AMENDMENT TO RULES COMMITTEE PRINT 118–10
OFFERED BY MS. HOULAHAN OF PENNSYLVANIA

At the appropriate place in subtitle F of title VIII, insert the following:

SEC. 8. MODIFICATIONS TO COMMERCIALIZATION FOR THE SBIR AND STTR PROGRAMS.

(a) IMPROVEMENTS TO COMMERCIALIZATION SELECTION.—

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

(A) in subsection (g)—

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

(ii) in paragraph (16), by striking “and” at the end;

(iii) in paragraph (17), by striking the period at the end and inserting “; and”;

and

(iv) by adding at the end the following:
“(18) with respect to peer review carried out under the SBIR program, to the extent practicable, include in the peer review—

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

“(B) not less than 1 reviewer with commercialization expertise who is capable of assessing the likelihood of commercialization.”;

(B) in subsection (o)—

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

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

(iii) in paragraph (21), by striking the period at the end and inserting “; and”;

and

(iv) by adding at the end the following:

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

“(A) the likelihood of commercialization in addition to scientific and technical merit and feasibility; and
“(B) not less than 1 reviewer with commercialization expertise who is capable of assessing the likelihood of commercialization.”;

(C) in subsection (cc)—

(i) by striking “During fiscal years 2012 through 2025, the National Institutes of Health, the Department of Defense, and the Department of Education” and inserting the following:

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

(ii) by adding at the end the following:

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

“(A) except as provided in subparagraph (B), not more than 10 percent of the total funds allocated to the SBIR and STTR programs of the Federal agency during that fiscal year; and

“(B) with respect to the National Institutes of Health, not more than 15 percent of the total funds allocated to the SBIR and
STTR programs of the National Institutes of Health during that fiscal year.

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

(D) in subsection (hh)(2)(A)(i), by inserting “application process and requirements” after “simplified and standardized”; and

(E) by adding at the end the following:

“(yy) TECHNOLOGY COMMERCIALIZATION OFFICIAL.—Each Federal agency participating in the SBIR or STTR program shall designate a Technology Commercialization Official in the Federal agency, who shall—

“(1) have sufficient commercialization experience;

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

“(3) identify SBIR and STTR program technologies with sufficient technology and commercialization readiness to advance to Phase III awards or other non-SBIR or STTR program contracts;
“(4) coordinate with the Technology Commercialization Officials of other Federal agencies to identify additional markets and commercialization pathways for promising SBIR and STTR program technologies;

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

“(6) submit to the Administration an annual report on actions taken by the Federal agency, and the results of those actions, to simplify, standardize, and expedite the application process and requirements, procedures, and contracts as required under subsection (hh) and described in subsection (aaa)(1)(E); and

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

(2) REPORT.—Not later than 1 year after the date of enactment of this section, the Administrator of the Small Business Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small
Business of the House of Representatives summarizing the metrics relating to and an evaluation of the authority provided under section 9(ce) of the Small Business Act, as amended by paragraph (1), which shall include the size and location of the small business concerns receiving awards under the SBIR or STTR program.

(b) Improvements to Technical and Business Assistance; Commercialization Impact Assessment; Patent Assistance.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by subsection (a), is amended—

(1) in subsection (q)—

(A) in paragraph (1), in the matter preceding subparagraph (A)—

(i) by striking “may enter into an agreement with 1 or more vendors selected under paragraph (2)(A)” and inserting “shall authorize recipients of awards under the SBIR or STTR program to select, if desired, commercialization activities provided under subparagraph (A), (B), or (C) of paragraph (2)”;

and
(ii) by inserting “, cybersecurity assistance” after “intellectual property protections”;  

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

“(C) STAFF.—A small business concern may, by contract or otherwise, use funding provided under this section to hire new staff, augment staff, or direct staff to conduct or participate in training activities consistent with the goals listed in paragraph (1).”;  

(C) in paragraph (3), by striking subparagraphs (A) and (B) and inserting the following:  

“(A) PHASE I.—A Federal agency described in paragraph (1) shall authorize a recipient of a Phase I SBIR or STTR award to utilize not more than $6,500 per project, included as part of the award of the recipient or in addition to the amount of the award of the recipient as determined appropriate by the head of the Federal agency, for the services described in paragraph (1)—  

