

TUTORIAL #35

Commonalities of fraud specific to the SBIR/STTR programs

The purpose of this tutorial is to educate the applicant and define commonalities of fraud specific to Small Business Innovation Research and Small Business Technology Transfer programs. This tutorial will also highlight what the Office of Inspector General looks for in support of criminal or administrative investigations. For ease of transitioning through this tool, further references to the Small Business Innovation Research program will be SBIR and for the Small Business Technology Transfer program - STTR. Listen closely as I provide valuable information on how to avoid serious consequences related to fraudulent behaviors and activities.

What is fraud?

We believe fraud is, at its core, deception through the misrepresentation or omission of material facts for the purpose of illegitimate gain - although it can take on many forms. In many instances, fraud is a premeditated act with the intent to deceive. Contrary to misperceptions, the Office of Inspector General (OIG) does not investigate innocent mistakes. We promote the effective, efficient and economical operation of the Department of Energy's programs and operations through audits, inspections, investigations and other reviews.

Within the Department of Energy, it is the Inspector General's Office of Investigations that is responsible for investigating any fraudulent acts involving the Department, its contractors or sub-contractors, or any crime affecting the programs, operations, Government funds or employees of those entities.

Now let's take a look at the more common types of fraud found within the SBIR and STTR programs. We can break these up into fraud that occurs during three phases:

- » the application process,
- » within the proposal itself, and
- » the time period in which the award is given.

Fraud during the application process

During the application process, there are several issues that might raise red flags to the Department of Energy. When applying for an SBIR/STTR grant, companies submit a lengthy and complex proposal outlining their anticipated work. Submitting a plagiarized proposal is one clear example of fraud, as all proposed work within a grant application must be original. Another example would be applying for and accepting awards from multiple agencies for the same or duplicate work. Companies are only allowed to receive funding from one agency for a proposed project.

Fraud within a proposal

Information contained within the proposal must also adhere to strict accuracy standards. Any false information regarding the company or facilities, the Principal Investigator, or the work to be performed, could be considered fraud. The company must also truthfully represent its capabilities, personnel and the ability to execute the proposed work. Subcontracting that is allowed within a grant application is subject to a very defined set of rules. Additional fraudulent practices within the actual SBIR/STTR proposal might include:

- » Applying for SBIR/STTR funding for work that the company has already completed
- » Accepting federal funding on more than one SBIR/STTR grant for essentially equivalent work
- » Unauthorized use of others facilities, for example - the unauthorized use of university laboratories,
- » Not performing the research and development in the United States, unless permission was provided by the Department of Energy previously
- » Fraud in inducement of awards, or
- » Fake investments, falsified letters of support for the company, or organizational charts that contain non-employees

Fraud during the award period

Next, let's now look at examples of fraud that would be relevant if an award has already been granted. Using any award funds for personal use or for any use other than the proposed activities you previously outlined would be grounds for an investigation. Likewise, if you use the SBIR/STTR funds to support ongoing business operations instead of the intended research, this would be considered a misappropriation of the funds. Other examples of fraudulent activities include submitting plagiarized reports, falsely claiming completed work, and/or claiming research and development results for an award that was funded by a different source.

Which rules apply?

There are many rules contained within the SBIR/STTR programs. So - how do you know which set of rules you should become particularly familiar with to avoid committing fraud? Luckily, there are several key principles that apply to all of the 11 federal agencies that participate in the SBIR/STTR programs.

As we stated earlier, duplicate or overlapping proposals may not be submitted to multiple agencies without full disclosure to those agencies. At the Department of Energy, you must indicate "yes" or "no" on the required SBIR/STTR Information form, under question #5 if you have submitted proposals for essentially equivalent work under other Federal program solicitations or received other Federal awards for essentially equivalent work. This applies across the board to any Federal agency to which you want to submit an SBIR or STTR proposal.

All companies applying for awards must meet the Small Business Administration's requirements for a small business, including being a "for-profit" majority American-owned, and have 500 or fewer employees. The Principal Investigator's (PIs) primary employment must be with the company during the grant period of the Small Business Innovative Research award. The Principal Investigator may not be employed full time elsewhere. For Small Business Technology Transfer grants, the Principal Investigator's primary employment may either be with the company awarded the grant or the research institution.

For the SBIR Phase I award, a minimum of two-thirds of the research effort must be performed by the company that was awarded the grant; for Phase II, a minimum of one-half of the research effort must be performed by the company. Work performed under an SBIR award by a university research lab is NOT considered a part of the grantee company's level-of-effort.

With an STTR award, for both Phases I & II, a minimum of 40% of the research effort must be performed by the grantee company and a minimum of 30% of the research effort must be performed by a single Research Institution. University employees participating on an SBIR/STTR award must disclose their involvement to the university as well as their use of university facilities, if they are used.

Finally, research and development must be performed in the United States unless permission to perform it outside the United States was provided by the agency in advance.

If you wish to obtain additional information or to report wrongdoing to the United States Department of Energy, you may contact the Office of Inspector General using the following information:

- › Internet: www.ig.energy.gov
- › E-mail: ighotline@hq.doe.gov
- › Telephone: 202-586-4073
- › Hotline: 800-541-1625
- › Fax: 202-586-5697