U.S. Small Business Administration

SMALL BUSINESS INNOVATION RESEARCH PROGRAM (SBIR) POLICY DIRECTIVE

2002

U.S. Small Business Administration
Office of Technology

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Small Business Innovation Research Program Policy Directive

TO: **The Small Business Innovation Research Program Directors**

SUBJECT: **Small Business Reauthorization Act of 2000 (Reauthorization Act) Amendments to the Small Business Innovation Research Program**

1. *Purpose. Section 9(j)(3) of the Small Business Act (15 U.S.C. 638(j)(3)) (as amended by Public Law 106-554) requires the Administrator of the U.S. Small Business Administration (SBA) to modify its Small Business Innovation Research (SBIR) Program Policy Directive, issued for the general conduct of the SBIR Program.*

2. *Authority. This Policy Directive is issued pursuant to 15 U.S.C. 638(j).*

3. *Procurement Regulations. It is recognized that the Federal Acquisition Regulations may need to be modified to conform to the requirements of the Reauthorization Act and the final Policy Directive. SBA's Administrator or designee must review and concur with any regulatory provisions that pertain to areas of SBA responsibility. SBA's Office of Technology coordinates such regulatory actions.*

4. *Personnel Concerned. This Policy Directive serves as guidance for all Federal Government personnel who are involved in the administration of the SBIR Program, issuance and management of funding agreements or contracts pursuant to the SBIR Program, and the establishment of goals for small business concerns in research or research and development acquisition or grants.*

5. *Originator. SBA's Office of Technology.*

6. *Date. This Policy Directive is effective upon publication in the Federal Register.*

Authorized By:

for Fred C. Armendariz
Associate Deputy Administrator
Government Contracting/Business Development
U.S. Small Business Administration

Hector V. Barreto
Administrator
U.S. Small Business Administration

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1. PURPOSE

(a) Section 9(j) of the Small Business Act (Act) requires that the Small Business Administration (SBA) issue an SBIR Program Policy Directive for the general conduct of the SBIR Program within the Federal Government.

(b) This Policy Directive fulfills SBA's statutory obligation to provide guidance to the participating Federal agencies for the general operation of the SBIR Program. Additional or modified instructions may be issued by the SBA as a result of public comment or experience.

(c) The statutory purpose of the SBIR Program is to strengthen the role of innovative small business concerns (SBCs) in federally-funded research or research and development (R/R&D). Specific program purposes are to:

(1) stimulate technological innovation;

(2) use small business to meet Federal R/R&D needs;

(3) foster and encourage participation by socially and economically disadvantaged SBCs, and by SBCs that are 51 percent owned and controlled by women, in technological innovation; and

(4) increase private sector commercialization of innovations derived from Federal R/R&D, thereby increasing competition, productivity and economic growth.

(d) Federal agencies participating in the SBIR Program (SBIR agencies) are obligated to follow the guidance provided by this Policy Directive. Each agency is required to review its rules, policies, and guidance on the SBIR Program to ensure consistency with this Policy Directive and to make any necessary changes in accordance with each agency's normal procedures. This is consistent with the statutory authority provided to the SBA concerning the SBIR Program.

2. SUMMARY OF LEGISLATIVE PROVISIONS

(a) The Small Business Innovation Research Program Reauthorization Act of 2000, Public Law 106-554, amended section 9 of the Act (15 U.S.C. 638).

(1) The amendments:

(i) Continue the SBIR Program through September 30, 2008;

(ii) Clarify data rights pertaining to SBIR Phase I, Phase II, and federally-funded Phase III awards.

(iii) Establish databases - one for the public and one for Government use - to collect and maintain in a common format

information that is necessary to assist SBCs and assess the SBIR Program.

(iv) Require agencies with an SBIR budget of over $50,000,000 for fiscal year 1999 to enter into an agreement with the National Academy of Sciences for the National Research Council to conduct a review of each agency's SBIR Program.

(v) Require SBIR agencies to report to SBA on the calculation of the agency's extramural budget within 4 months of enactment of each agency's annual Appropriations Act.

(vi) Establish the Federal and State Technology (FAST Partnership Program to strengthen the technological competitiveness of SBCs.

(vii) Extend the Rural Outreach Program through September 30, 2005.

(b) Each Federal agency with an extramural budget for R/R&D in excess of 100,000,000 must participate in the SBIR Program.

(c) The statutory requirements establish a uniform, simplified process for the operation of the SBIR Program while allowing the SBIR agencies flexibility in the operation of their individual SBIR Program. This Policy Directive fulfills the Congressional intent to minimize regulatory burden in the conduct of this program.

(d) Each SBIR agency must establish an SBIR Program by reserving, in each fiscal year, not less than 2.5 percent of its extramural budget for awards to SBCs for R/R&D through the following uniform, three-phase process:

(1) Phases I and II. These phases help SBIR agencies meet R/R&D and commercialization objectives through funding agreements.

(2) Phase III. This phase, where appropriate, helps Federal agencies participating in the SBIR Program by:

(i) providing Federal agencies the benefits of commercial applications derived from Government-funded R/R&D which stimulates technological innovation and enhances the national return on investment from R/R&D;

(ii) providing SBIR awardees access to the Federal market through non-SBIR funding agreements; and

(iii) providing SBIR awardees access to private sector markets to stimulate economic growth and create jobs.

(e) The Act directs each SBIR agency to report annually to SBA. The Act also requires SBA to obtain annual reports and monitor each agency's SBIR Program and to report these findings annually to the Senate Committee on Small Business and Entrepreneurship and to the House Committees on Science and Small Business.

(f) The competition requirements of the Armed Services Procurement Act of 1947 (10 U.S.C. 2302 et seq.) and the Federal Property and Administrative Services Act 1949 (41 U.S.C. 251 et seq.) must be read in conjunction with the procurement notice publication requirements of Section 8(e) of the Small Business Act (15 U.S.C. 637(e)). The following notice publication requirements of Section 8(e) of the Small Business Act apply to SBIR agencies using contracts as a SBIR funding agreement.

(1) Any Federal executive agency intending to solicit a proposal to contract for property or services valued above $25,000 must transmit a notice of the impending solicitation to the Government-wide point of entry (GPE) for access by interested sources. See FAR 5.201. The GPE, located at http://www.fedbizopps.gov, is the single point where Government business opportunities greater than $25,000, including synopses of proposed contract actions, solicitations, and associated information, can be accessed electronically by the public. In addition, no agency must issue its solicitation for at least 15 days from the date of the publication of the GPE. The agency may not establish a deadline for submission of proposals in response to a solicitation earlier than 30 days after the date on which the solicitation was issued.

(2) The contracting officer must generally make available through the GPE those solicitations synopsized through the GPE, including specifications and other pertinent information determined necessary by the contracting officer. See FAR 5.102.

(3) Any executive agency awarding a contract for property or services valued at more than $25,000 must submit a synopsis of the award through the GPE if a subcontract is likely to result from such contract. See FAR 5.301.

(4) The following are exemptions from the notice publication requirements:

(i) In the case of agencies intending to solicit Phase I proposals for contracts in excess of $25,000, the head of the agency may exempt a particular solicitation from the notice publication requirements if that official makes a written determination, after consulting with the Administrator of the Office of Federal Procurement Policy and the SBA Administrator that it is inappropriate or unreasonable to publish a notice before issuing a solicitation.

(ii) The SBIR Phase II award process is exempt.

(iii) The SBIR Phase III award process is exempt.

3. DEFINITIONS

(a) Act**.** The Small Business Act (15 U.S.C. 631 et seq.), as amended.

(b**)** Additionally Eligible State. A State in which the total value of funding agreements awarded to SBCs (as defined in this section) under all agency SBIR Programs is less than the total value of funding agreements awarded to SBCs in a majority of other States, as determined by SBA's Administrator in biennial fiscal years and based on the most recent statistics compiled by the Administrator.

(c**)** Applicant. The organizational entity that, at the time of award, will qualify as an SBC and that submits a contract proposal or a grant application for a funding agreement under the SBIR Program.

(d) Affiliate. This term has the same meaning as set forth in 13 CFR Part 121-Small Business Size Regulations, §121.103, What is affiliation?

(e) Awardee. The organizational entity receiving an SBIR Phase I, Phase II, or Phase III award.

(f) Commercialization. The process of developing marketable products or services and producing and delivering products or services for sale (whether by the originating party or by others) to Government or commercial markets.

(g) Cooperative Agreement. A financial assistance mechanism used when substantial Federal programmatic involvement with the awardee during performance is anticipated by the issuing agency. The Cooperative Agreement contains the responsibilities and respective obligations of the parties.

(h) Eligible State. A State: (1) where the total value of SBIR and Small Business Technology Transfer (STTR) Program awards made to recipient businesses in the State during fiscal year 1995 was less than $5,000,000 (as reflected in SBA's database of fiscal year 1995 awards), and (2) that certifies to SBA's Administrator that it will, upon receipt of assistance, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount of assistance provided.

(i) Essentially Equivalent Work. This occurs when (1) substantially the same research is proposed for funding in more than one contract proposal or grant application submitted to the same Federal agency; (2) substantially the same research is submitted to two or more different Federal agencies for review and funding consideration; or (3) a specific research objective and the research design for accomplishing an objective are the same or closely related in two or more proposals or awards, regardless of the funding source.

(j) Extramural Budget. The sum of the total obligations for R/R&D minus amounts obligated for R/R&D activities by employees of a Federal agency in or through Government-owned, Government-operated facilities. For the Agency for International Development, the "extramural budget" must not include amounts obligated solely for general institutional support of international research centers or for grants to foreign countries. For the Department of Energy, the "extramural budget" must not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs. (Also see Section 7(i) of this Policy Directive for additional exemptions related to national security.)

(k) Feasibility. The practical extent to which a project can be performed successfully.

(l) Federal Agency. An executive agency as defined in 5 U.S.C. 105, or a military department as defined in 5 U.S.C. 102, except that it does not include any agency within the Intelligence Community as defined in Executive Order 12333, Section 3.4(f), or its successor orders.

