

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 Commit-
tee 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 1 of chapter 174 of the laws of 1968, constituting
2 the New York state urban development corporation act, is amended by
3 adding a new section 46 to read as follows:
4 S 46. SMALL BUSINESS INNOVATION RESEARCH PROGRAM. 1. AS USED IN THIS
5 SECTION, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:
6 (A) "SMALL BUSINESS INNOVATION RESEARCH PROGRAM" OR "SBIR" MEANS THAT
7 PROGRAM, ENACTED PURSUANT TO THE SMALL BUSINESS INNOVATION DEVELOPMENT
8 ACT OF 1982 (P.L. 97-219), WHICH PROVIDES FUNDS TO SMALL BUSINESSES TO
9 CONDUCT INNOVATIVE RESEARCH HAVING COMMERCIAL APPLICATION.
10 (B) "SMALL BUSINESS" MEANS A CORPORATION, PARTNERSHIP, LIMITED LIABIL-
11 ITY COMPANY, SOLE PROPRIETORSHIP, OR INDIVIDUAL, OPERATING A BUSINESS
12 FOR PROFIT, WITH TWO HUNDRED FIFTY EMPLOYEES OR FEWER, INCLUDING EMPLOY-
13 EES EMPLOYED IN ANY SUBSIDIARY OR AFFILIATED CORPORATION OR OTHER ENTI-
14 TY, WHICH OTHERWISE MEETS THE REQUIREMENTS OF THE FEDERAL SMALL BUSINESS
15 INNOVATION RESEARCH PROGRAM.
16 2. (A) WITHIN THIRTY DAYS OF THE PUBLIC ANNOUNCEMENT OF THE SMALL
17 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.

LBD06348-06-2

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

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

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

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

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

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

23 (C) UPON A FINDING BY THE CORPORATION THAT: (I) A PHASE I AWARD RECIP-
24 IENT WHOSE PRINCIPAL PLACE OF BUSINESS IS IN NEW YORK HAS SATISFACTORILY
25 MET ALL THE REQUIREMENTS OF THIS SECTION AND ANY ADDITIONAL REQUIREMENTS
26 THE CORPORATION MAY DEEM NECESSARY; PROVIDED, HOWEVER, THAT ANY SUCH
27 ADDITIONAL REQUIREMENTS SHALL NOT ARBITRARILY EXCLUDE A PARTICULAR GROUP
28 OR GROUPS OF TECHNOLOGIES OR COMPANIES; AND (II) THE RESEARCH CONDUCTED
29 MAY RESULT IN THE DEVELOPMENT OF INNOVATIVE TECHNOLOGY HAVING THE POTEN-
30 TIAL TO LEAD TO COMMERCIALIZATION OR FABRICATION WITHIN NEW YORK OF NEW
31 OR IMPROVED PRODUCTS, PROCESSES, OR SERVICES, THE CORPORATION SHALL
32 NOTIFY SUCH SMALL BUSINESS THAT IT WILL AWARD THE FIRM A RESEARCH
33 CONTRACT. SUCH CONTRACT SHALL BE COMPATIBLE WITH AND A CONTINUATION OF
34 THE RESEARCH TO BE PERFORMED UNDER THE SBIR CONTRACT AWARDED BY THE
35 FEDERAL AGENCY INVOLVED AND SHALL BE CALCULATED AS FOLLOWS: (I) THE
36 AMOUNT OF EACH CONTRACT SHALL EQUAL THE AMOUNT OF THE FEDERAL SBIR AWARD
37 OR FIFTY THOUSAND DOLLARS, WHICHEVER IS LESS; PROVIDED, HOWEVER, THAT
38 THE TOTAL AMOUNT OF ALL SUCH CONTRACTS SHALL NOT EXCEED THE AMOUNT
39 APPROPRIATED FOR THIS PURPOSE, OR (II) IN THE EVENT THAT THE TOTAL,
40 POSSIBLE, MAXIMUM AMOUNT OF ALL CONTRACTS, SUCH TOTAL, POSSIBLE, MAXIMUM
41 AMOUNT CALCULATED ON THE BASIS OF MATCHING EACH FEDERAL SBIR AWARD IN AN
42 AMOUNT EQUAL TO THE AMOUNT OF SUCH AWARD, OR FIFTY THOUSAND DOLLARS,
43 WHICHEVER IS LESS, EXCEEDS THE TOTAL AMOUNT APPROPRIATED FOR THIS
44 PURPOSE, THE AMOUNT OF EACH CONTRACT SHALL BE REDUCED BY A RATIO EQUAL
45 TO THE AMOUNT APPROPRIATED FOR THIS PURPOSE DIVIDED BY THE TOTAL, POSSI-
46 BLE, MAXIMUM AMOUNT OF ALL CONTRACTS TO BE AWARDED.

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

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

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

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

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

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

5 4. CONSISTENT WITH FEDERAL SBIR PROCEDURES, THE CORPORATION SHALL NOT
6 DISCLOSE PROPRIETARY INFORMATION WHEN REQUESTED NOT TO DO SO BY PARTIC-
7 IPANTS IN THIS PROGRAM.

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

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

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

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

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

32 S 3. This act shall take effect immediately.