

118TH CONGRESS
1ST SESSION

S. 1396

To improve commercialization activities in the SBIR and STTR programs,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2023

Mr. COONS (for himself and Mr. RUBIO) introduced the following bill; which
was read twice and referred to the Committee on Small Business and En-
trepreneurship

A BILL

To improve commercialization activities in the SBIR and
STTR programs, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Research Advancing
5 to Market Production for Innovators Act”.

6 **SEC. 2. IMPROVEMENTS TO COMMERCIALIZATION SELEC-**
7 **TION.**

8 (a) IN GENERAL.—Section 9 of the Small Business
9 Act (15 U.S.C. 638) is amended—

10 (1) in subsection (g)—

1 (A) in paragraph (4)(B)(i), by striking “1
2 year” and inserting “180 days”;

3 (B) in paragraph (16), by striking “and”
4 at the end;

5 (C) in paragraph (17), by striking the pe-
6 riod at the end and inserting “; and”; and

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

8 “(18) with respect to peer review carried out
9 under the SBIR program, to the extent practicable,
10 include in the peer review—

11 “(A) the likelihood of commercialization in
12 addition to scientific and technical merit and
13 feasibility; and

14 “(B) not less than 1 reviewer with com-
15 mercialization expertise who is capable of as-
16 sessing the likelihood of commercialization.”;

17 (2) in subsection (o)—

18 (A) in paragraph (4)(B)(i), by striking “1
19 year” and inserting “180 days”;

20 (B) in paragraph (20), by striking “and”
21 at the end;

22 (C) in paragraph (21), by striking the pe-
23 riod at the end and inserting “; and”; and

24 (D) by adding at the end the following:

1 “(22) with respect to peer review carried out
2 under the STTR program, to the extent practicable,
3 include in the peer review—

4 “(A) the likelihood of commercialization in
5 addition to scientific and technical merit and
6 feasibility; and

7 “(B) not less than 1 reviewer with com-
8 mercialization expertise who is capable of as-
9 sassing the likelihood of commercialization.”;

10 (3) in subsection (cc)—

11 (A) by striking “During fiscal years 2012
12 through 2025, the National Institutes of
13 Health, the Department of Defense, and the
14 Department of Education” and inserting the
15 following:

16 “(1) IN GENERAL.—During fiscal years 2024
17 through 2029, each Federal agency with an SBIR or
18 STTR program”; and

19 (B) by adding at the end the following:

20 “(2) LIMITATION.—The total value of awards
21 provided by a Federal agency under this subsection
22 in a fiscal year shall be—

23 “(A) except as provided in subparagraph
24 (B), not more than 10 percent of the total
25 funds allocated to the SBIR and STTR pro-

1 grams of the Federal agency during that fiscal
2 year; and

3 “(B) with respect to the National Insti-
4 tutes of Health, not more than 15 percent of
5 the total funds allocated to the SBIR and
6 STTR programs of the National Institutes of
7 Health during that fiscal year.

8 “(3) EXTENSION.—During fiscal years 2028
9 and 2029, each Federal agency with an SBIR or
10 STTR program may continue phase flexibility as de-
11 scribed in this subsection only if the reports required
12 under subsection (tt)(1) have been submitted to the
13 appropriate committees.”;

14 (4) in subsection (hh)(2)(A)(i), by inserting
15 “application process and requirements” after “sim-
16 plified and standardized”; and

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

18 “(yy) TECHNOLOGY COMMERCIALIZATION OFFI-
19 CIAL.—Each Federal agency participating in the SBIR or
20 STTR program shall designate a Technology Commer-
21 cialization Official in the Federal agency, who shall—

22 “(1) have sufficient commercialization experi-
23 ence;

1 “(2) provide assistance to SBIR and STTR
2 program awardees in commercializing and
3 transitioning technologies;

4 “(3) identify SBIR and STTR program tech-
5 nologies with sufficient technology and commer-
6 cialization readiness to advance to Phase III awards
7 or other non-SBIR or STTR program contracts;

8 “(4) coordinate with the Technology Commer-
9 cialization Officials of other Federal agencies to
10 identify additional markets and commercialization
11 pathways for promising SBIR and STTR program
12 technologies;

13 “(5) submit to the Administration an annual
14 report on the number of technologies from the SBIR
15 or STTR program that have advanced commer-
16 cialization activities, including information required
17 in the commercialization impact assessment under
18 subsection (aaa);

19 “(6) submit to the Administration an annual
20 report on actions taken by the Federal agency, and
21 the results of those actions, to simplify, standardize,
22 and expedite the application process and require-
23 ments, procedures, and contracts as required under
24 subsection (hh) and described in subsection
25 (aaa)(1)(E); and

1 “(7) carry out such other duties as the Federal
2 agency determines necessary.”.