(m) Funding Agreement. Any contract, grant, or cooperative agreement entered into between any Federal agency and any SBC for the performance of experimental, developmental, or research work, including products or services, funded in whole or in part by the Federal Government.

(n) Funding Agreement Officer. A contracting officer, a grants officer, or a cooperative agreement officer.

(o) Grant. Financial assistance mechanism providing money, property, or both to an eligible entity to carry out an approved project or activity. A grant is used whenever the Federal agency anticipates no substantial programmatic involvement with the awardee during performance.

(p) Innovation. Something new or improved, having marketable potential, including (1) development of new technologies, (2) refinement of existing technologies, or (3) development of new applications for existing technologies.

(q) Intellectual Property. The separate and distinct types of intangible property that is referred to collectively as "intellectual property," including but not limited to: patents, trademarks, copyrights, trade secrets, SBIR technical data (as defined in this section), ideas, designs, know-how, business, technical and research methods, other types of intangible business assets, and all types of intangible assets either proposed or generated by an SBC as a result of its participation in the SBIR Program.

(r) Joint Venture. An association of concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out a single specific business venture for joint profit, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally. A joint venture is viewed as a business entity in determining power to control its management.

(s) Outcomes. The measures of long-term, eventual, program impact.

(t) Outputs. The measures of near-term program impact.

(u) Principal Investigator/Project Manager. The one individual designated by the applicant to provide the scientific and technical direction to a project supported by the funding agreement.

(v) Program Solicitation**.** A formal solicitation for proposals whereby a Federal agency notifies the small business community of its R/R&D needs and interests in broad and selected areas, as appropriate to the agency, and requests proposals from SBCs in response to these needs and interests. Announcements in the Federal Register or the GPE are not considered an SBIR Program solicitation.

(w) Prototype. A model of something to be further developed, which includes designs, protocols, questionnaires, software, and devices.

(x) Research or Research and Development (R/R&D). Any activity that is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied;

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need; or

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

(y) Small Business Concern. A concern that, on the date of award for both Phase I and Phase II funding agreements:

(1) is organized for profit, with a place of business located in the United States, which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials or labor;

(2) is in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture, there can be no more than 49 percent participation by business entities in the joint venture;

(3) is at least 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States, except in the case of a joint venture, where each entity to the venture must

be 51 percent owned and controlled by one or more individuals who are citizens of, or permanent resident aliens in, the United States; and

(4) has, including its affiliates, not more than 500 employees.

(z) Socially and Economically Disadvantaged SBC. See 13 CFR Part 124--8(A) Business Development/Small Disadvantaged Business Status Determinations, §§124.103 (Who is socially disadvantaged?) and 124.104 (Who is economically disadvantaged?)

(aa) SBIR Participants. Business concerns that have received SBIR awards or that have submitted SBIR proposals/applications.

(bb) SBIR Technical Data. All data generated during the performance of an SBIR award.

(cc) SBIR Technical Data Rights. The rights an SBC obtains in data generated during the performance of any SBIR Phase I, Phase II, or Phase III award that an awardee delivers to the Government during or upon completion of a federally-funded project, and to which the Government receives a license.

(dd) **Subcontract.** Any agreement, other than one involving an employer-employee relationship, entered into by an awardee of a funding agreement calling for supplies or services for the performance of the original funding agreement.

(ee) Technology Development Program.

(1) the Experimental Program to Stimulate Competitive Research of the National Science Foundation as established under 42 U.S.C. 1862g;

(2) the Defense Experimental Program to Stimulate Competitive Research of the Department of Defense;

(3) the Experimental Program to Stimulate Competitive Research of the Department of Energy;

(4) the Experimental Program to Stimulate Competitive Research of the Environmental Protection Agency;

(5) the Experimental Program to Stimulate Competitive Research of the National Aeronautics and Space Administration;

(6) the Institutional Development Award Program of the National Institutes of Health; and

(7) the National Research Initiative Competitive Grants Program of the Department of Agriculture.

(ff) United States. Means the 50 states, the territories and possessions of the Federal Government, the Commonwealth of Puerto Rico, the District of Columbia, the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau.

(gg) Women-Owned SBC. An SBC that is at least 51 percent owned by one or more women, or in the case of any publicly owned business, at least 51 percent of the stock is owned by women, and women control the management and daily business operations.

4. COMPETITIVELY PHASED STRUCTURE OF THE PROGRAM

The SBIR Program is a phased process, uniform throughout the Federal Government, of soliciting proposals and awarding funding agreements for R/R&D, production, services, or any combination, to meet stated agency needs or missions. In order to stimulate and foster scientific and technological innovation, including increasing commercialization of Federal R/R&D, the program must follow a uniform competitive process of the following three phases:

(a) **PHASE I.** Phase I involves a solicitation of contract proposals or grant applications (hereinafter referred to as proposals) to conduct feasibility-related experimental or theoretical R/R&D related to described agency requirements. These requirements, as defined by agency topics contained in a solicitation, may be general or narrow in scope, depending on the needs of the agency. The object of this phase is to determine the scientific and technical merit and feasibility of the proposed effort and the quality of performance of the SBC with a relatively small agency investment before consideration of further Federal support in Phase II.

(1) Several different proposed solutions to a given problem may be funded.

(2) Proposals will be evaluated on a competitive basis. Agency criteria used to evaluate SBIR proposals must give consideration to the scientific and technical merit and feasibility of the proposal along with its potential for commercialization. Considerations may also include program balance or critical agency requirements.

(3) Agencies may require the submission of a Phase II proposal as a deliverable item under Phase I.

(b) **PHASE II.** The object of Phase II is to continue the R/R&D effort from the completed Phase I. Only SBIR awardees in Phase I are eligible to participate in Phases II and III. This includes those awardees identified via a "novated" or "successor in interest" or similarly-revised funding agreement, or those that have reorganized with the same key staff, regardless of whether they have been assigned a different tax identification number. Agencies may require the original awardee to relinquish its rights and interests in an SBIR project in favor of a

another applicant as a condition for that applicant's eligibility to participate in the SBIR Program for that project.

(1) Funding must be based upon the results of Phase I and the scientific and technical merit and commercial potential of the Phase II proposal. Phase II awards may not necessarily complete the total research and development that may be required to satisfy commercial or Federal needs beyond the SBIR Program. The Phase II funding agreement with the awardee may, at the discretion of the awarding agency, establish the procedures applicable to Phase III agreements. The Government is not obligated to fund any specific Phase II proposal.

(2) The SBIR Phase II award decision process requires, among other things, consideration of a proposal's commercial potential. Commercial potential includes the potential to transition the technology to private sector applications, Government applications, or Government contractor applications. Commercial potential in a Phase II proposal may be evidenced by:

(i) the SBC's record of successfully commercializing SBIR or other research;

(ii) the existence of Phase II funding commitments from private sector or other non-SBIR funding sources;

(iii) the existence of Phase III, follow-on commitments for the subject of the research; and

(iv) other indicators of commercial potential of the idea.

(c) **PHASE III.** SBIR Phase III refers to work that derives from, extends, or logically concludes effort(s) performed under prior SBIR funding agreements, but is funded by sources other than the SBIR Program. Phase III work is typically oriented towards commercialization of SBIR research or technology.

(1) Each of the following types of activity constitutes SBIR Phase III work:

(i) commercial application of SBIR-funded R/R&D financed by non-Federal sources of capital (Note: The guidance in this Policy Directive regarding SBIR Phase III pertains to the non-SBIR federally-funded work described in (ii) and (iii) below. It does not address the nature of private agreements the SBIR firm may make in the commercialization of its technology);

(ii) SBIR-derived products or services intended for use by the Federal Government, funded by non-SBIR sources of Federal funding;

(iii) continuation of R/R&D that has been competitively selected using peer review or scientific review criteria, funded by non-SBIR Federal funding sources.

(2) A Phase III award is, by its nature, an SBIR award, has SBIR status, and must be accorded SBIR data rights. (See Section 8(b)(2) regarding the protection period for data rights.) If an SBIR awardee wins a competition for work that derives from, extends, or logically concludes that firm's work under a prior SBIR funding agreement, then the funding agreement for the new, competed work must have all SBIR Phase III status and data rights. A Federal agency may enter into a Phase III SBIR agreement at any time with a Phase II awardee. Similarly, a Federal agency may enter into a Phase III SBIR agreement at any time with a Phase I awardee. An agency official may determine, using the criteria set forth in the Directive as guidance, whether a contract or agreement is a Phase III award.

(3) The competition for SBIR Phase I and Phase II awards satisfies any competition requirement of the Armed Services Procurement Act, the Federal Property and Administrative Services Act, and the Competition in Contracting Act. Therefore, an agency that wishes to fund an SBIR Phase III project is not required to conduct another competition in order to satisfy those statutory provisions. As a result, in conducting actions relative to a Phase III SBIR award, it is sufficient to state for purposes of a Justification and Approval pursuant to FAR 6.302-5, that the project is an SBIR Phase III award that is derived from, extends, or logically concludes efforts performed under prior SBIR funding agreements and is authorized under 10 U.S.C. 2304(b) (2) or 41 U.S.C. 253(b) (2).

(4) Phase III work may be for products, production, services, R/R&D, or any combination thereof.

(5) There is no limit on the number, duration, type, or dollar value of Phase III awards made to a business concern. There is no limit on the time that may elapse between a Phase I or Phase II award and Phase III award, or between a Phase III award and any subsequent Phase III award.

(6) The small business size limits for Phase I and Phase II awards do not apply to Phase III awards.

(7) For Phase III, Congress intends that agencies or their Government-owned, contractor-operated facilities, federally-funded research and development centers, or Government prime contractors that pursue R/R&D or production developed under the SBIR Program, give preference, including sole source awards, to the awardee that developed the technology. In fact, the Act requires reporting to SBA of all instances in which an agency pursues research, development, or production of a technology developed by an SBIR awardee, with a concern other than the one that developed the SBIR technology. (See Section 4(c) (7)

immediately below for agency notification to SBA prior to award of such a funding agreement and Section 9(a) (12) regarding agency reporting of the issuance of such award.) SBA will report such instances, including those discovered independently by SBA, to Congress.

