develop guidelines for awards
23 under paragraph (1), including guidelines
24 relating to award sizes, proposal require-
25 ments, measures for monitoring awardee

1 performance, and measures for deter-
2 mining the overall value of the activities
3 carried out by the awardees.

4 “(ii) To identify opportunities for co-
5 ordinated outreach, technical assistance,
6 and commercialization activities among
7 Federal agencies, the recipients of the
8 awards under paragraph (1), and appli-
9 cants and recipients of SBIR awards, in-
10 cluding opportunities such as—

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

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

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

21 “(iii) To review and recommend revi-
22 sions to activities under paragraph (1).

23 “(iv) To submit to the Committee on
24 Small Business and Entrepreneurship of
25 the Senate and the Committee on Small

1 Business and the Committee on Science
2 and Technology of the House of Represent-
3 atives an annual report on the activities
4 carried out under paragraph (1) and the
5 effectiveness and impact of those activities.

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

11 “(A) criteria designed to give preference to
12 applicants who propose to carry out activities
13 that will reach either an underperforming geo-
14 graphic area (including geographic areas with
15 an unemployment rate that exceeds the national
16 unemployment rate) or an underrepresented
17 population group (as measured by the number
18 of SBIR applicants);

19 “(B) criteria designed to give preference:
20 (i) to applicants serving underrepresented
21 States and regions; and (ii) to applicants who
22 are women-, service-disabled veterans-, or mi-
23 nority-owned.

24 “(C) criteria designed to give preference to
25 applicants who propose to carry out activities

1 that complement, and are integrated into, the
2 existing public-private innovation support sys-
3 tem for the targeted region or population;

4 “(D) criteria designed to give preference to
5 applicants who propose to measure the effec-
6 tiveness of the proposed activities; and

7 “(E) criteria designed to give preference to
8 applicants who include a Small Business Devel-
9 opment Center program that is accredited for
10 its technology services.

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

14 “(A) SBIR program managers for agencies
15 required by this section to conduct SBIR pro-
16 grams; and

17 “(B) private individuals and organizations
18 that are knowledgeable about SBIR, the innova-
19 tion process, technology commercialization, and
20 State and regional technology-based economic
21 development programs.

22 “(8) PER-STATE LIMITATIONS.—

23 “(A) IN GENERAL.—To be eligible to re-
24 ceive a grant under this subsection, the appli-
25 cant must have the written endorsement of the

1 Governor of the State where the targeted re-
2 gions or populations are located (if the regions
3 or populations are located in more than one
4 State, the applicant must have the written en-
5 dorsement of the Governor of each such State).
6 Such an endorsement must indicate that the
7 Governor will ensure that the activities to be
8 carried out under the grant will be integrated
9 with the balance of the State’s portfolio of in-
10 vestments to help small business concerns com-
11 mercialize technology.

12 “(B) LIMITATION.—Each fiscal year, a
13 Governor may have in effect not more than one
14 written endorsement for a grant under para-
15 graph (1)(A), and not more than one written
16 endorsement for a grant under paragraph
17 (1)(B).

18 “(9) SPECIFIC REQUIREMENTS FOR AWARDS.—
19 In making awards under paragraph (1) the Adminis-
20 trator shall ensure that each award shall be for a pe-
21 riod of 2 fiscal years. The Administrator shall estab-
22 lish rules and performance goals for the disburse-
23 ment of funds for the second fiscal year, and funds
24 shall not be disbursed to a recipient for such a fiscal
25 year until after the advisory board established under

1 this subsection has determined that the recipient is
2 in compliance with the rules and performance
3 goals.”.

4 **SEC. 302. PREFERENCES.**

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

8 “(cc) PREFERENCES.—In making awards under this
9 section, Federal agencies shall give priority to applications
10 so as to increase the number of SBIR and STTR award
11 recipients that are from areas with an unemployment rate
12 that exceeds the national unemployment rate, that are
13 from rural areas, or that are small business concerns
14 owned and controlled by Native Americans. The Adminis-
15 trator shall submit an annual report to Congress setting
16 forth how many small business concerns owned and con-
17 trolled by Native Americans were recipients of assistance
18 under this section.”.

