

be transferred for such purpose from one appropriation to another or to a single account.”

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE: SMALL BUSINESS INNOVATION DEVELOPMENT ACT OF 1982

Pub. L. 97-219, §2, July 22, 1982, 96 Stat. 217, provided that:

“(a) The Congress finds that—

“(1) technological innovation creates jobs, increases productivity, competition, and economic growth, and is a valuable counterforce to inflation and the United States balance-of-payments deficit;

“(2) while small business is the principal source of significant innovations in the Nation, the vast majority of federally funded research and development is conducted by large businesses, universities, and Government laboratories; and

“(3) small businesses are among the most cost-effective performers of research and development and are particularly capable of developing research and development results into new products.

“(b) Therefore, the purposes of the Act [amending this section] are—

“(1) to stimulate technological innovation;

“(2) to use small business to meet Federal research and development needs;

“(3) to foster and encourage participation by minority and disadvantaged persons in technological innovation; and

“(4) to increase private sector commercialization innovations derived from Federal research and development.”

REPORTS OF COMPTROLLER GENERAL

Pub. L. 102-564, title I, §105, Oct. 28, 1992, 106 Stat. 4254, required the Comptroller General to submit to Congress an interim report, by Mar. 31, 1995, concerning the quality of research performed under Small Business Innovation Research Program funding agreements entered into during fiscal year 1993 and thereafter and a final report, no later than 5 years after Oct. 28, 1992, concerning various aspects of the Small Business Innovation Research Program.

Pub. L. 102-564, title II, §202(e), Oct. 28, 1992, 106 Stat. 4260, required the Comptroller General to submit a report to Congress and the head of each agency required to make expenditures under the Small Business Technology Transfer Program setting forth the Comptroller General’s assessment of various aspects of the program and with the agencies’ compliance with procedural requirements.

Pub. L. 97-219, §6, July 22, 1982, 96 Stat. 221, as amended by Pub. L. 99-443, §3, Oct. 6, 1986, 100 Stat. 1120; Pub. L. 100-418, title VIII, §8008, Aug. 23, 1988, 102 Stat. 1561; Pub. L. 100-647, title IX, §9003, Nov. 10, 1988, 102 Stat. 3808, required the Comptroller General, by Dec. 31, 1988, to transmit a report to appropriate Congressional committees evaluating the effectiveness of the initial phases of the Small Business Innovation Research Program, by Dec. 31, 1991, to transmit to such committees an update of the earlier report, and by July 1, 1989, to transmit to such committees recommendations as to the advisability of certain amendments to the Small Business Innovation Research Program.

EX. ORD. NO. 13329. ENCOURAGING INNOVATION IN MANUFACTURING

Ex. Ord. No. 13329, Feb. 24, 2004, 69 F.R. 9181, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Small Business Act, as amended (15 U.S.C. 631 *et seq.*), and to help ensure that Federal agencies properly and effectively assist the private sector in its manufacturing innovation efforts, it is hereby ordered as follows:

SECTION 1. *Policy.* Continued technological innovation is critical to a strong manufacturing sector in the United States economy. The Federal Government has

an important role, including through the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) programs, in helping to advance innovation, including innovation in manufacturing, through small businesses.

SEC. 2. *Duties of Department and Agency Heads.* The head of each executive branch department or agency with one or more SBIR programs or one or more STTR programs shall:

(a) to the extent permitted by law and in a manner consistent with the mission of that department or agency, give high priority within such programs to manufacturing-related research and development to advance the policy set forth in section 1 of this order; and

(b) submit reports annually to the Administrator of the Small Business Administration and the Director of the Office of Science and Technology Policy concerning the efforts of such department or agency to implement subsection 2(a) of this order.

SEC. 3. *Duties of Administrator of the Small Business Administration.* The Administrator of the Small Business Administration:

(a) shall establish, after consultation with the Director of the Office of Science and Technology Policy, formats and schedules for submission of reports by the heads of departments and agencies under subsection 2(b) of this order; and

(b) is authorized to issue to departments and agencies guidelines and directives (in addition to the formats and schedules under subsection 3(a)) as the Administrator determines from time to time are necessary to implement subsection 2(a) of this order, after such guidelines and directives are submitted to the President, through the Director of the Office of Science and Technology Policy, for approval and are approved by the President.

SEC. 4. *Definitions.* As used in this order:

(a) “Small Business Innovation Research (SBIR) program” means a program to which section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) refers;

(b) “Small Business Technology Transfer (STTR) program” means a program to which section 9(e)(6) of the Small Business Act (15 U.S.C. 638(e)(6)) refers;

(c) “research and development” means an activity set forth in section 9(e)(5) of the Small Business Act (15 U.S.C. 638(e)(5)); and

(d) “manufacturing-related” means relating to: (i) manufacturing processes, equipment and systems; or (ii) manufacturing workforce skills and protection.