(8) For Phase III, agencies, their Government-owned, contractor-operated facilities, or federally-funded research and development centers, that intend to pursue R/R&D, production, services, or any combination thereof of a technology developed by an SBIR awardee of that agency, with an entity other than that SBIR awardee, must notify SBA in writing prior to such an award. This notice requirement also applies to technologies of SBIR awardees with SBIR funding from two or more agencies where one of the agencies determines to pursue the technology with an entity other than that awardee. This notification must include, at a minimum: (a) the reasons why the follow-on funding agreement with the SBIR awardee is not practicable; (b) the identity of the entity with which the agency intends to make an award to perform research, development, or production; and (c) a description of the type of funding award under which the research, development, or production will be obtained. SBA may appeal the decision to the head of the contracting activity. If SBA decides to appeal the decision, it must file a notice of intent to appeal with the contracting officer no later than 5 business days after receiving the agency's notice of intent to make award. Upon receipt of SBA's notice of intent to appeal, the contracting officer must suspend further action on the acquisition until the head of the contracting activity issues a written decision on the appeal. The contracting officer may proceed with award if he or she determines in writing that the award must be made to protect the public interest. The contracting officer must include a statement of the facts justifying that determination and provide a copy of its determination to SBA. Within 30 days of receiving SBA's appeal, the head of the contracting activity must render a written decision setting forth the basis of his or her determination.

5. PROGRAM SOLICITATION PROCESS

(a) At least annually, each agency must issue a program solicitation that sets forth a substantial number of R/R&D topics and subtopic areas consistent with stated agency needs or missions. Both the list of topics and the description of the topics and subtopics must be sufficiently comprehensive to provide a wide range of opportunities for SBCs to participate in the agency R&D programs. Topics and subtopics must emphasize the need for proposals with advanced concepts to meet specific agency R/R&D needs. Each topic and subtopic must describe the needs in sufficient detail to assist in providing on-target responses, but cannot involve detailed specifications to prescribed solutions of the problems.

(b) The Act requires issuance of SBIR (Phase I) Program solicitations in accordance with a Master Schedule coordinated between SBA and the SBIR agency. The SBA office responsible for coordination is:

Office of Technology
Office of Government Contracting
Office of Government Contracting and Business Development
U. S. Small Business Administration
409 Third Street, SW
Washington, DC 20416
Phone: (202) 205-6450
Fax: (202) 205-7754
E-mail: technology@sba.gov
Internet site: www.sba.gov/sbir

(c) For maximum participation by interested SBCs, it is important that the planning, scheduling and coordination of agency program solicitation release dates be completed as early as practicable to coincide with the commencement of the fiscal year on October 1. Bunching of agency program solicitation release and closing dates may prohibit SBCs from preparation and timely submission of proposals for more than one SBIR project. SBA's coordination of agency schedules minimize the bunching of proposed release and closing dates. Participating agencies may elect to publish multiple program solicitations within a given fiscal year to facilitate in-house agency proposal review and evaluation scheduling.

(d) Master Schedule

SBA posts an electronic Master Schedule of release dates of program solicitations with links to Internet web sites of agency solicitations. Agencies must post on their Internet web sites the following information regarding each program solicitation:

(1) The list of topics upon which R/R&D proposals will be sought.

(2) Agency address, phone number, or email address from which SBIR Program solicitations can be requested or obtained, especially through electronic means.

(3) Names, addresses, and phone numbers of agency contact points where SBIR-related inquiries may be directed.

(4) Release date(s) of program solicitation(s).

(5) Closing date(s) for receipt of proposals.

(6) Estimated number and average dollar amounts of Phase I awards to be made under the solicitation.

(e) On or before August 1, each agency representative must notify SBA in writing or by e-mail of its proposed program solicitation release and proposal due dates for the next fiscal year. SBA and the agency representatives will coordinate the resolution of any conflicting agency solicitation dates by the second week of August. In all cases, SBA will make final decisions.

(f) For those agencies that use both general topic and more specific subtopic designations in their SBIR solicitations, the topic data should accurately describe the research solicited. For example, rather than just announcing topic information characterized as "Chemistry" or "Aerodynamics," the SBIR agency should summarize the subtopic statements and, where appropriate, utilize National Critical Technologies.

(g) Simplified, Standardized, and Timely SBIR Program Solicitations

(1) The Act requires "...simplified, standardized and timely SBIR solicitations" and for SBIR agencies to use a "uniform process" minimizing the regulatory burden for SBCs. Therefore, the instructions in Appendix I to this Policy Directive purposely depart from normal Government solicitation format and requirements. SBIR Program solicitations must be prepared according to Appendix I.

(2) Agencies must provide SBA's Office of Technology with two hard copies or an e-mail version of each solicitation and any modifications no later than the date of release of the solicitation or modification to the public. Agencies that issue program solicitations in electronic format only must provide the Internet site at which the program solicitation may be accessed no later than the date of posting at that site of the program solicitation.

(3) SBA does not intend that the SBIR Program solicitation replace or be used as a substitute for unsolicited proposals for R/R&D awards to SBCs. In addition, the SBIR Program solicitation procedures do not prohibit other agency R/R&D actions with SBCs that are carried on in accordance with applicable statutory or regulatory authorizations.

6. ELIGIBILITY AND APPLICATION (PROPOSAL) REQUIREMENTS

(a) Eligibility Requirements:

(1) To receive SBIR funds, each awardee of a SBIR Phase I or Phase II award must qualify as an SBC.

(2) For Phase I, a minimum of two-thirds of the research or analytical effort must be performed by the awardee. Occasionally, deviations from this requirement may occur, and must be approved in writing by the funding agreement officer after consultation with the agency SBIR Program Manager/Coordinator.

(3) For Phase II, a minimum of one-half of the research or analytical effort must be performed by the awardee. Occasionally, deviations from this requirement may occur, and must be approved in writing by the funding agreement officer after consultation with the agency SBIR Program Manager/Coordinator.

(4) For both Phase I and Phase II, the primary employment of the principal investigator must be with the SBC at the time of award and during the conduct of the proposed project. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the SBC. This precludes full-time employment with another organization. Occasionally, deviations from this requirement may occur, and must be approved in writing by the funding agreement officer after consultation with the agency SBIR Program Manager/Coordinator. Further, an SBC may replace the principal investigator on an SBIR Phase I or Phase II award, subject to approval in writing by the funding agreement officer. For purposes of the SBIR Program, personnel obtained through a Professional Employer Organization or other similar personnel leasing company may be considered employees of the awardee. This is consistent with SBA's size regulations, 13 CFR §121.106 - Small Business Size Regulations.

(5) For both Phase I and Phase II, the R/R&D work must be performed in the United States. However, based on a rare and unique circumstance, agencies may approve a particular portion of the R/R&D work to be performed or obtained in a country outside of the United States, for example, if a supply or material or other item or project requirement is not available in the United States. The funding agreement officer must approve each such specific condition in writing:

(b) <u>Proposal Requirements</u>:

(1) <u>Documentation of commercialization record of firms with multiple Phase II awards</u>. An SBC submitting a proposal for a funding agreement for Phase I of an SBIR Program that has received more than **15** Phase II SBIR awards during the preceding **5** fiscal years must document the extent to which it was able to secure Phase III funding to develop concepts resulting from previous Phase II SBIR awards.

(2) <u>Commercialization Plan</u>. A succinct commercialization plan must be included with each proposal for an SBIR Phase II award moving toward commercialization. Elements of a commercialization plan may include the following:

(i) **<u>Company information</u>**: Focused objectives/core competencies; size; specialization area(s); products with significant sales; and history of previous Federal and non-Federal funding, regulatory experience, and subsequent commercialization.

(ii) **Customer and Competition:** Clear description of key technology objectives, current competition, and advantages compared to competing products or services; description of hurdles to acceptance of the innovation.

(iii) **Market:** Milestones, target dates, analyses of market size, and estimated market share after first year sales and after 5 years; explanation of plan to obtain market share.

(iv) **Intellectual Property:** Patent status, technology lead, trade secrets or other demonstration of a plan to achieve sufficient protection to realize the commercialization stage and attain at least a temporal competitive advantage.

(v) **Financing:** Plans for securing necessary funding in Phase III.

(vi) **Assistance and mentoring:** Plans for securing needed technical or business assistance through mentoring, partnering, or through arrangements with state assistance programs, SBDCs, federally- funded research laboratories, Manufacturing Extension Partnership centers or other assistance providers.

(3) **Data Collection:** Each Phase II applicant will be required to provide information to the Tech-Net Database System (http://technet.sba.gov). See Appendix I, Section 3(c), "Data Collection Requirement," for additional information.

7. SBIR FUNDING PROCESS

Because the Act requires a "simplified, standardized funding process," specific attention must be given to the following areas of SBIR Program administration:

(a) **Timely Receipt and Review of Proposals**.

(1) Participating agencies must establish appropriate dates and formats for review of proposals.

(i) All activities related to Phase I proposal reviews must normally be completed and awards made within 6 months from the closing date of the program solicitation. However, agencies may extend that period up to 12 months based on agency needs.

(ii) Program solicitations must establish proposal submission dates for Phase I and may establish proposal submission dates for Phase II. However, agencies may also negotiate mutually acceptable Phase II proposal submission dates with individual Phase I awardees, accomplish proposal reviews expeditiously, and proceed with Phase II awards. While recognizing that Phase II arrangements between the agency and applicant may require more

detailed negotiation to establish terms acceptable to both parties, agencies must not sacrifice the R/R&D momentum created under Phase I by engaging in unnecessarily protracted Phase II proceedings.

(iii) SBIR participants often submit duplicate or similar proposals to more than one soliciting agency when the work projects appear to involve similar topics or requirements, which are within the expertise and capability levels of the applicant. To the extent feasible, more than one agency should not fund "essentially equivalent work" under the SBIR or other Federal programs. For this purpose, the standardized program solicitation will require applicants to indicate the name and address of the agencies to which essentially equivalent work proposals were made, or anticipated to be made, and to identify by subject the projects for which the proposal was submitted and the dates submitted. The same information will be required for any previous Federal Government awards. To assist in avoiding duplicate funding, each agency must provide to SBA and to each SBIR agency a listing of Phase I and Phase II awardees, their complete address, and the title of each SBIR project. This information should be distributed no later than release of the funding agreement award information to the public.