19 **SEC. 303. OBTAINING SBIR APPLICANT’S CONSENT TO RE-**
20 **LEASE CONTACT INFORMATION TO ECO-**
21 **NOMIC DEVELOPMENT ORGANIZATIONS.**

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

1 “(dd) CONSENT TO RELEASE CONTACT INFORMA-
2 TION TO ORGANIZATIONS.—

3 “(1) ENABLING CONCERN TO GIVE CONSENT.—

4 Each Federal agency required by this section to con-
5 duct an SBIR program shall enable a small business
6 concern that is an SBIR applicant to indicate to the
7 agency whether the agency has its consent to—

8 “(A) identify the concern to appropriate
9 local and State-level economic development or-
10 ganizations as an SBIR applicant; and

11 “(B) release the concern’s contact informa-
12 tion to such organizations.

13 “(2) RULES.—The Administrator shall estab-
14 lish rules to implement this subsection. The rules
15 shall include a requirement that the agency include
16 in its SBIR application forms a provision through
17 which the applicant can indicate consent for pur-
18 poses of paragraph (1).”.

19 **SEC. 304. INCREASED PARTNERSHIPS BETWEEN SBIR**
20 **AWARDEES AND PRIME CONTRACTORS, VEN-**
21 **TURE CAPITAL INVESTMENT COMPANIES,**
22 **AND LARGER BUSINESSES.**

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

1 “(ee) INCREASED PARTNERSHIPS.—

2 “(1) IN GENERAL.—Each agency required by
3 this section to conduct an SBIR program shall es-
4 tablish initiatives by which the agency encourages
5 partnerships between SBIR awardees and prime
6 contractors, venture capital investment companies,
7 business incubators, and larger businesses, for the
8 purpose of facilitating the progress of the SBIR
9 awardees to the third phase.

10 “(2) DEFINITION.—In this subsection, the term
11 ‘business incubator’ means an entity that provides
12 coordinated and specialized services to entrepre-
13 neurial businesses which meet selected criteria dur-
14 ing the businesses’ startup phases, including pro-
15 viding services such as shared office space and office
16 services, access to equipment, access to telecommuni-
17 cations and technology services, flexible leases, spe-
18 cialized management assistance, access to financing,
19 mentoring and training services, or other coordi-
20 nated business or technical support services designed
21 to provide business development assistance to entre-
22 preneurial businesses during these businesses’ start-
23 up phases.”.

1 **TITLE IV—SBIR AND STTR**
2 **ENHANCEMENT**

3 **SEC. 401. INCREASED NUMBER OF RESEARCH TOPIC SO-**
4 **LICITATIONS ANNUALLY AND SHORTENED**
5 **PERIOD FOR FINAL DECISIONS ON APPLICA-**
6 **TIONS.**

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

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

1 **SEC. 402. AGENCIES SHOULD FUND VITAL R&D PROJECTS**
2 **WITH THE POTENTIAL FOR COMMERCIALIZA-**
3 **TION.**

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

7 “(ff) **MULTIPLE FIRST PHASE SBIR AWARDS RE-**
8 **PORT.**—The Administrator shall, on an annual basis, sub-
9 mit to the Committee on Small Business and the Com-
10 mittee on Science and Technology of the House of Rep-
11 resentatives and the Committee on Small Business and
12 Entrepreneurship of the Senate a list identifying each
13 small business concern that, for the period covered by the
14 preceding 5 fiscal years, received 15 or more first phase
15 SBIR awards and no second phase SBIR awards.”.

