



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**