



SBIR / STTR FOCI Due Diligence Efforts

December 15th, 2022

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SBIR and STTR Extension Act of 2022

- Extends the programs through 2025
- Important terms defined:
 - covered individual – contributes in a substantial way to the scientific development or execution.
 - foreign affiliation – an appointment or position with a foreign government-related entity.
 - foreign country of concern – China, N. Korea, Russia, Iran, and others identified by the State Dept
 - malign foreign talent recruitment program – any program, position, or activity that includes compensation in the form of cash or in-kind compensation, affiliated with a foreign country in exchange for tech transfer or similar activities.



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SBIR and STTR Extension Act of 2022



- Each SBIR/STTR program “shall assess, using a risk-based approach as appropriate, the cybersecurity practices, patent analysis, employee analysis, and foreign ownership of a small business concern seeking an award, including the financial ties and obligations... ..and employees of the small business concern to a foreign country, foreign person, or foreign entity;...”
- 2% of SBIR funds may be allocated to this purpose.

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- Will require SBIR/STTR Applicant's to disclose:
 - All owners and covered individuals who are a party to a foreign talent recruitment program.
 - Any joint venture or subsidiary that is based in or funded by any foreign country of concern.
 - Any current or pending contract or obligation with an enterprise owned by a foreign entity.
 - Whether the the small business is wholly owned by a foreign country of concern.
 - The percentage investment with leadership with an affiliation with a foreign country of concern.
 - Tech licensing or IP sales to a foreign country of concern in the last 5 years.
 - Any entity outside the United States related to the small business concern.

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- SBIR / STTR applications will be denied if:
 - An owner or covered individual is party to a malign foreign talent recruitment program, an owner or covered individual has a foreign affiliation with a research institution in a foreign country of concern, or has a business entity located in a foreign country of concern.

AND

- Those relationships and commitments interfere, create duplication, present conflicts of interest, were not appropriately disclosed, or pose a risk to national security.

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- Requires the small business to regularly report any changes which would affect the answers given in the initial disclosure.
- Small businesses may be required to pay back SBIR/STTR funds, if they made a material misstatement on their initial disclosure, or if a subsequent change that the Federal agency determines poses a risk to national security.



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- Monthly briefing to House and Senate Committees
- Best Practices Report due March 30th, 2023
- Implementation by June 30th, 2023
- GAO study done by Sept. 30th, 2023

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Current Efforts



- OUSD R&E is organizing a Tiger Team to address FOCl due diligence in SBIR/STTR.
- The Tiger Team is led by Kris Gardner from the Office of Science and Technology Program Protection, and members of the tiger team are from across DoD.
- There are four lines of effort addressing various aspects of the issue.

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QUESTIONS?

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