16 **SEC. 403. FEDERAL AGENCY ENGAGEMENT WITH SBIR**
17 **AWARDEES THAT HAVE BEEN AWARDED MUL-**
18 **TIPLE PHASE ONE AWARDS BUT HAVE NOT**
19 **BEEN AWARDED PHASE TWO AWARDS.**

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

23 “(gg) **REQUIREMENTS RELATING TO FEDERAL**
24 **AGENCY ENGAGEMENT WITH CERTAIN FIRST PHASE**
25 **SBIR AWARDEES.**—Each Federal agency required by this
26 section to conduct an SBIR program shall engage with

1 SBIR awardees that have been awarded multiple first
2 phase SBIR awards but have not been awarded any sec-
3 ond phase SBIR awards and shall develop performance
4 measures with respect to awardee progression in the SBIR
5 program.”.

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

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

11 “(hh) ASSISTANCE FOR ADMINISTRATIVE, OVER-
12 SIGHT, AND CONTRACT PROCESSING COSTS.—

13 “(1) IN GENERAL.—From amounts made avail-
14 able to carry out this subsection, the Administrator
15 may, on petition by Federal agencies required by
16 this section to conduct an SBIR program, transfer
17 funds to such agencies to assist with the administra-
18 tive, oversight, and contract processing costs relating
19 to such program.

20 “(2) PETITIONS.—The Administrator shall es-
21 tablish rules for making transfers under paragraph
22 (1). The initial set of rules shall be promulgated not
23 later than 180 days after the date of the enactment
24 of this subsection.

1 “(3) LIMIT ON TRANSFER.—A Federal agency
2 may not receive under this subsection in a fiscal
3 year an amount greater than 3 percent of the SBIR
4 budget of such agency for such fiscal year.

5 “(4) AUTHORIZATION OF APPROPRIATIONS.—
6 There is authorized to be appropriated to the Ad-
7 ministrator to carry out this subsection \$27,500,000
8 for each of fiscal years 2010 and 2011.”.

9 **SEC. 405. COMPTROLLER GENERAL AUDIT OF HOW FED-**
10 **ERAL AGENCIES CALCULATE EXTRAMURAL**
11 **RESEARCH BUDGETS.**

12 The Comptroller General of the United States shall
13 carry out a detailed audit of how Federal agencies cal-
14 culate extramural research budgets for purposes of calcu-
15 lating the size of the agencies’ Small Business Innovation
16 Research Program and Small Business Technology Trans-
17 fer Program budgets. Not later than 1 year after the date
18 of the enactment of this Act, the Comptroller General shall
19 submit to the Committee on Small Business and the Com-
20 mittee on Science and Technology of the House of Rep-
21 resentatives and the Committee on Small Business and
22 Entrepreneurship of the Senate a report on the results
23 of the audit.

1 **SEC. 406. AGENCY DATABASES TO SUPPORT PROGRAM**
2 **EVALUATION.**

3 Section 9(k) of the Small Business Act (15 U.S.C.
4 638(k)) is amended—

5 (1) in paragraph (2)(A)—

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

7 (ii);

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

9 (iii); and

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

12 “(iv) information on the ownership
13 structure of award recipients, both at the
14 time of receipt of the award and upon com-
15 pletion of the award period;”;

16 (2) by amending paragraph (3) to read as fol-
17 lows:

18 “(3) UPDATING INFORMATION FOR DATA-
19 BASE.—

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

1 with respect to any other award under this sec-
2 tion previously received by the small business
3 concern or a predecessor in interest to the small
4 business concern.

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

11 “(C) ANNUAL UPDATES UPON TERMI-
12 NATION.—A small business concern receiving an
13 award under this section shall—

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

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

24 “(iii) in the case of a small business
25 concern applying for a subsequent first

1 phase or second phase award, be required
2 to update such information annually there-
3 after for a period of 5 years.”; and

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

6 “(6) AGENCY PROGRAM EVALUATION DATA-
7 BASES.—Each Federal agency required to establish
8 an SBIR or STTR program under this section shall
9 develop and maintain, for the purpose of evaluating
10 such programs, a database containing information
11 required to be contained in the database under para-
12 graph (2). Each such database shall be designed to
13 be accessible to other agencies that are required to
14 maintain a database under this paragraph. Each
15 such database shall be developed and operated in a
16 manner to ensure that each such database is rel-
17 evant to and contributes to the agency’s oversight
18 and evaluation of the SBIR and STTR programs.
19 Paragraphs (4) and (5) apply to each database
20 under this paragraph.”.