(b) Review of SBIR Proposals. SBA encourages SBIR agencies to use their routine review processes for SBIR proposals whether internal or external evaluation is used. A more limited review process may be used for Phase I due to the larger number of proposals anticipated. Where appropriate, "peer" reviews external to the agency are authorized by the Act. SBA cautions SBIR agencies that all review procedures must be designed to minimize any possible conflict of interest as it pertains to applicant proprietary data. The standardized SBIR solicitation advises potential applicants that proposals may be subject to an established external review process and that the applicant may include company designated proprietary information in its proposal.

(c) Selection of Awardees. Normally, SBIR agencies must establish a proposal review cycle wherein successful and unsuccessful applicants will be notified of final award decisions within 6-months of the agency's Phase I proposal closing date. However, agencies may extend that period up to 12 months based on agency needs.

(1) The standardized SBIR Program solicitation must:

(i) Advise Phase I applicants that additional information may be requested by the awarding agency to evidence awardee responsibility for project completion.

(ii) Advise applicants of the proposal evaluation criteria for Phase I and Phase II.

(2) The SBIR agency and each Phase I awardee considered for a Phase II award must arrange to manage Phase II proposal submissions, reviews, and selections.

(d) Cost Sharing. Cost sharing can serve the mutual interests of the SBIR agencies and certain SBIR awardees by assuring the efficient use of available resources. However, cost sharing on SBIR projects is not required, although it may be encouraged. Therefore, cost sharing cannot be an evaluation factor in the review of proposals. The standardized SBIR Program solicitation (Appendix I) will provide information to prospective SBIR applicants concerning cost sharing.

(e) Payment Schedules and Cost Principles.

(1) SBIR awardees may be paid under an applicable, authorized progress payment procedure or in accordance with a negotiated/definitized price and payment schedule. Advance payments are optional and may be made under appropriate law. In all cases, agencies must make payment to recipients under SBIR funding agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of the funding agreement requirements.

(2) All SBIR funding agreements must use, as appropriate, current cost principles and procedures authorized for use by the SBIR agencies. At the time of award, agencies must inform each SBIR awardee, to the extent possible, of the applicable Federal regulations and procedures that refer to the costs that, generally, are allowable under funding agreements.

(f) Funding Agreement Types and Fee or Profit.

Statutory requirements for uniformity and standardization require consistency in application of SBIR Program provisions among SBIR agencies. However, consistency must allow for flexibility by the various agencies in missions and needs as well as the wide variance in funds required to be devoted to SBIR Programs in the agencies. The following instructions meet all of these requirements:

(1) **Funding Agreement.** The type of funding agreement (contract, grant, or cooperative agreement) is determined by the awarding agency, but must be consistent with 31 U.S.C. 6301-6308.

(2) **Fee or Profit.** Except as expressly excluded or limited by statute, awarding agencies must provide for a reasonable fee or profit on SBIR funding agreements, consistent with normal profit margins provided to profit-making firms for R/R&D work.

(g) Periods of Performance and Extensions.

(1) In keeping with the legislative intent to make a large number of relatively small awards, modification of funding agreements to extend periods of performance, to increase the scope of work, or to increase the dollar amount should be kept to a minimum, except for options in original Phase I or II awards.

(2) **Phase I**. Period of performance normally should not exceed 6 months. However, agencies may provide a longer performance period where appropriate for a particular project.

(3) **Phase II**. Period of performance under Phase II is a subject of negotiation between the awardee and the issuing agency. The duration of Phase II normally should not exceed 2 years. However, agencies may provide a longer performance period where appropriate for a particular project.

(h) Dollar Value of Awards.

(1) Generally, a Phase I award may not exceed $100,000 and a Phase II award may not exceed $750,000. SBA may adjust these amounts once every 5 years to reflect economic adjustments and programmatic considerations. There is no dollar level associated with Phase III SBIR awards.

(2) An awarding agency may exceed those award values where appropriate for a particular project. After award of any funding agreement exceeding $100,000 for Phase I or $750,000 for Phase II, the agency's SBIR representative must provide SBA with written justification of such action. This justification must be submitted with the agency's Annual Report data. Similar justification is required for any modification to a funding agreement that would bring the cumulative dollar amount to a total in excess of the amounts set forth above.

(i) **National Security Exemption**. The Act provides for exemptions related to the simplified standardized funding process "... if national security or intelligence functions clearly would be jeopardized." This exemption should not be interpreted as a blanket exemption or prohibition of SBIR participation related to the acquisition of effort on national security or intelligence functions except as specifically defined under Section 9(e) (2) of the Act, 15 U.S.C. 638(e) (2). Agency technology managers directing R/R&D projects under the SBIR Program, where the project subject matter may be affected by this exemption, must first make a determination on which, if any, of the standardized proceedings clearly place national security and intelligence functions in jeopardy, and then proceed with an acceptable modified process to complete the SBIR action. SBA's SBIR Program monitoring activities, except where prohibited by security considerations, must include a review of

nonconforming SBIR actions justified under this public law provision.

8. **TERMS OF AGREEMENT UNDER SBIR AWARDS**

(a) **Proprietary Information Contained in Proposals.** The standardized SBIR Program solicitation will include provisions requiring the confidential treatment of any proprietary information to the extent permitted by law. Agencies will discourage SBCs from submitting information considered proprietary unless the information is deemed essential for proper evaluation of the proposal. The solicitation will require that all proprietary information be identified clearly and marked with a prescribed legend. Agencies may elect to require SBCs to limit proprietary information to that essential to the proposal and to have such information submitted on a separate page or pages keyed to the text. The Government, except for proposal review purposes, protects all proprietary information, regardless of type, submitted in a contract proposal or grant application for a funding agreement under the SBIR Program, from disclosure.

(b) **Rights in Data Developed Under SBIR Funding Agreement.** The Act provides for "retention by an SBC of the rights to data generated by the concern in the performance of an SBIR award."

(1) 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.

(2) SBIR agencies must protect from disclosure and non-governmental use all SBIR technical data developed from work performed under an SBIR funding agreement for a period of not less than four years from delivery of the last deliverable under that agreement (either Phase I, Phase II, or federally-funded SBIR Phase III) unless, subject to (b) (3) of this section, the agency obtains permission to disclose such SBIR technical data from the awardee or SBIR applicant. Agencies are released from obligation to protect SBIR data upon expiration of the protection period except that any such data that is also protected and referenced under a subsequent SBIR award must remain protected through the protection period of that subsequent SBIR award. For example, if a Phase III award is issued within or after the Phase II data rights protection period and the Phase III award refers to and protects data developed and protected under the Phase II award, then that data must continue to be protected through the Phase III protection period. Agencies have discretion to adopt a protection period longer than four years. The Government retains a royalty-free license for Government use of any technical data delivered under an SBIR award, whether patented or not. This section does not apply to program evaluation.

(3) SBIR technical data rights apply to all SBIR awards, including subcontracts to such awards, that fall within the statutory definition of

Phase I, II, or III of the SBIR Program, as described in Section 4 of this Policy Directive. The scope and extent of the SBIR technical data rights applicable to federally-funded Phase III awards is identical to the SBIR data rights applicable to Phases I and II SBIR awards. The data rights protection period lapses only: (i) upon expiration of the protection period applicable to the SBIR award, or (ii) by agreement between the awardee and the agency.

(4) Agencies must insert the provisions of (b) (1), (2), and (3) immediately above as SBIR data rights clauses into all SBIR Phase I, Phase II, and Phase III awards. These data rights clauses are non-negotiable and must not be the subject of negotiations pertaining to an SBIR Phase III award, or diminished or removed during award administration. An agency must not, in any way, make issuance of an SBIR Phase III award conditional on data rights. If the SBIR awardee wishes to transfer its SBIR data rights to the awarding agency or to a third party, it must do so in writing under a separate agreement. A decision by the awardee to relinquish, transfer, or modify in any way its SBIR data rights must be made without pressure or coercion by the agency or any other party. Following issuance of an SBIR Phase III award, the awardee may enter into an agreement with the awarding agency to transfer or modify the data rights contained in that SBIR Phase III award. Such a bilateral data rights agreement must be entered into only after the SBIR Phase III award, which includes the appropriate SBIR data rights clause has been signed. SBA must immediately report to the Congress any attempt or action by an agency to condition an SBIR award on data rights, to exclude the appropriate data rights clause from the award, or to diminish such rights.

(c) **Title Transfer of Agency-Provided Property.** Under the Act, the Government may transfer title to equipment provided by the SBIR agency to the awardee where such transfer would be more cost effective than recovery of the property.

(d) **Continued Use of Government Equipment**. The Act directs that an agency allow an SBIR awardee participating in the third phase of the SBIR Program continued use, as a directed bailment, of any property transferred by the agency to the Phase II awardee. The Phase II awardee may use the property for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of the SBIR Program.

(e) **Grant Authority.** The Act does not, in and of itself, convey grant authority. Each agency must secure grant authority in accordance with its normal procedures.

(f) **Conflicts of Interest.** SBA cautions SBIR agencies that awards made to SBCs owned by or employing current or previous Federal Government employees may create conflicts of interest in violation of FAR Part 3 and the Ethics in Government Act of 1978, as amended. Each SBIR agency should refer

to the standards of conduct review procedures currently in effect for its agency to ensure that such conflicts of interest do not arise.

(g) **American-Made Equipment and Products**. Congress intends that the awardee of a funding agreement under the SBIR Program should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible, in keeping with the overall purposes of this program. Each SBIR agency must provide to each awardee a notice of this requirement.

9. RESPONSIBILITIES OF SBIR PARTICIPATING AGENCIES AND DEPARTMENTS

(a) The Act requires each agency participating in the SBIR Program to:

(1) Submit to SBA's Administrator, not later than 4 months after the date of enactment of its annual Appropriations Act, a report describing the methodology used for calculating the amount of its extramural budget. The report must also include an itemization of each research program excluded from the calculation of its extramural budget and a brief explanation of why it is excluded.

