



# SBIR/STTR Fraud, Waste & Abuse

DoD Small Business Training Week  
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## SBIR/STTR Overview

- a. SBIR/STTR Programs
- b. Fraud, Waste & Abuse (FW&A) Definitions
- c. SBIR/STTR Program Responsibilities
- d. Air Force Examples of Fraud
- e. DOD FW&A Detection & Prevention Efforts



## SBIR/STTR Overview

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# About SBIR/STTR Programs

## Small Business Innovation Research (SBIR) Small Business Technology Transfer (STTR)

- Congressionally-mandated programs.  
SBIR started in **1982**; STTR started in **1992**
- Funded as a set-aside assessment of extramural R&D budget; SBIR for Agencies with **>\$100M RDT&E** budget; STTR for Agencies with **> \$1B RDT&E** budget
- Encourage participation by minorities and disadvantaged persons in technological innovation
- SBA programmatic authority over federal SBIR & STTR programs (Program Policy Directives)



# Program Goals



## Small Business Innovation Research (SBIR)

- 1 Stimulate technological innovation
- 2 Increase small business participation in federally funded R&D
- 3 Foster participation by socially and economically disadvantaged firms in technological innovation
- 4 Increase private sector commercialization of federal R&D

## Small Business Technology Transfer (STTR)

- 1 Create vehicles for moving ideas from research institutions to market
- 2 Enable researchers to pursue commercial application of technologies
- 3 Bridge funding gap between basic research and commercial product

# Actively Participating DOD Services/Components



OSD



Army



Navy



Air Force



Missile Defense Agency (MDA)



Defense Advanced Research Projects Agency (DARPA)



Defense Logistics Agency (DLA)



Defense Threat Reduction Agency (DTRA)



Defense Microelectronics Activity (DMEA)



Defense Health Agency (DHA)



Chemical and Biological Defense (CBD)



Special Operations Command (SOCOM)



National Geospatial Intelligence Agency (NGA)



Defense Technical Information Center (DTIC)



Defense Information Systems Agency (DISA)

# 3 Phased Program

The SBIR/STTR Programs are structured in three phases. Phase I determines the scientific, technical and commercial merit and feasibility of the ideas submitted. Phase II is the major research and development effort, funding the prototyping and demonstration of the most promising Phase I projects. Phase III is the ultimate goal of each SBIR/STTR effort and statute requires that Phase III work be funded by sources outside the SBIR/STTR Program.



**Phase I:**  
**Feasibility Study**



**Phase II:**  
**Full Research, R&D to  
Prototype**



**Phase III:**  
**Commercialization**



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# Fraud, Waste & Abuse Definitions

- **FRAUD:** Any intentional deception designed to unlawfully deprive the United States of something of value or to secure from the United States for an individual a benefit, privilege, allowance, or consideration to which he or she is not entitled.
- **WASTE:** The extravagant, careless, or needless expenditure of government funds, or the consumption of government property that results from deficient practices, systems, controls, or decisions.
- **ABUSE:** The intentional or improper use of government resources that can include the excessive or improper use of one's position, in a manner contrary to its rightful or legally intended use.



# Why SBIR/STTR Fraud Oversight

- False Statements/Claims
- Theft of Public Monies
- Criminal Conspiracy
- Wire Fraud
- Providing/Accepting Kickbacks
- Conflict of Interest
- Money Laundering
- Obstruction of Justice
- Fraud Against the U.S.

# Fraud Indicators



- Does Small Business Concern (SBC) meet SBIR/STTR requirements?
  - Are they truly 51% owned by someone who meets the requirements for a SBC?
  - Does SBC meet SBA size requirements?
  - SBC have adequate facilities to perform the work required?
  - Is Principal Investigator (PI) primarily employed by the SBC?
  - Were subcontracts used and/or changed?
  - Did SBC certify the research proposal was not submitted to or funded by another Federal agency



# Fraud Indicators (cont.)

- Substandard Performance
  - Lacked expertise or facilities
  - Were they aware the Government's Technical expert lacked oversight to properly assess the progress/research/final reports?
  - Did they offer the Technical expert a kickback?
- Mischarging
  - Did contractor submit a claim for unallowable costs?
  - Spent less on actual research labor than proposed
  - Did contractor invoice for non-existent employees or subcontractors?
  - Did they inflate direct labor, indirect costs, subcontractor work or excess materials?