21 **SEC. 407. AGENCY DATABASES TO SUPPORT TECHNOLOGY**
22 **UTILIZATION.**

23 Section 9(k) of the Small Business Act (15 U.S.C.
24 638(k)), as amended, is further amended by adding at the
25 end the following new paragraph:

1 “(7) AGENCY DATABASES TO SUPPORT TECH-
2 NOLOGY UTILIZATION.—Each Federal agency with
3 an SBIR or STTR program shall create and main-
4 tain a technology utilization database, which shall be
5 available to the public and shall contain data sup-
6 plied by the award recipients specifically to help
7 them attract customers for the products and services
8 generated under the SBIR or STTR project, and to
9 attract additional investors and business partners.
10 Each database created under this paragraph shall
11 include information on the other databases created
12 under this paragraph by other Federal agencies.
13 Participation in a database under this paragraph
14 shall be voluntary, except that such participation is
15 required of all award recipients who received supple-
16 mental payments from SBIR and STTR program
17 funds above their initial Phase II award. Each data-
18 base created under this paragraph shall be developed
19 and operated in a manner to ensure that each such
20 database is relevant to and contributes to the agen-
21 cy’s oversight and evaluation of the SBIR and
22 STTR programs.”.

23 **SEC. 408. INTERAGENCY POLICY COMMITTEE.**

24 (a) ESTABLISHMENT.—The Director of the Office of
25 Science and Technology Policy shall establish an Inter-

1 agency SBIR/STTR Policy Committee comprised of one
2 representative from each Federal agency with an SBIR
3 program and the Office of Management and Budget.

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

8 (c) DUTIES.—The Interagency SBIR/STTR Policy
9 Committee shall review the following issues and make pol-
10 icy recommendations on ways to improve program effec-
11 tiveness and efficiency:

12 (1) The public and government databases de-
13 scribed in section 9(k) (1) and (2) of the Small
14 Business Act (15 U.S.C. 638(k) (1) and (2)).

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

18 (3) Commercialization assistance best practices
19 in Federal agencies with significant potential to be
20 employed by other agencies, and the appropriate
21 steps to achieve that leverage, as well as proposals
22 for new initiatives to address funding gaps business
23 concerns face after Phase II but before commer-
24 cialization.

1 (4) Development and incorporation of a stand-
2 ard evaluation framework to enable systematic as-
3 sessment of SBIR and STTR, including through im-
4 proved tracking of awards and outcomes and devel-
5 opment of performance measures for individual
6 agency programs.

7 (d) REPORTS.—The Interagency SBIR/STTR Policy
8 Committee shall transmit to the Committee on Science
9 and Technology and the Committee on Small Business of
10 the House of Representatives, and to the Committee on
11 Small Business and Entrepreneurship of the Senate—

12 (1) a report on its review and recommendations
13 under subsections (c)(1) and (c)(4) not later than 1
14 year after the date of enactment of this Act;

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

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

21 **SEC. 409. NATIONAL RESEARCH COUNCIL SBIR STUDY.**

22 Section 108(d) of the Small Business Reauthoriza-
23 tion Act of 2000 (15 U.S.C. 638 note), enacted into law
24 by reference under section 1(a)(9) of the Consolidated Ap-

1 appropriations Act, 2001 (Public Law 106–554), is amend-
2 ed—

3 (1) by striking “of the Senate” and all that fol-
4 lows through “not later than 3” and inserting “of
5 the Senate, not later than 3”; and

