

NASA's SBIR Program Filled with Fraud—According to People Who Are Wasting 100 Times as Much

Written by Nick Sanders

Thursday, 20 January 2011 00:00

In 1982, Congress created the Small Business Innovation Research (SBIR) program “to stimulate technological innovation, increase participation by small businesses and disadvantaged persons in federally funded research and development, and increase private-sector commercialization of innovations derived from federally funded research and development efforts.” Of the 11 Federal agencies that participate in the SBIR program, NASA’s program is the third largest—awarding more than \$100 million annually over a four-year period to 422 small business participants.



According to news reports, NASA’s SBIR program is rife with fraud and waste. Naturally, we wanted to learn more. Here’s what we learned.

NASA’s Office of Inspector General (OIG) audited 67 of NASA’s SBIR contracts and “found that 17 (25 percent) included unallowable or unsupported costs.” The [NASA OIG Report](#) stated—

Specifically, we found unallowable travel and equipment costs, unallocable costs, and unsupported costs in the sample of SBIR contracts we examined to include:

- **Unallowable travel costs.** NASA awarded contracts with unallowable travel costs totaling \$9,255 on 4 of the 36 (11.1 percent) Phase 1 SBIR awards we reviewed.
- **Unallowable equipment costs.** NASA awarded contracts with unallowable equipment costs totaling \$234,354 on 6 of the 67 (8.9 percent) awards we reviewed.
- **Unallocable costs** NASA awarded \$167,014 in unallocable direct costs on 7 of the 67 (10.4 percent) awards we reviewed.
- **Unsupported costs.** NASA awarded contracts containing \$117,932 in unsupported costs in 2 of the 67 (3 percent) awards we reviewed.

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Based on our statistical projections, we estimate that NASA awarded contracts with \$2.7 million in unallowable and unsupported costs during program year 2008 alone.

Well, we don't necessarily think that a finding amounting to less than 3 percent (especially one based on a projection) is all that big a deal. But before we get into throwing our opinion around, let's see what else the NASA OIG had to say about its audit findings.

The OIG reported that unallowable travel costs were identified because NASA awarded SBIR contracts based on proposals that included travel costs, in violation of the SBIR solicitation provisions that prohibited contractors from proposing travel costs. NASA awarded SBIR contracts based on proposals that contained direct costs for equipment, even though the SBIR solicitation provisions prohibited contractors from proposing the purchase of "equipment, instrumentation or facilities ... as a direct cost."

The OIG reported that it found "unallocable" costs in SBIR contractor proposals. It noted an example of proposed Other Direct Costs (ODC) such as "rent and utilities, Internet access, cell phones, accounting and tax services, public relations, office supplies, and licenses"—and opined that "these costs should have been included in the contractor's indirect cost pool and recovered through an indirect cost rate." It also noted "unallocable overhead costs" in another contractor's SBIR proposal. Its conclusion that such overhead costs were unallocable was based on the contractor allocating its overhead to costs of its subcontractors. According to the NASA OIG, that was an impermissible cost accounting practice.

The OIG reported that it found unsupported costs in contractor's SBIR proposals. It provided two examples. One example was \$23,000 worth of proposed testing costs that lacked any explanation regarding what would be tested. When questioned by the contracting officer, the contractor offered to withdraw the \$23,000, but the contracting officer awarded the company the full amount of its proposed costs anyway. The second example involved \$75,000 in proposed material costs for "materials such as polymers, electronic [sic], sensors, electrodes, chemicals, fabrication costs, and lab supplies." The OIG concluded that the explanation "did not provide sufficient information to allow NASA to determine that the budgeted amount ... was fair and reasonable."

So what do we think?

As mentioned above, we're not convinced that the sky is falling in NASA's SBIR program.

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Frankly, the amounts involved are trivial in the scheme of things. Sure, some of the findings seem a little embarrassing, but one needs to keep in mind that—by definition—only small businesses are proposing. Thus, it's hardly surprising that some mistakes were made.

We also think a more rigorous audit approach would have been to audit how the SBIR contractors actually spent their funds, rather than simply reviewing cost proposals. We think it's quite likely that actual costs did not exactly match proposed costs, and consequently the unallowable, unallocable, or insufficiently supported items may not actually have been incurred by the contractors. But we'll never know whether those costs were incurred or not, because NASA's OIG did not choose to look.

Perhaps predictably, media outlets took the OIG report and ran with it, creating some headlines that may not have exactly matched the facts. For example, the [National Journal](#) headline read, "Audit: NASA Not Doing Enough to Combat Fraud in Small Business Program." According to the National Journal, "The audit was initiated after an investigation found unscrupulous applicants collected payments multiple times."

[The Hill](#) blog ran with "IG Finds \$2.7 Million Waste and Fraud in NASA Small-Biz Program."

Congress was quick to use the NASA OIG report as grist for its eternal quest for effective Federal contractor oversight. Senators Jay Rockefeller and Olympia Snowe [issued a statement](#) expressing their concern.

Senator Rockefeller said—

Government-supported scientific research and innovation is one of the keys to our country's future economic growth. We can't afford to lose any of our precious research and development dollars to waste, fraud or abuse. I congratulate the NASA Inspector General for taking a clear, hard look at the way NASA awards, administers and tracks SBIR funds. I urge NASA to quickly implement the Inspector General's recommendations and put an end to the problems the IG has identified.

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Senator Snowe said—

I commend NASA's Office of Inspector General for performing this thorough audit, and for recommending substantive suggestions that can help eliminate waste, fraud, and abuse at the agency. Today's report highlights the need for Congress to pass comprehensive legislation reauthorizing the SBIR program and providing agencies with the necessary tools to improve their oversight efforts, which the Senate passed unanimously last month. I look forward to working with my colleagues in the Senate and House to ensure that this legislation passes both chambers.

In case our readers were looking for a more—shall we say—prominent case of waste at NASA, we found one. And it's Congress that is wasting the taxpayers' money.

The issue first came to our attention through [this story](#) at GovExec.com. It reported—

A provision in a fiscal 2010 omnibus appropriations bill forbids NASA from canceling contracts for the Bush-era Constellation rocket and space capsule program. But two months after he signed the spending bill, President Obama terminated Constellation; since then, the space agency's hands have been tied as it continued to pump millions into a program it no longer intended to field.

The article stated that NASA's OIG had reported “that the cash-strapped agency would waste more than \$215 million funding it by the end of next month” because of that “fiscal catch-22.” The article said—

According to an IG letter sent to [Senator] Nelson and other key lawmakers, NASA would have considered ending or at least scaling back many of the aspects of the Constellation program protected by the spending measure. Provisions in last year's spending bill remain in effect because the government is operating under a stop-gap continuing resolution that funds most programs at fiscal 2010 levels.

The issue, according to the agency's watchdog, requires ‘immediate action by Congress.’ By

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the end of the fiscal year, NASA could waste \$575 million on the program if Congress does not either pass legislation that repeals the 2010 appropriations language or approve a new spending bill that lifts the prohibition.

So, basically, while Congress is pointing the finger at NASA's lack of internal controls over its SBIR program, which led to (allegedly) less than \$3 million in wasteful spending, it's own legislation is causing NASA to waste at least \$215 million—and perhaps as much as \$575 million.

Somehow the situation strikes us as more than a bit ironic.