# Fraud Indicators (cont.)



- Defective Pricing
  - Used outdated standard costs/indirect cost rates
  - Failed to disclose data to significantly increase the award funding
  - Created/altered supporting documentation
  - Falsified proposal data resulting in a significant variance in proposed/actual costs
  - Channeled work or left over material to a created company to increase prices and retain materials
  - Was the proposed subcontractor intentionally substituted with a less expensive subcontractor?

# Waste and Abuse Indicators



- Waste
  - Is essentially equivalent work being done by different Services/Components?
  - Are duplicate topics being submitted?
  - Is this a Pet research project of the Technical lead with no identified customer?
  - Has research of past work been conducted to ensure that the same question hasn't been asked and answered?
- Abuse
  - Is the Technical lead directing awards to favorite SBC?
  - Is the same topic being recycled with slight changes every year or two?
  - Has the max number of allowable SBIR/STTR awards been exceeded?



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# SBIR/STTR Program Responsibilities

## - SBA Policy Directive -



- Coordinate with OIG
  - (vi) Agencies must coordinate any activities in the work plan that relate to fraud, waste, and abuse prevention...with the agency's Office of Inspector General (OIG).
- Prevention
  - (f)(1) Agencies shall evaluate risks of fraud, waste, and abuse in each application...and create and implement policies and procedures to prevent fraud, waste and abuse in the SBIR Program.
- Reporting
  - 10.(j)(2) The system will include a list of any individual or small business concern that has received an SBIR award and that has been convicted of a fraud-related crime involving SBIR funds or found civilly liable for a fraud-related violation involving SBIR funds, of which SBA has been made aware.
- Metrics
  - Appendix IX (c)(8) Metrics with respect to agencies' measures to reduce fraud, waste and abuse within the SBIR Program and coordination with the SBIR agency's OIG.

# SBIR/STTR Program Responsibilities

## - 15 USC 638 and NDAA FY12 -



- Tracking
  - § 638.(k)(2)(G) includes a timely and accurate list of any individual or small business concern that has participated in the SBIR program or STTR program that has been— (i) convicted of a fraud-related crime involving funding received under the SBIR program or STTR program; or (ii) found civilly liable for a fraud-related violation involving funding received under the SBIR program or STTR program.
- Prevention
  - NDAA FY12 SEC. 5143. (a) (1) Not later than 90 days after the date of enactment of this Act, the Administrator shall amend the SBIR Policy Directive and the STTR Policy Directive to include measures to prevent fraud, waste, and abuse in the SBIR program and the STTR program.
  - 5143. (a)(2) shall include; (A) Definitions; (B) guidelines for monitoring and oversight of applicants; (C) IG contact information; and (D) certify applicants are in compliance with the laws
- Reporting
  - NDAA FY12 SEC. 5143. (b) Not later than 1 year after the date of enactment of this Act to establish a baseline of changes made to the program to fight fraud, waste, and abuse, and every 4 years thereafter to evaluate the effectiveness of the agency strategies, the Comptroller General of the United States shall— (1) conduct a study



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# Air Force SBIR/STTR Fraud Cases



- 100 cases opened
- 45 accepted for prosecution
- 13 indictments
- \$27M in restitution
- 31 suspension/debarments
- 7 guilty pleas
- 4 pre-trial diversions
- USAF - 14 active investigations & pro-active efforts

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# Compliance Requirements



## Essentially Equivalent Work is Prohibited

**IMPORTANT** – It is **unlawful** to enter into multiple contracts or grants requiring essentially equivalent work. SBIR/STTR awardees must certify at the time of proposal submission and during the lifecycle of the award that they do not have any essentially equivalent work funded by the Federal Government.