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

8 **SEC. 410. EXPRESS AUTHORITY TO “FAST-TRACK” PHASE**
9 **TWO AWARDS FOR PROMISING PHASE ONE**
10 **RESEARCH.**

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

14 “(ii) **AUTHORITY TO ‘FAST-TRACK’ PHASE TWO**
15 **AWARDS FOR PROMISING PHASE ONE RESEARCH.**—To
16 address the delay between an award for the first phase
17 of an SBIR program and the application for and extension
18 of an award for the second phase of such program, each
19 Federal agency with an SBIR program may develop ‘fast-
20 track’ programs to eliminate such delay by issuing second
21 phase SBIR awards as soon as practicable, including in
22 appropriate cases simultaneously with the issuance of the
23 first phase SBIR award. The Administrator shall encour-
24 age the development of such ‘fast-track’ programs.”.

1 **SEC. 411. INCREASED SBIR AND STTR AWARD LEVELS.**

2 (a) SBIR AWARD LEVEL AND ANNUAL ADJUST-
3 MENTS.—Section 9(j) of the Small Business Act (15
4 U.S.C. 638(j)) is amended by adding at the end the fol-
5 lowing:

6 “(4) FURTHER ADDITIONAL MODIFICATIONS.—Not
7 later than 180 days after the date of enactment of this
8 paragraph and notwithstanding paragraph (2)(D), the Ad-
9 ministrator shall modify the policy directives issued pursu-
10 ant to this subsection to provide for an increase to
11 \$250,000 in the amount of funds which an agency may
12 award in the first phase of an SBIR program, and to
13 \$2,000,000 in the second phase of an SBIR program, and
14 a mandatory annual adjustment of such amounts to reflect
15 economic adjustments and programmatic considerations.”.

16 (b) STTR AWARD LEVEL AND ANNUAL ADJUST-
17 MENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act
18 (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

19 (1) by striking “\$100,000” and “\$750,000”
20 and inserting “\$250,000” and “\$2,000,000”, re-
21 spectively; and

22 (2) by striking “greater or lesser amounts” and
23 inserting “with a mandatory annual adjustment of
24 such amounts to reflect economic adjustments and
25 programmatic considerations, and with lesser
26 amounts”.

1 (c) LIMITATION ON CERTAIN AWARDS.—Section 9 of
2 the Small Business Act (15 U.S.C. 638), as amended, is
3 further amended by adding at the end the following:

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

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

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

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

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

21 “(2) TECHNICAL OR WEAPONS SYSTEMS.—
22 Agencies are expressly authorized to provide addi-
23 tional second phase SBIR awards for testing and
24 evaluation assistance for the insertion of SBIR tech-
25 nologies into technical or weapons systems.”.

1 **SEC. 413. FIRST PHASE REQUIRED.**

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

5 “(ll) **FIRST PHASE REQUIRED.**—Under this section,
6 a Federal agency shall provide to a small business concern
7 an award for the second phase of an SBIR program with
8 respect to a project only if such agency finds that the
9 small business concern has been provided an award for
10 the first phase of an SBIR program with respect to such
11 project or has completed the determinations described in
12 subsection (e)(4)(A) with respect to such project despite
13 not having been provided an award for the first phase.”.

14 **SEC. 414. INVOLVEMENT OF CHIEF COUNSEL FOR ADVOCACY.**
15 **CACY.**

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

19 “(mm) **INVOLVEMENT OF CHIEF COUNSEL FOR AD-**
20 **VOCACY.**—The Chief Counsel for Advocacy, as described
21 in section 201 of Public Law 94–305 (15 U.S.C. 634a),
22 and any individual reporting to the Chief Counsel for Ad-
23 vocacy, without regard to whether such individual was
24 hired under section 204 of Public Law 94–305 (15 U.S.C.
25 634d), may not provide to the Administrator, to any indi-
26 vidual who reports directly or indirectly to the Adminis-

1 trator, or to any Federal agency any advice, guidance,
2 oversight, or review with respect to the programs author-
3 ized under this section.”.