(2) Unilaterally determine the categories of projects to be included in its SBIR Program, giving special consideration to broad research topics and to topics that further one or more critical technologies, as identified by:

(i) the National Critical Technologies panel (or its successor) in reports required under 42 U.S.C. 6683, or

(ii) the Secretary of Defense in accordance with 10 U.S.C. 2522.

(3) Release SBIR solicitations in accordance with the SBA master schedule.

(4) Unilaterally receive and evaluate proposals resulting from program solicitations, select awardees, issue funding agreements, and inform each awardee under such agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement.

(5) Require a succinct commercialization plan with each proposal submitted for a Phase II award.

(6) Collect and maintain information from awardees and provide it to SBA to develop and maintain the Tech-Net Database, as identified in Section 11(e) of this policy Directive.

(7) Administer its own SBIR funding agreements or delegate such administration to another agency.

(8) Include provisions in each SBIR funding agreement setting forth the respective rights of the United States and the awardee with respect to

intellectual property rights and with respect to any right to carry out follow-on research.

(9) Ensure that the rights in data developed under each federally-funded SBIR Phase I, Phase II, and Phase III award are protected properly.

(10) Make payments to awardees of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements and in all cases make payment to awardees under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements.

(11) Provide an annual report on the SBIR Program to SBA. See Section 10 of this Policy Directive.

(12) Report at least annually to SBA's Office of Technology all instances in which an agency pursued research, development, production, or any such combination of a technology developed by an SBC using an award made under the SBIR Program of that agency, where the agency determined that it was not practicable to enter into a follow-on non-SBIR Program funding agreement with that concern. The report must include, at a minimum:

(i) the reasons why the follow-on funding agreement with the concern was not practicable;

(ii) the identity of the entity with which the agency contracted to perform the research, development, or production; and

(iii) a description of the type of funding agreement under which the research, development or production was obtained.

(13) Include in its annual performance plan required by 31 U.S.C. 1115(a) and (b) a section on its SBIR Program, and submit such section to the Senate Committee on Small Business and Entrepreneurship and to the House Committees on Science and Small Business.

(b) The Act permits an agency that has established a Technology Development Program to review for funding under that program, in each fiscal year:

(1) any proposal to provide outreach and assistance to 1 or more SBCs interested in participating in the SBIR Program, including any proposal to make a grant or loan to a company to pay a portion or all of the cost of developing an SBIR proposal, from an entity, organization, or individual located in –

(i) a State that is eligible to participate in that technology development program; or

(ii) an Additionally Eligible State.

(2) any meritorious proposal for an SBIR Phase I award that is not funded through the SBIR Program for that fiscal year due to funding constraints, from an SBC located in a state identified in (i) or (ii) immediately above.

(c) The Act allows discretionary technical assistance to SBIR awardees.

(1) Agencies may enter into agreements with vendors to provide technical assistance to SBIR awardees, which may include access to a network of scientists and engineers engaged in a wide range of technologies or access to technical and business literature available through on-line data bases. Each agency may select a vendor for a term not to exceed 3 years. The vendor must be selected using competitive and merit-based criteria. The purpose of this technical assistance is to assist SBIR awardees in:

(i) making better technical decisions on SBIR projects;
(ii) solving technical problems that arise during SBIR projects;
(iii) minimizing technical risks associated with SBIR projects; and
(iv) commercializing the SBIR product or process.

(2) Phase I awards: Each agency may provide up to $4,000 of SBIR funds for the technical assistance described above in (c) (1). The amount will be in addition to the award and will count as part of the agency's SBIR funding.

(3) Phase II awards: Each agency may allow awardees to expend up to $4,000 of SBIR funds per year, using funds available from the SBIR award, for the technical assistance described above in (c) (1).

(d) Agencies are encouraged to develop programs to reduce the time period between the issuance of SBIR Phase I and Phase II awards. As appropriate, agencies should adopt accelerated proposal, evaluation, and selection procedures designed to address the gap in funding these competitive awards.

(e) Interagency actions.

(1) Joint funding. An SBIR project may be financed by more than one Federal
agency. Joint funding is not required but can be an effective arrangement for some projects.

(2) Phase II awards. An SBIR Phase II award may be issued by a Federal agency
other than the one that made the Phase I award. The Phase I and Phase II agencies should document their files appropriately, providing clear rationale for the transfer of the Phase II proposal to, and award by, the funding Federal agency.

(3) Timely notification of awards. In order to avoid duplicate funding of an SBIR project, agencies must promptly search the Tech-Net Database System for awards for essentially equivalent work. Discussion among agencies receiving similar proposals is strongly encouraged before an SBIR award is made.

(4) Participation by women-owned SBCs and socially and economically disadvantaged SBCs in the SBIR Program. In order to meet statutory requirements for greater inclusion, SBA and the Federal participating agencies must conduct outreach efforts to find and place innovative women-owned SBCs and socially and economically disadvantaged SBCs in the SBIR Program information system. These SBCs will be required to compete for SBIR awards on the Same basis as all other SBCs. However, participating agencies are encouraged to work independently and cooperatively with SBA to develop methods to encourage qualified women-owned SBCs and socially and
economically disadvantaged SBCs to participate in the SBIR Program.

(f) Limitation of participation and use of funds.

(1) Each SBIR agency must expend 2.5 percent of its extramural budget on awards made to SBCs. Agencies may not make available for the purpose of meeting the 2.5 percent an amount of its extramural budget for basic research that exceeds 2.5 percent. Funding agreements with SBCs for R/R&D that result from competitive or single source selections other than an SBIR Program must not be considered to meet any portion of the 2.5 percent.

(2) An agency must not use any of its SBIR budget for the purpose of funding administrative costs of the program, including costs associated with program operations, employee salaries, and other associated expenses.

(3) An agency must not issue an SBIR funding agreement that includes a provision
for subcontracting any portion of that agreement back to the issuing agency, to any other Federal Government agency, or to other units of the Federal Government. SBA may issue a case-by- case waiver to this provision after review of an agency's written justification that includes the following information:

(i) An explanation of why the SBIR research project requires the use of the Federal facility or personnel, including data that verifies the absence of non-federal facilities or personnel capable of supporting the research effort.

(ii) Why the Agency will not and can not fund the use of the Federal facility or personnel for the SBIR project with non-SBIR money.

(iii) The concurrence of the SBC's chief business official to use the Federal facility or personnel.

(4) No agency, at its own discretion, may unilaterally cease participation in the SBIR Program. R/R&D agency budgets may cause fluctuations and trends that must be reviewed in light of SBIR Program purposes. An agency may be considered by SBA for a phased withdrawal from participation in the SBIR Program over a period of time sufficient in duration to minimize any adverse impact on SBCs. However, the SBA decision concerning such a withdrawal will be made on a case-by-case basis and will depend on significant changes to extramural R/R&D 3-year forecasts as found in the annual Budget of the United States Government and National Science Foundation breakdowns of total R/R&D obligations as published in the Federal Funds for Research and Development. Any withdrawal of an SBIR Federal participating agency from the SBIR Program will be accomplished in a standardized and orderly manner in compliance with these statutorily mandated procedures.

(5) Federal agencies not otherwise qualified for the SBIR Program may participate on a voluntary basis. Federal agencies seeking to participate in the SBIR Program must first submit their written requests to SBA. Voluntary participation requires the written approval of SBA.

10. ANNUAL REPORT TO THE SMALL BUSINESS ADMINISTRATION

The Act requires a "simplified, standardized and timely annual report" from the SBIR agencies. The following paragraphs explain more about this requirement, including the due date, the kinds of information to be included, and the number of copies to be submitted to SBA.

(a) **Annual Report Due Date and Number of Copies.** Reporting must be on an annual basis and will be for the period ending September 30 of each fiscal year. A single, hard copy report is due to SBA by March 15 of each year. For example, the report for FY 2002 (October 1, 2001 - September 30, 2002) must be submitted to SBA by March 15, 2003. SBA encourages agencies to submit their annual report before the March 15 due date. The report should be sent to the address noted in Section 5(b). However, if agencies choose to send an electronic version, it should be sent to technology@sba.gov.

(b) **Annual Report Content.**

(1) Agency total fiscal year, extramural R/R&D total obligations as reported to the National Science Foundation pursuant to the annual Budget of the United States Government.

(2) SBIR Program total fiscal year dollars derived by applying the statutory per centum to the agency's extramural R/R&D total obligations.

(3) SBIR Program fiscal year dollars obligated through SBIR Program funding
agreements for Phase I and Phase II.

(4) Number of topics and subtopics contained in each program solicitation.

(5) Number of proposals received by the agency for each topic and subtopic in
each program solicitation. Identify the number of proposals received from HUBZone SBCs.

(6) For both Phase I and Phase II, the awardee's name and address, solicitation topic and subtopic, solicitation number, project title, and total dollar amount of funding agreement. Identify women-owned SBCs, economically and socially disadvantaged SBCs, HUBZone SBCs, and Phase II awardees with follow-on funding commitments.

(7) Justification for the award of any funding agreement exceeding $100,000 for Phase I or $750,000 for Phase II.

(8) The number of awardees for whom the Phase I process exceeded 6 months, tarting from the closing date of the SBIR solicitation to award of the funding agreement.

(9) For an agency Phase III award using non-SBIR Federal funds to continue a Phase II project, the agency must provide the name, address, project title, and dollar amount obligated.

(10) Justification for awards made under a topic or subtopic where the agency received only one proposal. Agencies must also provide the awardee's
name and address, the topic or subtopic, and the dollar amount of award. Information must be collected quarterly, but updated in the agency's annual reports.

(11) An accounting of Phase I awards made to SBCs that have received more than 15 Phase II awards from all agencies in the preceding 5 fiscal years. Each agency must report: name of awardee; Phase I funding agreement number and date of award; Phase I topic or subtopic title; amount and date of previous Phase II funding; and commercialization status for each prior Phase II award.