# Essentially Equivalent Work Case Example



## Allegations:

- SBC owner applied for funding from NASA for a proposal for which he had already received funding from the Air Force
- Owner subcontracted out major portions of the grants and contracts, violating their terms

## Outcome:

- SBC owner pled guilty to mail fraud and tax evasion
- Sentenced to twelve months of home confinement and five years of probation
- Paid \$1.4 million in restitution to the Government
- Five-year ban on receiving federal grants or contracts

Double-click image below for more information

## NEWS

United States Department of Justice  
U.S. Attorney, District of New Jersey  
970 Broad Street, Seventh Floor  
Newark, New Jersey 07102



Christopher J. Christie, U.S. Attorney

More Information? Dial the Public Affairs Update Line (973-645-3657), or call the Assistant U.S. Attorney or other contact listed below to see if more information is available.

News on the Internet: News Releases, related documents and advisories are posted short-term at our website, along with links to our archived releases at the Department of Justice in Washington, D.C. Go to: <http://www.njusao.org/break.html>

Assistant U.S. Attorneys DONNA GALLUCIO and STUART A. MNKOWITZ 973-645-2786 and 2925 jav1109 rel FOR IMMEDIATE RELEASE Nov. 9, 2005

New Jersey-based Scientist Sentenced for Government Contract and Tax Fraud; Also Settles Civil Complaint and Tax Liability for \$1.4 Million

(More)

Public Affairs Office <http://www.njusao.org> Michael Drenniak, PAO UpDates — 973-645-3657 973-645-2888

Breaking News (NJ) <http://www.njusao.org/break.html>

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# Compliance Requirements



## The Primary Employer of the Principal Investigator (PI)

- **SBIR:** The PI's primary employer must be the SBC
- **STTR:** The PI's primary employer must be the SBC or RI
- **SBC cannot change the PI without the prior written consent of the Government**

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# Employment of PI Case Example



## Allegations:

- NASA SBIR contract was available only to those who agreed to work on the project full-time
- Subject ineligible to receive the contract due to having a full-time job outside the firm he operated (employed full-time at a university)

## Outcome:

- Subject pled guilty to one count of wire fraud
- Sentenced to three years of probation
- Ordered to pay \$133,333 in restitution to the Government



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# False Certifications Case Example



Subject was the Director of Innovation Nuclear Space Power and Propulsion Institute at a university, and Subject's wife was president of an SBC

## Allegations:

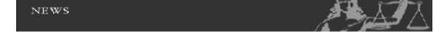
- Falsely represented the SBC would provide research services of scientists, engineers and laboratory assistants working in a state-of-the-art analysis and data communication laboratory
- Submitted false claim forms and invoices that misrepresented the identities of persons who performed actual work
- Falsely represented that PI described in the proposal was primarily employed by SBC
- Used work product of university research assistant and adjunct professor without their knowledge or consent

Double-click image below for more information

USDOJ: US Attorney's Office - Northern District of Florida Page 1 of 2

THE UNITED STATES ATTORNEY'S OFFICE  
NORTHERN DISTRICT OF FLORIDA  
ARCHIVE

Home » News » Press Release



UNIVERSITY OF FLORIDA NUCLEAR ENGINEERING  
PROFESSOR AND WIFE CONVICTED OF FEDERAL CONTRACT  
FRAUD

FOR IMMEDIATE RELEASE February 25, 2011

TALLAHASSEE, FLORIDA – A nuclear engineering professor, formerly employed by the University of Florida, and his wife, the president of a research and development company specializing in high-tech engineering research, have been convicted of fraud and related offenses in connection with more than \$3 million in government contracts, announced Pamela C. Marsh, U.S. Attorney for the Northern District of Florida.

Following a three-week jury trial in Gainesville, Samim Anghais, 61, and his wife, Soussan Anghais, 56, were convicted of conspiracy to commit wire fraud. In addition, Samim Anghais was convicted on 20 substantive counts of wire fraud, and Soussan Anghais was convicted on 20 substantive counts. Samim Anghais was also convicted of producing false documents to a federal agency.