4 **SEC. 415. MINORITY INSTITUTION PROGRAM.**

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

8 “(nn) MINORITY INSTITUTION PROGRAM.—

9 “(1) ESTABLISHMENT.—From amounts made
10 available to carry out this subsection, the Adminis-
11 trator shall establish and carry out a program to
12 make grants to minority institutions that partner
13 with nonprofit organizations that have experience
14 developing relationships between industry, minority
15 institutions, and other entities, for the purpose of in-
16 creasing the number of SBIR and STTR program
17 applications by minority-owned small businesses.

18 “(2) APPLICATION.—To be eligible to receive a
19 grant under paragraph (1), a minority institution
20 shall submit an application to the Administrator at
21 such time, in such manner, and containing such in-
22 formation and assurances as the Administrator may
23 require.

24 “(3) MATCHING REQUIREMENT.—As a condi-
25 tion of a grant under paragraph (1), the Adminis-

1 trator shall require that a minority institution pro-
2 vide a matching amount from a source other than
3 the Federal Government that is equal to the amount
4 of the grant.

5 “(4) MINORITY INSTITUTION DEFINED.—In
6 this subsection, the term ‘minority institution’ has
7 the meaning given that term in section 365(3) of the
8 Higher Education Act of 1965 (20 U.S.C.
9 1067k(3)).

10 “(5) AUTHORIZATION OF APPROPRIATIONS.—
11 There is authorized to be appropriated to carry out
12 this subsection \$4,000,000 for each of fiscal years
13 2010 and 2011.”.

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

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

19 “(oo) AREAS THAT HAVE LOST A MAJOR SOURCE
20 OF EMPLOYMENT.—In making awards under this section,
21 Federal agencies shall give priority to applications so as
22 to increase the number of SBIR and STTR award recipi-
23 ents from geographic areas determined by the Adminis-
24 trator to have lost a major source of employment.”.

1 **SEC. 417. ENHANCING VETERAN PARTICIPATION IN SBIR.**

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

5 “(pp) ENHANCING VETERAN PARTICIPATION IN
6 SBIR.—Notwithstanding any other provision of this sec-
7 tion, a small business concern owned and controlled by
8 veterans may—

9 “(1) receive an award in the amount of
10 \$300,000 in the first phase of an SBIR program
11 and in the amount of \$2,250,000 in the second
12 phase of an SBIR program, with such amounts able
13 to be exceeded if the Federal agency making the
14 award notifies the Administrator of such excess; and

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

19 **SEC. 418. VETERAN PREFERENCE.**

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

23 “(qq) VETERAN PREFERENCE.—In making awards
24 under this section, Federal agencies shall give priority to
25 applications so as to increase the number of SBIR and

1 STTR award recipients that are small business concerns
2 owned and controlled by veterans.”.

3 **SEC. 419. MEDICAL TECHNOLOGY.**

4 Section 9(g)(3) of the Small Business Act (15 U.S.C.
5 638(g)(3)), as amended, is further amended in the matter
6 preceding subparagraph (A) by inserting after “broad re-
7 search topics” the following: “and research topics relating
8 to medical technology”.

9 **TITLE V—IMPROVING WATER**
10 **USE AND TRANSMISSION**
11 **TECHNOLOGY**

12 **SEC. 501. IMPROVING WATER USE AND TRANSMISSION**
13 **TECHNOLOGY.**

14 Not later than 1 year after the date of the enactment
15 of this Act, Federal agencies with an SBIR program, as
16 appropriate, shall jointly develop and issue a small busi-
17 ness innovation research solicitation that requests re-
18 search proposals with respect to improving the efficiency
19 of water delivery systems and usage patterns in the United
20 States and its territories through the use of technology.

1 **TITLE VI—GAO STUDY WITH RE-**
2 **SPECT TO VENTURE CAPITAL**
3 **OPERATING COMPANY IN-**
4 **VOVEMENT**

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

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

Passed the House of Representatives July 8, 2009.

Attest:

Clerk.

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.