



DoD SBIR/STTR Training

CERTIFICATION

February 16, 2016



What are Certifications?

Certifications are mandatory agreements by the small business concern (SBC) submitting a proposal to SBIR/STTR to certify that they fit all of the requirements to be awarded an SBIR/STTR contract.

Why are certifications important?

Certifications are necessary to ensure that the companies that benefit from the SBIR/STTR program are the types of small businesses that the SBIR/STTR program was created to benefit, as well as verify that they can complete the proposed work.



Required certifications when submitting proposal

- ✓ The awardee is an SBC meeting the size eligibility provisions
- ✓ SBC is at least 51% owned by U.S. citizens or permanent resident aliens of the U.S.
- ✓ For Phase I efforts, at least 2/3 of the work will take place in the SBC's facilities with the SBC's employees
- ✓ For SBIR contracts, PI is primarily employed by the SBC
- ✓ Physical address of SBC is located in the U.S. (Includes Puerto Rico and Territories)
- ✓ The SBC has not been awarded any other Federal Government contracts or grants for essentially equivalent work
- ✓ Disclosure of family or academic relationships with company owners or employees, subcontractors, etc.
- ✓ The awarded R&D is being/has been performed in the U.S.
- ✓ The SBC understands information submitted may be provided to federal, state, and/or local agencies to be used for determining violations of law and other purposes



Differences in STTR Certification

There are a few key differences in the certifications required by the STTR program.

- The SBC will perform **at least 40%** of the research
- The SBC will provide **satisfactory evidence** that it will exercise management direction and control of the performance of the STTR funding agreement

Other Certifications

If the SBC has received Venture Capital (VC) funding, there are additional certifications that must be submitted. Those certifications include:

- The SBC is **not more than 50% owned by a single** Venture Capital Operating Company (VCOC), hedge fund, or private equity firm
- The SBC is **more than 50% owned by multiple domestic business concern** that are VCOCs, hedge funds, or private equity firms

False Certifications

Falsely certifying to any material fact or representation contained in a certification is **fraud**, which carries with it **serious legal penalties**.



What are the **consequences** of committing Fraud?

Criminal Prosecution

Civil Liability

Administrative Remedies

Lying to obtain an SBIR/STTR contract, or lying about the work performed violates several criminal laws and will result in prosecution for the following crimes:

- ✔ False Statements, 18 U.S.C. § 1001 (**5 years in prison**, forfeiture, and \$250K fine)
- ✔ Theft of Federal Property, 18 U.S.C. § 641 (**10 years in prison**, forfeiture, and \$250K fine)
Criminal forfeiture means that personal assets can be seized to satisfy the full amount of the grant or contract, as well as any fines
- ✔ Wire Fraud, 18 U.S.C. § 1343 (**20 years in prison**, forfeiture, and \$250K fine)



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In addition to criminal prosecution, individuals that commit fraud against the SBIR/STTR program are civilly liable based on the Civil False Claims Act, 31 U.S.C. §§3729-3733:

- ✔ Liability includes treble damages (3x actual damages) and a **fine of up to \$11,000** for each false claim
- ✔ False claims liability includes payments received when the Government relied upon false information in the SBIR/STTR proposal, in a certification of current cost or pricing data, in a request for payment or in progress reports
- ✔ Although the statute requires knowledge that the claim was false, the term “knowledge” includes “**deliberate ignorance**” or “**reckless disregard for the truth**”
- ✔ Whistleblowers can **receive up to 30%** of award for reporting fraud via *qui tam* provision of False Claims Act



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On top of criminal and civil liability, administrative remedies will be imposed on the small business and the individuals involved in committing fraud:

- ✔ The Government can **terminate contracts** tainted by fraud
- ✔ The Government can **debar SBC, owner, and/or employees**
- ✔ The debarred small business or individual can be **prohibited from receiving any federal contracts or working as a subcontractor on federal contracts** (debarment is typically for three years, but can be for longer)



Congratulations!

You've finished the lesson on Certifications