Evidence presented at trial established that between 1999 and 2009, Samim Anghais was employed as a professor at the University of Florida and served as the Director of the Innovation Nuclear Space Power and Propulsion Institute (INSPI) there. Soussan Anghais was the president of New Era Technology, Inc. (NETECH), a business in which Samim Anghais had formerly served as director and vice-president.

Working together, the couple submitted fraudulent contract proposals to obtain more than \$3 million in contracts with NASA and the Air Force. The defendants falsely represented that NETECH would provide research services of scientists, engineers, and laboratory assistants, working in a state-of-the-art analysis and data communication laboratory. The Anghais also represented that NETECH would be collaborators with INSPI to provide important research and data to the government.

<http://www.justice.gov/archive/usao/fln/press/2011/feb/anghais.html> 3/15/2015





# Consequences of Committing Fraud



## Criminal Prosecution

Lying to obtain an SBIR/STTR contract, or lying about the work performed **violates several criminal laws:**

- 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)
- Wire Fraud, 18 U.S.C. § 1343 (20 years in prison, forfeiture and \$250K fine)

**Criminal forfeiture = full amount of grant/contract; personal assets can be seized to satisfy forfeiture or fine**





# Consequences of Committing Fraud (con't)



## Civil Liability

- May be imposed in addition to criminal prosecution

### 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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# Consequences of Committing Fraud (con't)



## Administrative Remedies

- **Government can terminate contracts tainted by fraud**
- **Government can debar SBC, owner, and/or employees**
  - Results in prohibition from receiving any federal contracts or working as a subcontractor on federal contracts
  - Debarment is typically for three years, but can be for a longer period
- **Administrative remedies are in addition to criminal and civil liability**

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# Recommendations



## Good Records: Key to Protecting Yourself

### Documentation

- Timesheets for hours worked by ALL involved employees
- All financial receipts, invoices and statements for expenses related to the project
- Laboratory notebooks

### Research Institutions (if applicable)

- Agreements for use of research facilities
- Personnel logs for assistance from institution's staff and/or students

### Updates on the project's status, including successes/failures

- Weekly or daily if possible





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# SBIR/STTR Topics and Proposals



- Since FY2010 the SBIR/STTR programs have received 65,463 SBIR proposals and 7,836 STTR proposals
- In that same time period SBIR awarded almost 17,000 Phase I and II contracts; STTR awarded around 2,500 Phase I and II contracts
- Across 15 different Services and Components there has been no consistent, automated review to prevent or detect FW&A