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

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

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

“(B) PHASE II.—A Federal agency described in paragraph (1) shall authorize a recipient of a Phase II SBIR or STTR award to utilize not more than $50,000 per project, included as part of the award of the recipient or in addition to the amount of the award of the recipient as determined appropriate by the head of the Federal agency, for the services described in paragraph (1)—

“(i) provided through a vendor selected under paragraph (2)(A);

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

“(iii) achieved through the activities described in paragraph (2)(C); or
“(iv) provided or achieved through any combination of clauses (i), (ii), and (iii).”; and

(D) by adding at the end the following:

“(5) TARGETED REVIEW.—A Federal agency may perform targeted reviews of technical and business assistance funding as described in subsection (mm)(1)(F).”; and

(2) by adding at the end the following:

“(zz) I-CORPS PARTICIPATION.—

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

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

“(B) authorize the recipients described in subparagraph (A) to use an award provided under subsection (q) to provide additional technical assistance for participation in the I-Corps teams course.

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

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

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

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

(aaa) COMMERCIALIZATION IMPACT ASSESSMENT.—

(1) IN GENERAL.—The Administrator shall coordinate with each Federal agency with an SBIR or STTR program to develop an annual commercialization impact assessment report of the Federal agency, which shall measure, for the 5-year period preceding the report—

(A) for Phase II contracts—

(i) the total amount of sales of new products and services to the Federal Government or other commercial markets;

(ii) the total outside investment from partnerships, joint ventures, or other private sector funding sources;

(iii) the total number of technologies licensed to other companies;
“(iv) the total number of acquisitions of small business concerns participating in the SBIR program or the STTR program that are acquired by other entities;

“(v) the total number of new spin-out companies;

“(vi) the total outside investment from venture capital or angel investments;

“(vii) the total number of patent applications;

“(viii) the total number of patents acquired;

“(ix) the year of first Phase I award and the total number of employees at time of first Phase I award;

“(x) the total number of employees from the preceding completed year; and

“(xi) the percent of revenue, as of the date of the report, generated through SBIR or STTR program funding;

“(B) the total number and value of subsequent Phase II awards, as described in subsection (bb), awarded for each particular project or technology;
“(C) the total number and value of Phase III awards awarded subsequent to a Phase II award;

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

“(E) actions taken by the Federal agency, and the results of those actions, relating to developing a simplified and standardized application process and requirements, procedures, and model contracts throughout the Federal agency for Phase I, Phase II, and Phase III SBIR program awards in subsection (hh).

“(2) PUBLICATION.—A commercialization impact assessment report described in paragraph (1) of a Federal agency shall be—

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

“(B) published on the website of the Administration.

“(bbb) PATENT ASSISTANCE.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘Director’ means the Under Secretary of Commerce for Intellectual Property and Director of the USPTO; and
“(B) the term ‘USPTO’ means the United States Patent and Trademark Office.

“(2) ASSISTANCE.—

“(A) IN GENERAL.—The Administrator shall enter into an interagency agreement with the Director under which the Director shall assist recipients of an award under the SBIR or STTR program (in this paragraph referred to as ‘SBIR and STTR recipients’) relating to intellectual property protection by establishing a prioritized patent examination program for SBIR and STTR recipients.

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

“(i) The program shall incorporate all existing (as of the date on which the Director establishes the program) benefits under the procedures for prioritized examination described in section 11(h) of the Leahy-Smith America Invents Act (35 U.S.C. 41 note).

“(ii) Under the program, with respect to prioritized examination, an SBIR or STTR recipient shall not be required to
pay any prioritized examination fee or
processing fee otherwise required under
section 11(h) of the Leahy-Smith America

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

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

“(II) 500 requests for prioritized
examination.

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

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

“(C) RULES.—The Director shall issue rules to carry out the prioritized patent examination program established under this paragraph.

“(3) OUTREACH.—The Administrator shall coordinate with the Director to provide outreach regarding the Pro Se Assistance Program of, and scam prevention services provided by, the USPTO.”.