3 (b) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Administrator of the Small
5 Business Administration shall submit to the Committee on
6 Small Business and Entrepreneurship of the Senate and
7 the Committee on Small Business of the House of Rep-
8 resentatives summarizing the metrics relating to and an
9 evaluation of the authority provided under section 9(cc)
10 of the Small Business Act, as amended by subsection (a),
11 which shall include the size and location of the small busi-
12 ness concerns receiving awards under the SBIR or STTR
13 program.

14 **SEC. 3. IMPROVEMENTS TO TECHNICAL AND BUSINESS AS-**
15 **SISTANCE; COMMERCIALIZATION IMPACT AS-**
16 **SESSMENT; PATENT ASSISTANCE.**

17 Section 9 of the Small Business Act (15 U.S.C. 638),
18 as amended by section 2, is amended—

19 (1) in subsection (q)—

20 (A) in paragraph (1), in the matter pre-
21 ceding subparagraph (A)—

22 (i) by striking “may enter into an
23 agreement with 1 or more vendors selected
24 under paragraph (2)(A)” and inserting
25 “shall authorize recipients of awards under

1 the SBIR or STTR program to select, if
2 desired, commercialization activities pro-
3 vided under subparagraph (A), (B), or (C)
4 of paragraph (2)”; and

5 (ii) by inserting “, cybersecurity as-
6 sistance” after “intellectual property pro-
7 tections”;

8 (B) in paragraph (2), by adding at the end
9 the following:

10 “(C) STAFF.—A small business concern
11 may, by contract or otherwise, use funding pro-
12 vided under this section to hire new staff, aug-
13 ment staff, or direct staff to conduct or partici-
14 pate in training activities consistent with the
15 goals listed in paragraph (1).”;

16 (C) in paragraph (3), by striking subpara-
17 graphs (A) and (B) and inserting the following:

18 “(A) PHASE I.—A Federal agency de-
19 scribed in paragraph (1) shall authorize a re-
20 cipient of a Phase I SBIR or STTR award to
21 utilize not more than \$6,500 per project, in-
22 cluded as part of the award of the recipient or
23 in addition to the amount of the award of the
24 recipient as determined appropriate by the head

1 of the Federal agency, for the services described
2 in paragraph (1)—

3 “(i) provided through a vendor se-
4 lected under paragraph (2)(A);

5 “(ii) provided through a vendor other
6 than a vendor selected under paragraph
7 (2)(A);

8 “(iii) achieved through the activities
9 described in paragraph (2)(C); or

10 “(iv) provided or achieved through
11 any combination of clauses (i), (ii), and
12 (iii).

13 “(B) PHASE II.—A Federal agency de-
14 scribed in paragraph (1) shall authorize a re-
15 cipient of a Phase II SBIR or STTR award to
16 utilize not more than \$50,000 per project, in-
17 cluded as part of the award of the recipient or
18 in addition to the amount of the award of the
19 recipient as determined appropriate by the head
20 of the Federal agency, for the services described
21 in paragraph (1)—

22 “(i) provided through a vendor se-
23 lected under paragraph (2)(A);

1 “(ii) provided through a vendor other
2 than a vendor selected under paragraph
3 (2)(A);

4 “(iii) achieved through the activities
5 described in paragraph (2)(C); or

6 “(iv) provided or achieved through
7 any combination of clauses (i), (ii), and
8 (iii).”; and

9 (D) by adding at the end the following:

10 “(5) TARGETED REVIEW.—A Federal agency
11 may perform targeted reviews of technical and busi-
12 ness assistance funding as described in subsection
13 (mm)(1)(F).”; and

14 (2) by adding at the end the following:

15 “(zz) I-CORPS PARTICIPATION.—

16 “(1) IN GENERAL.—Each Federal agency that
17 is required to conduct an SBIR or STTR program
18 with an Innovation Corps (commonly known as ‘I-
19 Corps’) program shall—

20 “(A) provide an option for participation in
21 an I-Corps teams course by recipients of an
22 award under the SBIR or STTR program; and

23 “(B) authorize the recipients described in
24 subparagraph (A) to use an award provided
25 under subsection (q) to provide additional tech-

1 nical assistance for participation in the I-Corps
2 teams course.

3 “(2) COST OF PARTICIPATION.—The cost of
4 participation by a recipient described in paragraph
5 (1)(A) in an I-Corps course may be provided by—

6 “(A) an I-Corps team grant;

7 “(B) funds awarded to the recipient under
8 subsection (q);

9 “(C) the participating teams or other
10 sources as appropriate; or

11 “(D) any combination of sources described
12 in subparagraphs (A), (B), and (C).