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect the authority of the Director of the Office of Management and Budget with respect to budget, administrative, or legislative proposals.

(b) Nothing in this order shall be construed to require disclosure of information the disclosure of which is prohibited by law or by Executive Order, including [former] Executive Order 12958 of April 17, 1995, as amended.

(c) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 638a. GAO study with respect to venture capital operating company, hedge fund, and private equity firm involvement

Not later than 3 years after December 31, 2011, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study of the impact of requirements relating to venture capital operating company, hedge fund, and private equity firm involvement under section 638 of this title; and

(2) submit to Congress a report regarding the study conducted under paragraph (1).

(Pub. L. 112-81, div. E, title LI, §5142, Dec. 31, 2011, 125 Stat. 1854.)

CODIFICATION

Section was enacted as part of the SBIR/STTR Reauthorization Act of 2011, and also as part of the National Defense Authorization Act for Fiscal Year 2012, and not as part of the Small Business Act which comprises this chapter.

§ 638b. Reducing vulnerability of SBIR and STTR programs to fraud, waste, and abuse

(a) Fraud, waste, and abuse prevention

(1) Amendments required for fraud, waste, and abuse prevention

Not later than 90 days after December 31, 2011, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse in the SBIR program and the STTR program.

(2) Content of amendments

The amendments required under paragraph (1) shall include—

(A) definitions or descriptions of fraud, waste, and abuse;

(B) guidelines for the monitoring and oversight of applicants to and recipients of awards under the SBIR program or the STTR program;

(C) a requirement that each Federal agency that participates in the SBIR program or STTR program include information concerning the method established by the Inspector General of the Federal agency to report fraud, waste, and abuse (including any telephone hotline or Web-based platform)—

(i) on the Web site of the Federal agency; and

(ii) in any solicitation or notice of funding opportunity issued by the Federal agency for the SBIR program or the STTR program; and

(D) a requirement that each applicant for and small business concern that receives funding under the SBIR program or the STTR program shall certify whether the applicant or small business concern is in compliance with the laws relating to the SBIR program and the STTR program and the conduct guidelines established under the SBIR Policy Directive and the STTR Policy Directive.

(3) Consultation

The Administrator shall develop, in consultation with the Council of Inspectors General on Integrity and Efficiency, the procedures and requirements for the certification set forth under paragraph (2)(D) after providing notice of and an opportunity for public comment on such procedures and requirements.

(4) Certification

The certification developed under paragraph (3) may—

(A) cover the lifecycle of an award to require certifications at the application, fund-

ing, reporting, and closeout phases of every SBIR and STTR award;

(B) require the small business concern to certify compliance with the “principal investigator¹ primary employment” requirement, the “small business concern” definition requirement, and the “performance of work” requirements as set forth in the Directive applicable to the award;

(C) require the small business concern to disclose whether it has applied for, plans to apply for, or received an SBIR or STTR award for identical or essentially equivalent work (as defined under the SBIR Policy Directive and the STTR Policy Directive), and require the concern to certify that the award that it is applying for or obtaining funding for is not identical or essentially equivalent to work it has performed, or will perform, in connection with any other SBIR or STTR award that the concern has applied for or received from any other agency except as fully disclosed to all funding agencies; and

(D) require that the small business concern certify that it will or did perform the work on the award at its facilities with its employees, unless otherwise indicated.

(5) Inspectors General

The Inspector General of each Federal agency that participates in the SBIR program or STTR program shall cooperate to prevent fraud, waste, and abuse in the SBIR program and the STTR program by—

(A) establishing fraud detection indicators;

(B) reviewing regulations and operating procedures of the Federal agency;

(C) coordinating information sharing between Federal agencies, to the extent otherwise permitted under Federal law; and

(D) improving the education and training of and outreach to—

(i) administrators of the SBIR program and the STTR program of the Federal agency;

(ii) applicants to the SBIR program or the STTR program; and

(iii) recipients of awards under the SBIR program or the STTR program.

(b) Study and report

Not later than 1 year after December 31, 2011, to establish a baseline of changes made to the program to fight fraud, waste, and abuse, and every 4 years thereafter to evaluate the effectiveness of the agency strategies, the Comptroller General of the United States shall—

(1) conduct a study that evaluates—

(A) the implementation by each Federal agency that participates in the SBIR program or the STTR program of the amendments to the SBIR Policy Directive and the STTR Policy Directive made pursuant to subsection (a);

(B) the effectiveness of the management information system of each Federal agency that participates in the SBIR program or STTR program in identifying duplicative SBIR and STTR projects;

(C) the effectiveness of the risk management strategies of each Federal agency that

¹ So in original. Probably should be “investor”.