(12) If applicable, report the number of National Critical Technology topic or subtopic funding agreements issued, including an identification of the specific critical technology topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such National Critical Technologies topics.

(13) Report all instances in which an agency pursued R/R&D, services, production, or any combination of a technology developed by an SBIR awardee and determined that it was not practicable to enter into a follow-on funding agreement with non-SBIR funds with that concern. See Section 9(a)(12) for minimum reporting requirements.

(14) Report the number and dollar value of each SBIR and non-SBIR award over $10,000 and compare the number and amount of SBIR awards with awards to other than SBCs.

11. RESPONSIBILITIES OF SBA

(a) SBA's Office of Technology will annually obtain available information on the current critical technologies from the National Critical Technologies panel (or its successor) and the Secretary of Defense and provide such information to the SBIR agencies.

(b) SBA will request this information in June of each year. The data received will be submitted to each of the participating Federal agencies and will also be published in the September issue of the SBIR Pre-Solicitation Announcement.

(c) Examples of SBIR Areas to be Monitored by SBA.

(1) SBIR Funding Allocations. The magnitude and source of each SBIR agency's annual allocation reserved for SBIR awards are critical to the success of the SBIR Program. The Act defines the SBIR effort (R/R&D), the source of the funds for financing the SBIR Program (extramural budget), and the percentage of such funds to be reserved for the SBIR Program (2.5 percent). The Act requires that SBA monitor these annual allocations.

(2) SBIR Program Solicitation and Award Status. The accomplishment of scheduled SBIR events, such as SBIR Program solicitation releases and the issuance of funding agreements, is critical to meeting statutory mandates and to operating an effective, useful program. SBA monitors these and other operational features of the SBIR Program. SBA does not plan to monitor administration of the awards except in instances where SBA assistance is requested and is related to a specific SBIR project or funding
agreement.

(3) Follow-on Funding Commitments. SBA will monitor whether follow-on non-Federal funding commitments obtained by Phase II awardees for Phase III were considered in the evaluation of Phase II proposals as required by the Act.

(4) Agency Rules and Regulations. It is essential that no policy, rule, regulation, or interpretation be promulgated by the SBIR agencies that are inconsistent with the Act or this Policy Directive. SBA's monitoring activity will include review of policies, rules, regulations, interpretations, and

procedures generated to facilitate intra- and interagency SBIR Program implementation.

(d) SBA develops, participates in, and, when appropriate and feasible, sponsors seminars for innovative women-owned SBCs and socially and economically disadvantaged SBCs to inform them of the SBIR Program and Federal and commercial assistance and services available for potential SBIR Program participants.

(e) Standardized Collection of Data – "Technology Resources Access Network" (Tech-Net) Database System Overview

(1) SBA's Office of Technology, as functional program manager for the SBIR and the STTR Programs, is required to collect and report to the Congress, information regarding awards made to SBCs by each Federal agency participating in these programs.

(2) The Office of Technology maintains an internal database of awards and uses the system to report on technology and demographical statistics regarding the SBIR and the STTR Programs. The system also stores the 200-word technical abstract for each SBIR and STTR award that is prepared by the awardee summarizing the research effort that has been supported by the Federal Government. The system also provides the Office of Technology with the ability to perform keyword searches in many areas, including any part of the name, address, and technical abstract of the awardee. The system produces many reports that are used in the conduct of audits performed by the General Accounting Office (GAO) and to expose potential duplication of research and development efforts funded by the SBIR agencies.

(3) The Office of Technology, in a joint effort with SBA's Office of the Chief Information Officer, has redesigned the Office of Technology's internal awards database system to operate on the Internet. The Internet system is titled the "Technology Resources Network," or Tech-Net.

(4) Tech-Net offers a vast array of user-friendly capabilities, and is accessible by the public at no charge. Tech-Net allows for the online submission of SBIR/STTR awards data from all SBIR agencies. Tech-Net also allows any end-user to perform keyword searches and create formatted reports of SBIR/STTR awards information. Tech-Net will allow for potential research partners to view research and development efforts that are ongoing in the SBIR and the STTR Programs, increasing the investment opportunities of the SBIR/STTR SBCs in the high tech arena. Tech-Net serves as an excellent marketing tool for the small, high tech business community, allowing investors to view first-hand the technical capabilities of SBIR/STTR awardees. This will ultimately produce investments, partnerships, and strategic alliances resulting in commercialization of SBIR/STTR research.

(5) Tech-Net also houses legislatively mandated information on all SBIR and STTR awards, as well as confidential outcome and output information that will be relevant to measuring the effectiveness and success of the programs.

(6) Awardees can update their information and add project commercialization and sales data with user names and passwords. Username and passwords will be assigned only to awardees to provide access to their respective awards information maintained in the Tech-Net system. Award and commercialization data maintained in the Tech-Net database can be changed only by the awardee, SBA, or the awarding SBIR /STTR Federal agency.

(7) Project commercialization and sales data can only be viewed by Congress, GAO, agencies participating in the SBIR and the STTR Programs, Office of Management and Budget (OMB), Office of Science and Technology Policy (OSTP), Office of Federal Procurement Policy (OFPP), and other authorized persons (for example, authorized contractors) who are subject to a use and nondisclosure agreement with the Federal Government covering the use of the database.

(8) To use the Tech-Net database system, visit the website http://tech-net@sba.gov. Online help is available.

(9) Public Tech-Net Database (See Appendix II for Data Fields). The public Tech-Net Database is a searchable, up-to-date, electronic database that
includes:

(i) the name, size, location, funding agreement number, and identifying number assigned by the Administrator of each SBC that has received an SBIR or STTR Phase I or Phase II award from a Federal agency;

(ii) a description of each SBIR or STTR Phase I or Phase II award received by the SBC including:

(A) an abstract of the project funded by the award, excluding any proprietary information so identified by the awardee;

(B) the Federal agency making the award; and

(C) the date and amount of the award.

(iii) an identification of any business concern or subsidiary established for the commercial application of a product or service for which an SBIR or STTR award is made; and

(iv) information regarding mentors and Mentoring Networks, as required in the Federal and State Technology (FAST) Partnership Program described in Section 12 of this Policy Directive.

(10) Government Tech-Net Database. SBA, in consultation with the Federal agencies participating in the SBIR and the STTR Programs, develops and maintains a secure database that:

(i) contains, for each Phase II award:

(A) information on revenue from the sale of new products or services resulting from the research conducted under each Phase II award;

(B) information on additional investment from any source, other than Phase I or Phase II SBIR or STTR awards, to further the research and development conducted under each Phase II award; and

(C) any other information received in connection with the award that the Administrator, in conjunction with the SBIR program managers of the participating agencies, considers relevant and appropriate;

(ii) includes any narrative information that a Phase II awardee voluntarily submits to further describe the outputs and outcomes of its awards;

(iii) includes for each applicant that does not receive a Phase I or Phase II award:

(A) the name, size, location, and identifying number assigned by SBA;

(B) an abstract of the project; and

(C) the Federal agency to which the application was made;

(iv) includes any other data collected by or available to any Federal agency that such agency considers to be useful for SBIR program evaluation; and

(v) is available for use solely for program evaluation purposes by the Federal Government or, in accordance with Policy Directives issued by SBA, by other authorized persons who are subject Federal Government covering the use of the database.

(11) Data Collection for Government Tech-Net Database

(i) Each SBC applying for a Phase II award is required to update the appropriate information in the Tech-Net database for any of its prior Phase II awards. In meeting this requirement, the SBC may apportion sales or additional investment information relating to more than one Phase II award among those awards, if it notes the apportionment for each award.

(ii) Each Phase II awardee is required to update the appropriate information in the Tech-Net database on that award upon completion of the last deliverable under the funding agreement. In addition, the awardee is requested to voluntarily update the appropriate information on that award in the Tech-Net database annually thereafter for a minimum period of 5 years.

(iii) Pursuant to 15 U.S.C. 638(k)(4), information provided to the Government Tech-Net Database is privileged and confidential and not subject to disclosure pursuant to 5 U.S.C. 552 (Government Organization and Employees); nor must it be considered to be publication for purposes of 35 U.S.C. 102 (a) or (b).

(iv) SBA will minimize the data reporting requirements of SBCs, make updating available electronically, and provide standardized procedures.

12. FEDERAL AND STATE TECHNOLOGY (FAST) PARTNERSHIP PROGRAM AND OUTREACH PROGRAM

(a) Federal and State Technology Partnership Program

The Small Business Innovation Research Program Reauthorization Act of 2000, Public Law 106-554, established the Federal and State Technology Partnership Program (FAST Program) to strengthen the technological competitiveness of SBCs in the United States. Congress found that programs that foster economic development among small high-technology firms vary widely among the States. Thus, the purpose of the FAST Program is to improve the participation of small technology firms in the innovation and commercialization of new technology, thereby ensuring that the United States remains on the cutting-edge of research and development in the highly competitive arena of science and technology. SBA administers the FAST Program. Additional and information regarding this program is available at www.sba.gov/SBIR.

(b) Rural Outreach Program

(1) The Rural Outreach Program is authorized by section 9(s) of the Small Business Act, 15 U.S.C. 638(s). The Small Business Innovation Research Program Reauthorization Act of 2000, Public Law 106-554, extends the program through September 30, 2005.

(2) Historically, SBCs located in a relatively small number of states have been highly successful in securing awards under the SBIR Program. To expand competition under the SBIR and STTR Programs, and to encourage the maximum number of SBCs to submit proposals and succeed in winning awards, SBA provides Federal assistance to support statewide outreach to small high-technology businesses located in states that are underrepresented in SBIR/STTR awards. Cooperative agreements to "Eligible States" are made on a matching funds basis. The awards will be made in a ratio of Federal dollars to non-Federal dollars of 2:1, with a maximum Federal contribution of $100,000. Assistance provided to an Eligible State under this program announcement must be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of SBCs located in the State in the SBIR and STTR Programs.

(3) Only Eligible States may submit proposals for the Rural Outreach Program.

(4) SBA has determined that there are 25 “Eligible States”: Alaska, Arkansas, Delaware, District of Columbia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Puerto Rico, Rhode Island, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming.