# SBIR/STTR Program Efforts

## - Education and Awareness -



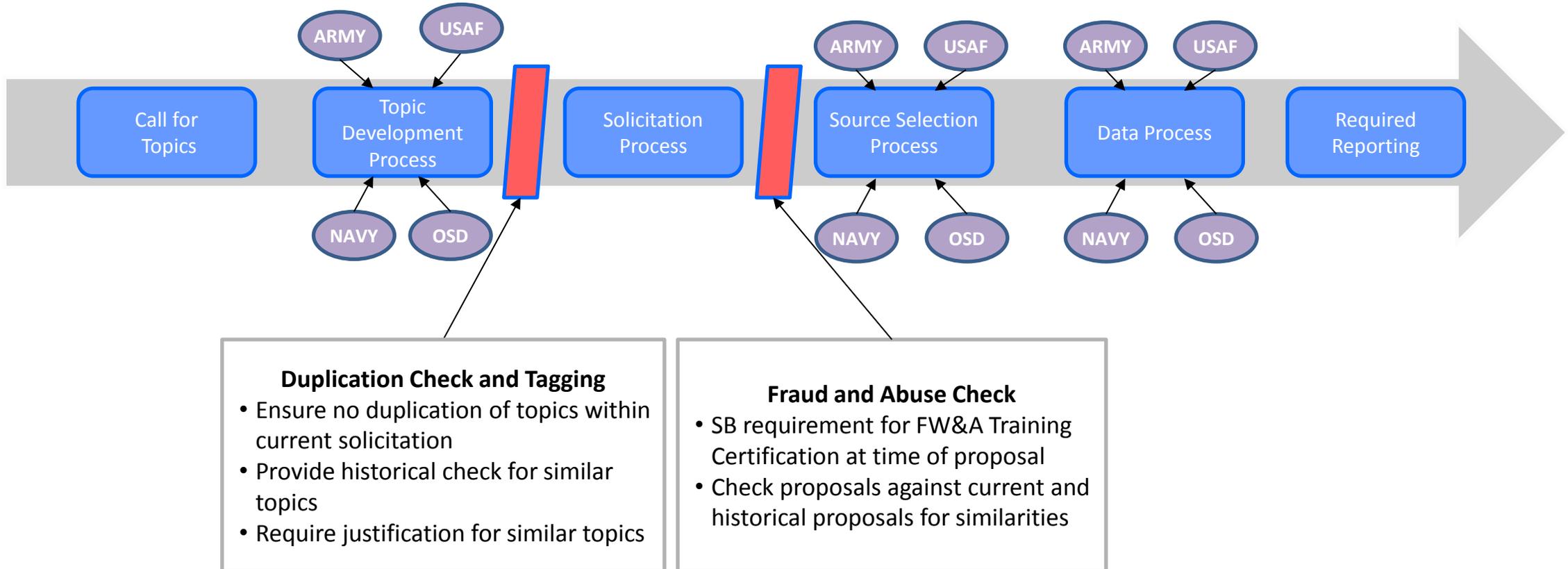
### **Addition of Volume 5 to Broad Area Announcement (BAA)**

- Create Volume 5 (after the CCR Volume 4) to contain the (pre-existing) FW&A slides currently deployed under “training” on the OSBP SBIR/STTR portal
- Compels Offeror to review the DOD FW&A training slides
- At completion of training a certificate is created
- FW&A Training Certification to be valid for a Gov’t defined period of time after the training is completed
- Offeror will not be allowed to submit a proposal until training is completed
- OSD OSBP retains ability to activate/deactivate this feature in any given SBIR/STTR Announcement
- OSD OSBP retains ability to import/not import Volume 5/FW&A training cert feature for Component access and/or Component transmission



# Planned SBIR/STTR Process Improvements

## - Duplication and Fraud Check -





# Planned SBIR/STTR Process Improvements

## Government (Waste)

- After topics have been submitted to OSBP by Services/Components; OSBP will then send the topics to DTIC for improved word tagging and plagiarism/duplication review
  - Expanded word tagging of topics will allow for improved “searchability” across Services/Components using different terminology for similar capabilities and increased capability for improved searches
    - DTIC maintains approx. 46,000 tag-able terms in its thesaurus
  - The "Plagiarism" tool would make it easy to automatically compare a SBIR topic against a collection of current and past SBIR topics to find the most similar or redundant SBIR topics
  - Reduce waste through duplication of efforts across departments, Services/Components, and past efforts
- Any potential issues regarding duplication would be automatically flagged and reported back to the submitting organization for awareness or correction

## Commercial (Fraud)

- After topic proposals have been submitted to OSBP; Proposals will then be sent to DTIC for plagiarism/ duplication review
  - The "Plagiarism" tool would make it easy to automatically compare a SBIR topic against a collection of current and past SBIR topics to find the most similar or redundant SBIR topics
  - The "Plagiarism" tool could provide insight into the degree of similarity or difference between or among documents and allow drill down to specific document sections for further analysis
- Any potential issues regarding duplication would be automatically flagged and reported back to the submitting organization for awareness or correction



