S T A T E O F N E W Y O R K

3410--B

2011-2012 Regular Sessions

I N A S S E M B L Y

January 25, 2011

Introduced by M. of A. SCHIMMINGER, SWEENEY, MORELLE, LUPARDO, GABRYSZAK -- Multi-Sponsored by -- M. of A. COLTON, MAGNARELLI, McENENY, MILLMAN -- read once and referred to the Committee on Small Business -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the New York state urban development corporation act, in relation to recodification of the small business innovation research program and the awards made thereunder within the urban development corporation; and to repeal section 3102-c of the public authorities law relating to the small business innovation research program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 46 to read as follows:

S 46. SMALL BUSINESS INNOVATION RESEARCH PROGRAM. 1. AS USED IN THIS SECTION, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

(A) "SMALL BUSINESS INNOVATION RESEARCH PROGRAM" OR "SBIR" MEANS THAT PROGRAM, ENACTED PURSUANT TO THE SMALL BUSINESS INNOVATION DEVELOPMENT ACT OF 1982 (P.L. 97-219), WHICH PROVIDES FUNDS TO SMALL BUSINESSES TO CONDUCT INNOVATIVE RESEARCH HAVING COMMERCIAL APPLICATION.

(B) "SMALL BUSINESS" MEANS A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, SOLE PROPRIETORSHIP, OR INDIVIDUAL, OPERATING A BUSINESS FOR PROFIT, WITH TWO HUNDRED FIFTY EMPLOYEES OR FEWER, INCLUDING EMPLOYEES EMPLOYED IN ANY SUBSIDIARY OR AFFILIATED CORPORATION OR OTHER ENTITY, WHICH OTHERWISE MEETS THE REQUIREMENTS OF THE FEDERAL SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

2. (A) WITHIN THIRTY DAYS OF THE PUBLIC ANNOUNCEMENT OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM PHASE I AWARD WINNERS BY THE APPRO-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PRIATE FEDERAL AGENCY, THE CORPORATION SHALL CONTACT ALL PHASE I AWARD RECIPIENTS WHOSE PRINCIPAL PLACE OF BUSINESS IS LOCATED IN THIS STATE, PROVIDE THEM WITH INFORMATION CONCERNING THE PROGRAM AUTHORIZED PURSUANT TO THIS SECTION, AND ADVISE THEM OF THE REQUIREMENTS RELATING THERETO. ANY SUCH RECIPIENT, AT LEAST THIRTY DAYS PRIOR TO THE COMPLETION OF ITS SBIR PHASE I GRANT PERIOD, MAY, AT ITS DISCRETION, SUBMIT TO THE CORPORATION A NOTICE OF ITS DESIRE TO SECURE RESEARCH FUNDING PURSUANT TO THE PROVISIONS OF THIS SECTION, ALONG WITH A COPY OF ITS ORIGINAL FEDERAL SBIR PROPOSAL AND SUCH ADDITIONAL INFORMATION AS THE CORPORATION MAY REQUIRE TO ASSIST IT IN DETERMINING THE ELIGIBILITY OF SUCH RECIPIENT FOR THIS PROGRAM.

(B) IN ADDITION TO RECEIPT OF AN SBIR AWARD, ANY SMALL BUSINESS SHALL MEET THE FOLLOWING CRITERIA:

I. SUCH SMALL BUSINESS'S PRINCIPAL PLACE OF BUSINESS SHALL BE LOCATED IN THIS STATE;

II. SUCH SMALL BUSINESS SHALL CERTIFY THAT THE RESEARCH TO BE CONDUCTED WILL BE PERFORMED SOLELY IN THIS STATE;

III. NO MONEYS SHALL BE EXPENDED FOR TRAVEL, EQUIPMENT, OR FACILITIES; AND

IV. NOT MORE THAN ONE-THIRD OF ANY MONEYS AWARDED TO A FIRM BY THE FOUNDATION MAY BE USED TO CONTRACT FOR RESEARCH OR OTHER RELATED SERVICES.