APPENDIX I

INSTRUCTIONS FOR SBIR PROGRAM SOLICITATION PREPARATION

a. **General.** Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) requires "simplified, standardized and timely SBIR solicitations" and for SBIR agencies to utilize a "uniform process" minimizing the regulatory burden of participation. Therefore, the following instructions purposely depart from normal Government solicitation formats and requirements. SBIR solicitations must be prepared and issued as program solicitations in accordance with the following instructions.

b. **Limitation in Size of Solicitation**. In the interest of meeting the requirement for
simplified and standardized solicitations, while also recognizing that the Internet has become the main vehicle for distribution, each agency should structure its entire
SBIR solicitation to produce the least number of pages (electronic and printed), consistent with the procurement/assistance standing operating procedures and statutory requirements of the participating Federal agencies.

c. **Format.** SBIR Program solicitations must be prepared in a simple, standardized,
easy-to-read, and easy-to-understand format. It must include a cover sheet, a table
of contents, and the following sections in the order listed.

1. Program Description
2. Definitions
3. Proposal Preparation Instructions and Requirements
4. Method of Selection and Evaluation Criteria
5. Considerations
6. Submission of Proposals
7. Scientific and Technical Information Sources
8. Submission Forms and Certifications
9. Research Topics

d. **Cover Sheet.** The cover sheet of an SBIR Program solicitation must clearly identify the solicitation as a SBIR solicitation, identify the agency releasing the solicitation, specify date(s) on which contract proposals or grant applications (proposals) are due under the solicitation, and state the solicitation number or year.

Instructions for Preparation of SBIR Program Solicitation Sections 1 through 9.

1. **Program Description**.

(a) Summarize in narrative form the invitation to submit proposals and the objectives of the SBIR Program.

(b) Describe in narrative form the agency's SBIR Program including a description of the three phases. Note in your description that the solicitation is for Phase I proposals only.

(c) Describe program eligibility, as follows:

Eligibility. Each concern submitting a proposal must qualify as an SBC for R/R&D purposes at the time of award. In addition, the primary employment of the principal investigator must be with the SBC at the time of award and during the conduct of the proposed research, unless otherwise approved in writing by the funding agreement officer after consultation with the agency SBIR Program Manager/Coordinator. Also, for both Phase I and Phase II, the R/R&D work must be performed in the United States. However, based on a rare and unique circumstance, for example, a supply or material or other item or project requirement that is not available in the United States, agencies may allow that particular portion of the R/R&D work to be performed or obtained in a country outside of the United States. Approval by the funding agreement officer for each such specific condition must be in writing. Phase II proposals may be submitted only by Phase I awardees.

(d) List the name, address and telephone number of agency contacts for general information on the SBIR Program solicitation.

2. **Definitions.** Whenever terms are used that are unique to the SBIR Program, a specific SBIR solicitation or a portion of a solicitation, they will be defined in a separate section entitled "Definitions." At a minimum, the definitions of "funding agreement," “R/R&D,” "SBC," "SBIR technical data," "SBIR technical data rights," “subcontract,” and "women-owned SBC," as stated in this Policy Directive, must be included.

3. **Proposal Preparation Instructions and Requirements**. The purpose of this section is to inform the applicant on what to include in the proposal and to set forth limits on what may be included. It should also provide guidance to assist applicants, particularly those that may not have previous Government experience, in improving the quality and acceptance of proposals.

(a) Limitations on Length of Proposal. Include at least the following information:

(1) SBIR Phase I proposals must not exceed a total of 25 pages, including cover page, budget, and all enclosures or attachments, unless stated otherwise in the agency solicitation. Pages should be of standard size (8 1/2" X 11"; 21.6 cm X 27.9 cm) and should conform to the standard formatting instructions. Margins should be 2.5 cm and type at least 10 point font.

(2) A notice that no additional attachments, appendices, or references beyond the 25-page limitation shall be considered in proposal evaluation (unless specifically solicited by an agency) and that proposals in excess of the page limitation shall not be considered for review or award.

(b) Proposal Cover Sheet. Every applicant is required to include at least the following information on the first page of proposals. Items 8 and 9 are for statistical purposes only.

(1) Agency and solicitation number or year.

(2) Topic Number or Letter.

(3) Subtopic Number or Letter.

(4) Topic Area.

(5) Project Title.

(6) Name and Complete Address of Firm.

(7) Small Business Certification (by statement or checkbox) as follows: "The above concern certifies that it is an SBC and meets the definition as stated in this solicitation or that it will meet that definition at time of award."

(8) Socially and Economically Disadvantaged SBC Certification (by statement
or checkbox) as follows: ”The above concern certifies that it ___ does ___does not qualify as a socially and economically disadvantaged SBC as defined in this solicitation."

(9) Women-owned SBC Certification (by statement or checkbox) as follows:

"The above concern certifies that it ___ does ___ does not qualify as a women-owned SBC as defined in this solicitation."

(10) An information statement regarding duplicate research as follows:

"The applicant and/or Principal Investigator _____ has _____ has not submitted proposals for essentially equivalent work under other Federal program solicitations or _____ has _____ has not received other Federal awards for essentially equivalent work." (Identify proposals/awards in Section 3(e)(10), "Similar Proposals and Awards.")

(11) Disclosure permission (by statement or checkbox), such as follows, may be included at the discretion of the funding agency: "Will you permit the Government to disclose the title and technical abstract page of your proposed project, plus the name, address, and telephone number of the corporate official of your concern, if your proposal does not result in an award, to concerns that may be interested in contacting you for further information? Yes____ No____"

(12) Signature of a company official of the proposing SBC and that individual's typed name, title, address, telephone number, and date of signature.

(13) Signature of Principal Investigator or Project Manager within the proposing SBC and that individual's typed name, title, address, telephone number, and date of signature.

(14) Legend for proprietary information as described in the "Considerations"
section of this program solicitation if appropriate. May also be noted by asterisks in the margins on proposal pages.

(c) Data Collection Requirement

(1) Each Phase II applicant is required to provide information for the Tech-Net Database System (http://technet.sba.gov). The following are examples of the data to be entered by applicants into Tech-Net:

(i) Any business concern or subsidiary established for the commercial application of a product or service for which an SBIR award is made.

(ii) Revenue from the sale of new products or services resulting from the research conducted under each Phase II award;

(iii) Additional investment from any source, other than Phase I or Phase II awards, to further the research and development conducted under each Phase II award.

(iv) Update the information in the Tech-Net database for any prior Phase
II award received by the SBC. The SBC may apportion sales or additional investment information relating to more than one Phase II award among those awards, if it notes the apportionment for each award.

(2) Each Phase II awardee is required to update the appropriate information on the award in the Tech-Net database upon completion of the last deliverable under the funding agreement and is requested to voluntarily update the information in the Tech-Net database annually thereafter for a minimum period of 5 years.

(d) Abstract or Summary. Applicants will be required to include an one-page project summary of the proposed R/R&D including at least the following:

(1) Name and address of SBC.

(2) Name and title of principal investigator or project manager.
(3) Agency name, solicitation number, solicitation topic, and subtopic.
(4) Title of project.
(5) Technical abstract limited to two hundred words.
(6) Summary of the anticipated results and implications of the approach (both Phases I and II) and the potential commercial applications of the research.

(e) Technical Content. SBIR Program solicitations must require, as a minimum, the following to be included in proposals submitted there under:

(1) Identification and Significance of the Problem or Opportunity. A clear statement of the specific technical problem or opportunity addressed.

(2) Phase I Technical Objectives. State the specific objectives of the Phase I research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.

(3) Phase I Work Plan. Include a detailed description of the Phase I R/R&D plan. The plan should indicate what will be done, where it will be done, and how the R/R&D will be carried out. Phase I R/R&D should address the objectives and the questions cited in (e)(2) immediately above. The methods planned to achieve each objective or task should be discussed in detail.

(4) Related R/R&D. Describe significant R/R&D that is directly related to the proposal including any conducted by the project manager/principal investigator or by the proposing SBC. Describe how it relates to the proposed effort, and any planned coordination with outside sources. The applicant must persuade reviewers of his or her awareness of key, recent R/R&D conducted by others in the specific topic area.

(5) Key Personnel and Bibliography of Directly Related Work. Identify key personnel involved in Phase I including their directly- related education, experience, and bibliographic information. Where vitae are extensive, summaries that focus on the most relevant experience or publications are desired and may be necessary to meet proposal size limitation.

(6) Relationship with Future R/R&D.

(i) State the anticipated results of the proposed approach if the project is successful (Phase I and II).

(ii) Discuss the significance of the Phase I effort in providing a foundation for the Phase II R/R&D effort.

(7) Facilities. A detailed description, availability and location of instrumentation and physical facilities proposed for Phase I should be provided.

(8) Consultants. Involvement of consultants in the planning and research stages of the project is permitted. If such involvement is intended, it should be described in detail.

(9) Potential Post Applications. Briefly describe:

(i) Whether and by what means the proposed project appears to have potential commercial application.

(ii) Whether and by what means the proposed project appears to have potential use by the Federal Government.

(10) Similar Proposals or Awards. WARNING – While it is permissible with proposal notification to submit identical proposals or proposals containing a significant amount of essentially equivalent work for consideration under numerous Federal program solicitations, it is unlawful to enter into funding agreements requiring essentially equivalent work. If there is any question concerning this, it must be disclosed to the soliciting agency or agencies before award. If an applicant elects to submit identical proposals or proposals containing a significant amount of essentially equivalent work under other Federal program solicitations, a statement must be included in each such proposal indicating:

(i) The name and address of the agencies to which proposals were submitted or from which awards were received.

(ii) Date of proposal submission or date of award.

(iii) Title, number, and date of solicitations under which proposals were submitted or awards received.

(iv) The specific applicable research topics for each proposal submitted for award received.

(v) Titles of research projects.

(vi) Name and title of principal investigator or project manager for each proposal submitted or award received.

