



# Beyond Phase II Conference

## *Data Rights*

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Executive Director

Small Business Technology Council

# SBIR Policy Directive Data Rights

- *8(b) Rights in Data Developed Under SBIR Funding Agreement.*
  - (I) Each agency must refrain from disclosing SBIR technical data to outside the Government (except reviewers) and especially to competitors of the SBC, or from using the information to produce future technical procurement specifications that could harm the SBC that discovered and developed the innovation.

# Appendix I: SBIR Program

## Solicitation Preparation

- *5(d)(iii) Rights in Data Developed Under SBIR Funding Agreements*
  - “To preserve the SBIR data rights of the awardee, the legend (or statements) used in the SBIR Data Rights clause included in the SBIR award must be affixed to any submissions of technical data developed under that SBIR award.”
  - “These SBIR data are furnished with SBIR rights under Funding Agreement No. \_\_\_\_\_ (and subcontract No. \_\_\_\_\_ if appropriate), Awardee Name \_\_\_\_\_, Address, Expiration Period of SBIR Data Rights \_\_\_\_\_. The Government may not use, modify, reproduce, release, perform, display, or disclose technical data or computer software marked with this legend for (choose four (4) or five (5) years)...”.

# SBIR Data Rights Legend

SBIR Data Rights Legend in accordance with DFARS 252.227-7018 (JUNE 1995)

Contract Number:

Contractor Name:

Contractor Address:

Expiration of SBIR Data Rights Period:

Contractor enters expiration date for the SB/R data rights period (up to 4 years later on non-DoD and 5 years later on DoD SBIR/STTR). The Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data or computer software marked with this legend are restricted during the period shown as provided in paragraph (bX4) of the Rights in Noncommercial Technical Data and Computer Software-Small Business Innovative Research (SBIR) Program clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data, computer software, or portions thereof marked with this legend must also reproduce the markings.

# Navy Phase III Guidebook

*Small Business Innovation: Affordable Solutions for the Warfighter*

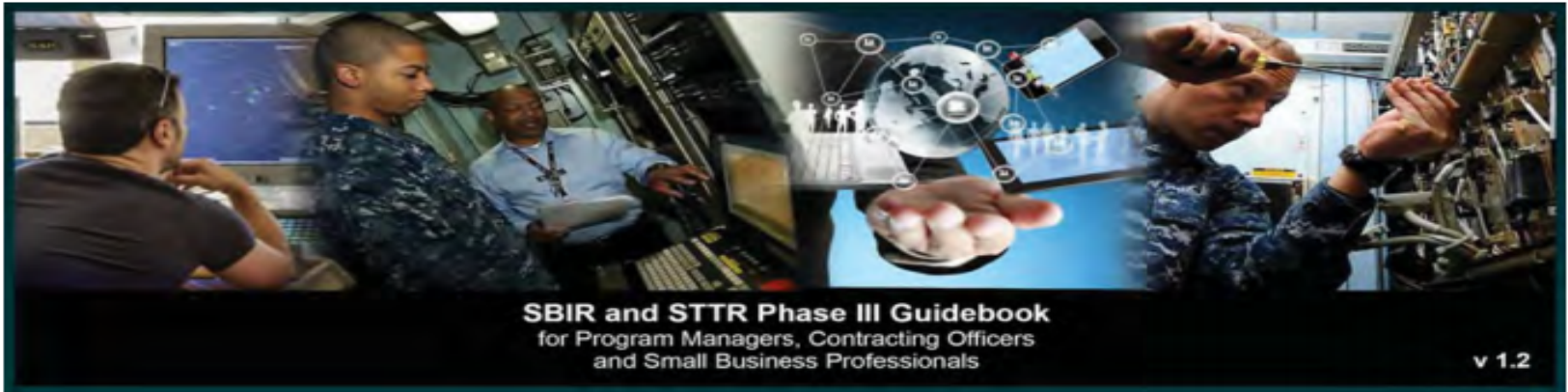


**SBIR and STTR Phase III Guidebook  
For Program Managers, Contracting Officers  
And Small Business Professionals**

v 1.2  
April 2016

# SBIR Data Rights

## Supplement: SBIR/STTR Data Rights – A User Guide



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| d. If a proposal to an RFP does not mention the SBIR/STTR origin of proposed technology, can data rights be asserted in the event of an award? |   |
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# **SBIR Data Rights vs Patent Protection**

# SBIR Data Rights Advantages

1. Immediate
2. Longer lasting - 35 years and counting
3. Low cost
4. No lawyers needed
5. SBA will help defend
6. Requirement that violations be reported to Congress

## ***Key requirements:***

1. Include SBIR DATA rights legend in submission
2. Keep secret, no disclosure. Patents applications are disclosure in 18 months.
3. Publication defeats SBIR data rights?