(C) UPON A FINDING BY THE CORPORATION THAT: (I) A PHASE I AWARD RECIPIENT WHOSE PRINCIPAL PLACE OF BUSINESS IS IN NEW YORK HAS SATISFACTORILY MET ALL THE REQUIREMENTS OF THIS SECTION AND ANY ADDITIONAL REQUIREMENTS THE CORPORATION MAY DEEM NECESSARY; PROVIDED, HOWEVER, THAT ANY SUCH ADDITIONAL REQUIREMENTS SHALL NOT ARBITRARILY EXCLUDE A PARTICULAR GROUP OR GROUPS OF TECHNOLOGIES OR COMPANIES; AND (II) THE RESEARCH CONDUCTED MAY RESULT IN THE DEVELOPMENT OF INNOVATIVE TECHNOLOGY HAVING THE POTENTIAL TO LEAD TO COMMERCIALIZATION OR FABRICATION WITHIN NEW YORK OF NEW OR IMPROVED PRODUCTS, PROCESSES, OR SERVICES, THE CORPORATION SHALL NOTIFY SUCH SMALL BUSINESS THAT IT WILL AWARD THE FIRM A RESEARCH CONTRACT. SUCH CONTRACT SHALL BE COMPATIBLE WITH AND A CONTINUATION OF THE RESEARCH TO BE PERFORMED UNDER THE SBIR CONTRACT AWARDED BY THE FEDERAL AGENCY INVOLVED AND SHALL BE CALCULATED AS FOLLOWS: (I) THE AMOUNT OF EACH CONTRACT SHALL EQUAL THE AMOUNT OF THE FEDERAL SBIR AWARD OR FIFTY THOUSAND DOLLARS, WHICHEVER IS LESS; PROVIDED, HOWEVER, THAT THE TOTAL AMOUNT OF ALL SUCH CONTRACTS SHALL NOT EXCEED THE AMOUNT APPROPRIATED FOR THIS PURPOSE, OR (II) IN THE EVENT THAT THE TOTAL, POSSIBLE, MAXIMUM AMOUNT OF ALL CONTRACTS, SUCH TOTAL, POSSIBLE, MAXIMUM AMOUNT CALCULATED ON THE BASIS OF MATCHING EACH FEDERAL SBIR AWARD IN AN AMOUNT EQUAL TO THE AMOUNT OF SUCH AWARD, OR FIFTY THOUSAND DOLLARS, WHICHEVER IS LESS, EXCEEDS THE TOTAL AMOUNT APPROPRIATED FOR THIS PURPOSE, THE AMOUNT OF EACH CONTRACT SHALL BE REDUCED BY A RATIO EQUAL TO THE AMOUNT APPROPRIATED FOR THIS PURPOSE DIVIDED BY THE TOTAL, POSSIBLE, MAXIMUM AMOUNT OF ALL CONTRACTS TO BE AWARDED.

(D) THE CORPORATION SHALL ESTABLISH RULES AND REGULATIONS FOR THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM, INCLUDING AWARD SELECTION CRITERIA, WHICH SHALL SERVE AS THE BASIS FOR AWARDS FUNDED UNDER THIS PROGRAM.

3. THE CORPORATION SHALL NOT DISBURSE ANY MONEYS TO A SMALL BUSINESS UNTIL:

(A) SUCH SMALL BUSINESS HAS COMPLETED ITS SBIR PHASE I RESEARCH;

(B) ITS FINAL PHASE I REPORT WITH RESPECT THERETO HAS BEEN ACCEPTED BY THE FEDERAL AGENCY INVOLVED;

(C) ITS PHASE II RESEARCH PROPOSAL HAS BEEN PROPERLY SUBMITTED TO THE FEDERAL AGENCY INVOLVED; AND

(D) IT HAS SUBMITTED COPIES OF ITS FINAL PHASE I REPORT AND ITS PHASE II PROPOSAL TO THE CORPORATION.

4. CONSISTENT WITH FEDERAL SBIR PROCEDURES, THE CORPORATION SHALL NOT DISCLOSE PROPRIETARY INFORMATION WHEN REQUESTED NOT TO DO SO BY PARTICIPANTS IN THIS PROGRAM.

5. THE CORPORATION SHALL ANNUALLY SUBMIT A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY DETAILING THE RESULTS OF THE PROGRAM, INCLUDING BUT NOT LIMITED TO THE NUMBER OF NEW YORK SMALL BUSINESSES APPLYING FOR SBIR AWARDS, THE NUMBER RECEIVING PHASE I AWARDS, THE NUMBER RECEIVING PHASE II AWARDS, ANY PRODUCTS OR PROCESSES DEVELOPED AS A RESULT OF THE SBIR RESEARCH INVOLVED, ANY PATENTS APPLIED FOR OR LICENSES GRANTED BASED ON THE SBIR RESEARCH INVOLVED, AN ABSTRACT OF THE SBIR PHASE I AND II WORK PERFORMED BY NEW YORK FIRMS, AND ANY OTHER INFORMATION PERTINENT IN EVALUATING THE PROGRAM.

6. THE CORPORATION SHALL CONDUCT A PROGRAM TO INFORM SMALL BUSINESSES OF THE FEDERAL SBIR PROGRAM AND THIS NEW YORK STATE PROGRAM IN ORDER TO ENSURE THAT ALL FIRMS HAVE THE OPPORTUNITY TO PARTICIPATE IN THESE PROGRAMS.

7. THE CORPORATION SHALL FACILITATE AND PROMOTE THE ESTABLISHMENT OF JOINT SMALL BUSINESS-UNIVERSITY TECHNOLOGY COUNCILS AT THE CENTERS FOR ADVANCED TECHNOLOGY AND OTHER UNIVERSITIES WITHIN THE STATE WHEREBY SMALL FIRMS AND UNIVERSITY EXPERTS CAN FACILITATE THE TRANSFER OF TECHNOLOGY AND WORK TOGETHER ON RESEARCH PROJECTS RELATED TO THE SBIR PROGRAM OR OTHER RESEARCH PROJECTS OF MUTUAL INTEREST.

8. THE PROVISIONS OF THIS SECTION SHALL BE EFFECTIVE IF, AND AS LONG AS, FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE THEREFOR PURSUANT TO THE SMALL BUSINESS INNOVATION DEVELOPMENT ACT OF 1982.

S 2. Section 3102-c of the public authorities law is REPEALED.

S 3. This act shall take effect immediately.