§ 121.701 What SBIR and STTR programs are subject to size and eligibility determinations and what definitions are important?

(a) These sections apply to SBA’s SBIR and STTR programs, 15 U.S.C. 638.

(b) Definitions.

(1) Funding agreement officer means a contracting officer, a grants officer, or a cooperative agreement officer.

(2) Funding agreement means any contract, grant or cooperative agreement entered into between any Federal agency and any small business for the purposes of the SBIR or STTR program.
§ 121.702 What size and eligibility standards are applicable to the SBIR and STTR programs?

To be eligible for award of funding agreements in SBA’s SBIR and STTR programs, a business concern must meet the requirements below at the time of award of an SBIR or STTR Phase I or Phase II funding agreement:

(a) Ownership and control for the SBIR program.

(1) An SBIR awardee must:

(i) Be a concern which is more than 50% directly owned and controlled by one or more individuals (who are citizens or permanent resident aliens of the United States), other small business concerns (each of which is more than 50% directly owned and controlled by individuals who are citizens or permanent resident aliens of the United States), or any combination of these;

(ii) Be a concern which is more than 50% owned by multiple venture capital operating companies, hedge funds, private equity firms, or any combination of these (for agencies electing to use the authority in 15 U.S.C. 638(dd)(1)); or

(iii) Be a joint venture in which each entity to the joint venture must meet the requirements set forth in paragraph (a)(1)(i) or (a)(1)(ii) of this section. A joint venture that includes one or more concerns that meet the requirements of paragraph (a)(1)(ii) of this section must comply with §121.705(b) concerning registration and proposal requirements.

(2) No single venture capital operating company, hedge fund, or private equity firm may own more than 50% of the concern.

(3) If an Employee Stock Ownership Plan owns all or part of the concern, each stock trustee and plan member is considered an owner.

(4) If a trust owns all or part of the concern, each trustee and trust beneficiary is considered an owner.

(b) Ownership and control for the STTR program.

(1) An STTR awardee must:

(i) Be a concern which is more than 50% directly owned and controlled by one or more individuals (who are citizens or permanent resident aliens of the United States), other small business concerns (each of which is more than 50% directly owned and controlled by individuals who are citizens or permanent resident aliens of the United States), or any combination of these; or

(ii) Be a joint venture in which each entity to the joint venture must meet the requirements set forth in paragraph (b)(1)(i) of this section.

(2) If an Employee Stock Ownership Plan owns all or part of the concern, each stock trustee and plan member is considered an owner.

(3) If a trust owns all or part of the concern, each trustee and trust beneficiary is considered an owner.

(c) Size and affiliation. An SBIR or STTR awardee, together with its affiliates, must not have more than 500 employees. Concerns and entities are affiliates of each other when one controls or has the power to control the other, or a third party or parties controls or has the power to control both. It does not matter whether control is exercised, so long as the power to control exists. For the purposes of the SBIR