13 “(aaa) COMMERCIALIZATION IMPACT ASSESS-
14 MENT.—

15 “(1) IN GENERAL.—The Administrator shall co-
16 ordinate with each Federal agency with an SBIR or
17 STTR program to develop an annual commercializa-
18 tion impact assessment report of the Federal agency,
19 which shall measure, for the 5-year period preceding
20 the report—

21 “(A) for Phase II contracts—

22 “(i) the total amount of sales of new
23 products and services to the Federal Gov-
24 ernment or other commercial markets;

- 1 “(ii) the total outside investment from
2 partnerships, joint ventures, or other pri-
3 vate sector funding sources;
- 4 “(iii) the total number of technologies
5 licensed to other companies;
- 6 “(iv) the total number of acquisitions
7 of small business concerns participating in
8 the SBIR program or the STTR program
9 that are acquired by other entities;
- 10 “(v) the total number of new spin-out
11 companies;
- 12 “(vi) the total outside investment
13 from venture capital or angel investments;
- 14 “(vii) the total number of patent ap-
15 plications;
- 16 “(viii) the total number of patents ac-
17 quired;
- 18 “(ix) the year of first Phase I award
19 and the total number of employees at time
20 of first Phase I award;
- 21 “(x) the total number of employees
22 from the preceding completed year; and
- 23 “(xi) the percent of revenue, as of the
24 date of the report, generated through
25 SBIR or STTR program funding;

1 “(B) the total number and value of subse-
2 quent Phase II awards, as described in sub-
3 section (bb), awarded for each particular
4 project or technology;

5 “(C) the total number and value of Phase
6 III awards awarded subsequent to a Phase II
7 award;

8 “(D) the total number and value of non-
9 SBIR and STTR program Federal awards and
10 contracts; and

11 “(E) actions taken by the Federal agency,
12 and the results of those actions, relating to de-
13 veloping a simplified and standardized applica-
14 tion process and requirements, procedures, and
15 model contracts throughout the Federal agency
16 for Phase I, Phase II, and Phase III SBIR pro-
17 gram awards in subsection (hh).

18 “(2) PUBLICATION.—A commercialization im-
19 pact assessment report described in paragraph (1) of
20 a Federal agency shall be—

21 “(A) included in the annual report of the
22 Federal agency required under this section; and

23 “(B) published on the website of the Ad-
24 ministration.

25 “(bbb) PATENT ASSISTANCE.—

1 “(1) DEFINITIONS.—In this subsection—

2 “(A) the term ‘Director’ means the Under
3 Secretary of Commerce for Intellectual Property
4 and Director of the USPTO; and

5 “(B) the term ‘USPTO’ means the United
6 States Patent and Trademark Office.

7 “(2) ASSISTANCE.—

8 “(A) IN GENERAL.—The Administrator
9 shall enter into an interagency agreement with
10 the Director under which the Director shall as-
11 sist recipients of an award under the SBIR or
12 STTR program (in this paragraph referred to
13 as ‘SBIR and STTR recipients’) relating to in-
14 tellectual property protection by establishing a
15 prioritized patent examination program for
16 SBIR and STTR recipients.

17 “(B) PROGRAM DETAILS.—The program
18 established by the Director under subparagraph
19 (A) shall have the following characteristics:

20 “(i) The program shall incorporate all
21 existing (as of the date on which the Direc-
22 tor establishes the program) benefits under
23 the procedures for prioritized examination
24 described in section 11(h) of the Leahy-

1 Smith America Invents Act (35 U.S.C. 41
2 note).

3 “(ii) Under the program, with respect
4 to prioritized examination, an SBIR or
5 STTR recipient shall not be required to
6 pay any prioritized examination fee or
7 processing fee otherwise required under
8 section 11(h) of the Leahy-Smith America
9 Invents Act (35 U.S.C. 41 note).

10 “(iii) Under the program, the Director
11 shall ensure that, of the total number of
12 requests for prioritized examination accept-
13 ed by the USPTO in a fiscal year, the
14 greater of the following shall be reserved
15 for prioritized examinations for SBIR and
16 STTR recipients:

17 “(I) 5 percent of the total num-
18 ber of such requests that may be ac-
19 cepted during that fiscal year.

20 “(II) 500 requests for prioritized
21 examination.

22 “(iv) Under the program, the Director
23 may not grant more than 2 prioritized ex-
24 amination requests to any individual recipi-
25 ent.

1 “(v) Under the program, the Director
2 may increase the number of requests for
3 prioritized examination that may be ac-
4 cepted in any fiscal year (as described in
5 section 1.102(e) of title 37, Code of Fed-
6 eral Regulations, or any successor regula-
7 tion) by the number determined under
8 clause (iii) for that fiscal year.

9 “(C) RULES.—The Director shall issue
10 rules to carry out the prioritized patent exam-
11 ination program established under this para-
12 graph.

13 “(3) OUTREACH.—The Administrator shall co-
14 ordinate with the Director to provide outreach re-
15 garding the Pro Se Assistance Program of, and
16 scam prevention services provided by, the USPTO.”.

○