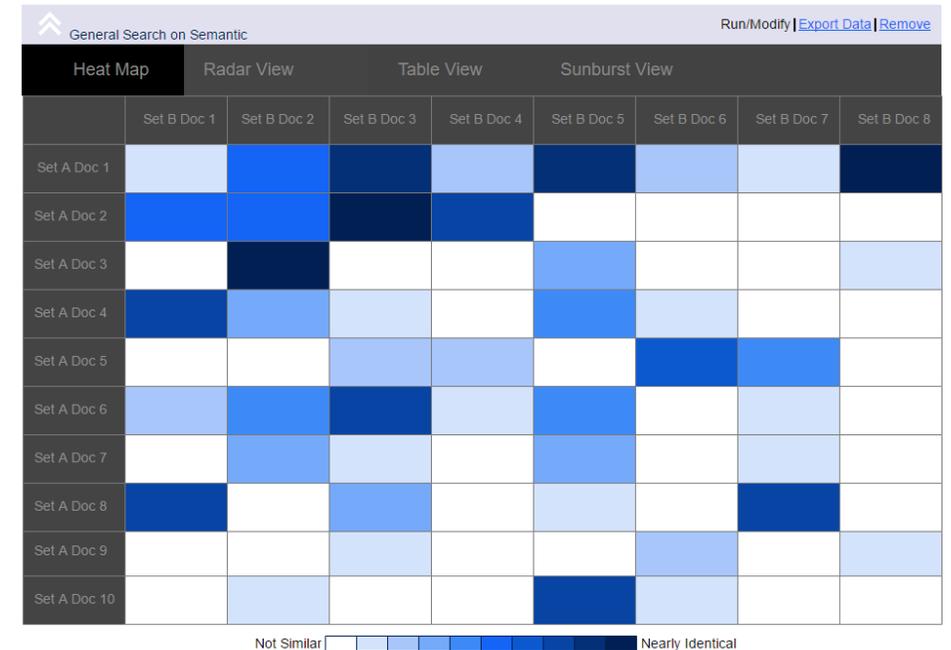
# Planned OSD/ DTIC FW&A Capabilities

- Semantic Search and Review
  - Produce an automated detection and prevention tool to semantically identify potential matches between two sets of documents for further FW&A investigation
  - Allow the ability to upload and semantically compare SBIR topics and proposal submissions against current and historical documents
  - The strategic questions to be answered:
    - Did the government fund similar ongoing or previous research topic?
    - Does the submitted proposal match other proposals or work funded by DoD?
- Metatagging
  - Utilize DTIC's thesaurus of contains approx. 46,000 terms which can scan and tag documents with terms from multiple vocabularies or thesauri to support complex and fast information retrieval and organization tasks



# Planned OSD/ DTIC FW&A Capabilities

- Use semantic correlation as an indicator for potential FW&A candidate
- Highlight and graphically depict different degrees of correlation between both sets of documents
- The user will be able to further investigate by “drilling down” on correlation cell on the heat map depicting the correlations matrix between both sets of documents
- The system then will respond by displaying what led to relating both documents by semantically highlighting matching texts in both documents
- Additionally, the system shall be designed open-ended to allow the exportation of resultant FW&A analysis to other formats for further analysis
- The system also should be able to include/embed other FW&A detection tools and/or algorithms for FW&A detection with higher confidence



# Summary



- DOD takes FW&A seriously
- We are working to create technology tools to streamline and automate the process to educate, evaluate, and prevent FW&A
- If unsure about any of the rules relating to the award of a SBIR or STTR contract:
  - Contact the appropriate Contracting Officer and provide all relevant facts
  - Request written guidance from the Contracting Officer, and
  - **Follow it!**
- If you suspect or detect possible cases of FW&A contact your OIG or DOD OIG
  - Defense Hotline at (800) 424-9098 between 8:00 AM and 5:00 PM Eastern Time or visit [http://www.dodig.mil/hotline/submit\\_complaint.htm](http://www.dodig.mil/hotline/submit_complaint.htm) to submit a complaint
  - Mailed correspondence should be addressed to the Defense Hotline, The Pentagon, Washington, DC 20301-1900, or e-mail addressed to [hotline@dodig.mil](mailto:hotline@dodig.mil)