(11) Prior SBIR Phase II Awards. If the SBC has received more than 15 Phase II awards in the prior 5 fiscal years, the SBC must submit in its Phase I proposal: name of the awarding agency; date of award; funding agreement number; amount of award; topic or subtopic title; follow-on agreement amount of award; source and date of commitment; and current commercialization status for each Phase II award. (This required proposal information will not be counted toward the proposal pages limitation.)

(f) Cost Breakdown/Proposed Budget. The solicitation will require the submission of simplified cost or budget data.

4. Method of Selection and Evaluation Criteria

(a) Standard Statement. Essentially, the following statement must be included in all SBIR Program solicitations: "All Phase I and II proposals will be evaluated and judged on a competitive basis. Proposals will be initially screened to determine responsiveness. Proposals passing this initial screening will be technically evaluated by engineers or scientists to determine the most promising technical and scientific approaches. Each proposal will be judged on its own merit. The Agency is under no obligation to fund any proposal or any specific number of proposals in a given topic. It also may elect to fund several or none of the proposed approaches to the same topic or subtopic."

(b) Evaluation Criteria.

(1) The SBIR agency must develop a standardized method in its evaluation process that will consider, at a minimum, the following factors:

(i) The technical approach and the anticipated agency and commercial benefits that may be derived from the research.

(ii) The adequacy of the proposed effort and its relationship to the fulfillment of requirements of the research topic or subtopics.

(iii) The soundness and technical merit of the proposed approach and its incremental progress toward topic or subtopic solution.

(iv) Qualifications of the proposed principal/key investigators, supporting staff, and consultants.

(v) Evaluations of proposals require, among other things, consideration of a proposal's commercial potential as evidenced by:

(A) the SBC's record of commercializing SBIR or other research,

(B) the existence of second phase funding commitments from private sector or non-SBIR funding sources,

(C) the existence of third phase follow-on commitments for the subject of the research, and,

(D) the presence of other indicators of the commercial potential of the idea.

(2) The factors in (b)(1) above and other appropriate evaluation criteria, if any, must be specified in the "Method of Selection" section of SBIR

Program solicitations.

(c) Peer Review. The program solicitation must indicate if the SBIR agency contemplates that as a part of the SBIR proposal evaluation, it will use external peer review.

(d) Release of Proposal Review Information. After final award decisions have been announced, the technical evaluations of the applicant's proposal may be provided to the applicant. The identity of the reviewer must not be disclosed.

5. **Considerations**.

This section must include, as a minimum, the following information:

(a) Awards. Indicate the estimated number and type of awards anticipated under
the particular SBIR Program solicitation in question, including:

(i) Approximate number of Phase I awards expected to be made.

(ii) Type of funding agreement, that is, contract, grant, or cooperative agreement.

(iii) Whether fee or profit will be allowed.

(iv) Cost basis of funding agreement, for example, firm-fixed-price, cost reimbursement, or cost-plus-fixed fee.

(v) Information on the approximate average dollar value of awards for Phase I
and Phase II.

(b) Reports. Describe the frequency and nature of reports that will be required under Phase I funding agreements. Interim reports should be brief letter reports.

(c) Payment Schedule. Specify the method and frequency of progress and final payment under Phase I and II agreements.

(d) Innovations, Inventions and Patents.

(1) Limited Rights Information and Data.

(i) Proprietary Information. Essentially, the following statement must be
included in all SBIR solicitations:

"Information contained in unsuccessful proposals will remain the property of the applicant. The Government may, however, retain copies of all

proposals. Public release of information in any proposal submitted will be subject to existing statutory and regulatory requirements. If proprietary information is provided by an applicant in a proposal, which constitutes a trade secret, proprietary commercial or financial information, confidential personal information or data affecting the national security, it will be treated in confidence, to the extent permitted by law. This information must be clearly marked by the applicant with the term "confidential proprietary information" and the following legend must appear on the title page of the proposal: "These data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than evaluation of this proposal. If a funding agreement is awarded to this applicant as a result of or in connection with the submission of these data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the funding agreement and pursuant to applicable law. This restriction does not limit the Government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction are contained on pages ____ of this proposal."

Any other legend may be unacceptable to the Government and may constitute grounds for removing the proposal from further consideration, without assuming any liability for inadvertent disclosure. The Government will limit dissemination of such information to within official channels."

(ii) Alternative To Minimize Proprietary Information. Agencies may elect to instruct applicants to:

(A) Limit proprietary information to only that absolutely essential to their proposal.

(B) Provide proprietary information on a separate page with a numbering system to key it to the appropriate place in the proposal.

(iii) Rights in Data Developed Under SBIR Funding Agreements. Agencies should insert essentially the following statement in their SBIR Program solicitations to notify SBCs of the necessity to mark SBIR
technical data before delivering it to the Agency:

“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. If no Data Rights clause is included in the SBIR award, the following legend, at a minimum, should be affixed to any data submissions under that 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). After expiration of the (4- or 5-year period), the Government has a royalty-free license to use, and to authorize others to use on its behalf, these data for Government purposes, and is relieved of all disclosure prohibitions and assumes no liability for unauthorized use of these data by third parties, except that any such data that is also protected and referenced under a subsequent SBIR award shall remain protected through the protection period of that subsequent SBIR award. Reproductions of these data or software must include this legend."

(iv) Copyrights. Include an appropriate statement concerning copyrights
and publications; for example:

"With prior written permission of the contracting officer, the awardee normally may copyright and publish (consistent with appropriate national security considerations, if any) material developed with (agency name) support. (Agency name) receives a royalty-free license for the Federal Government and requires that each publication contain an appropriate acknowledgement and disclaimer statement."

(v) Patents. Include an appropriate statement concerning patents. For example:

"Small business concerns normally may retain the principal worldwide patent rights to any invention developed with Government support. The Government receives a royalty-free license for Federal Government use, reserves the right to require the patent holder to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must normally manufacture it domestically. To the extent authorized by 35 U.S.C. 205, the Government will not make public any information disclosing a government-supported invention for a minimum 4-year period (that may be extended by subsequent SBIR funding agreements) to allow the awardee a reasonable time to pursue a patent."

(vi) Invention Reporting. Include requirements for reporting inventions. Include appropriate information concerning the reporting of inventions, for example:

"SBIR awardees must report inventions to the awarding agency within 2 months of the inventor's report to the awardee. The reporting of inventions may be accomplished by submitting paper documentation, including fax."

NOTE: Some agencies provide electronic reporting of inventions through the NIH Edison Invention Reporting System (Edison System). Use of the Edison System satisfies all invention reporting requirements mandated by

37 CFR Part 401, with particular emphasis on the Standard Patent Rights Clauses, 37 CFR 401.14. Access to the system is through a secure interactive Internet site, http://www.iedison.gov, to ensure that all information submitted is protected. All agencies are encouraged to use the Edison System. In addition to fulfilling reporting requirements, the Edison System notifies the user of future time sensitive deadlines with enough lead-time to avoid the possibility of loss of patent rights due to administrative oversight.

(e) Cost-Sharing. Include a statement essentially as follows:

"Cost-sharing is permitted for proposals under this program solicitation; however, cost-sharing is not required. Cost-sharing will not be an evaluation factor in consideration of your Phase I proposal."

(f) Profit or Fee. Include a statement on the payment of profit or fee on awards made under the SBIR Program solicitation.

(g) Joint Ventures or Limited Partnerships. Include essentially the following language:

"Joint ventures and limited partnerships are eligible provided the entity created qualifies as a small business concern as defined in this program solicitation."

(h) **Research and Analytical Work**. Include essentially the following statement:

(1) "For Phase I a minimum of two-thirds of the research and/or analytical effort must be performed by the proposing small business concern unless otherwise approved in writing by the funding agreement officer after consultation with the agency SBIR Program Manager/Coordinator.

(2) For Phase II a minimum of one-half of the research and/or analytical effort must be performed by the proposing small business concern unless otherwise approved in writing by the funding agreement officer after consultation with the agency SBIR Program Manager/Coordinator."

(i) Awardee Commitments. To meet the legislative requirement that SBIR solicitations be simplified, standardized and uniform, clauses expected to be in or required to be included in SBIR funding agreements must not be included in full or by reference in SBIR Program solicitations. Rather, applicants must be advised that they will be required to make certain legal commitments at the time of execution of funding agreements resulting from SBIR Program solicitations. Essentially, the following statement must be included in the "Considerations" section of SBIR Program solicitations:

"Upon award of a funding agreement, the awardee will be required to make certain legal commitments through acceptance of numerous clauses in Phase I funding agreements. The outline that follows is illustrative of the types of clauses to which the contractor would be committed. This list is not a complete list of clauses to be included in Phase I funding agreements, and is not the specific wording of such clauses. Copies of complete terms and conditions are available upon request."

(j) Summary Statements. The following are illustrative of the type of summary statements to be included immediately following the statement in subparagraph (i). These statements are examples only and may vary depending upon the type of funding agreement used.

(1) Standards of Work. Work performed under the funding agreement must conform to high professional standards.

(2) Inspection. Work performed under the funding agreement is subject to
Government inspection and evaluation at all times.

(3) Examination of Records. The Comptroller General (or a duly authorized representative) must have the right to examine any pertinent records of the awardee involving transactions related to this funding agreement.
(4) Default. The Government may terminate the funding agreement if the contractor fails to perform the work contracted.

(5) Termination for Convenience. The funding agreement may be terminated at any time by the Government if it deems termination to be in its best interest, in which case the awardee will be compensated for work performed and for reasonable termination costs.

(6) Disputes. Any dispute concerning the funding agreement that cannot be resolved by agreement must be decided by the contracting officer with right of appeal.

(7) Contract Work Hours. The awardee may not require an employee to work more than 8 hours a day or 40 hours a week unless the employee is compensated accordingly (for example, overtime pay).

(8) Equal Opportunity. The awardee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(9) Affirmative Action for Veterans. The awardee will not discriminate against any employee or application for employment because he or she is a disabled veteran or veteran of the Vietnam era.

(10) Affirmative Action for Handicapped. The awardee will not discriminate against any employee or applicant for employment because he or she is
physically or mentally handicapped.

(11) Officials Not To Benefit. No Government official must benefit personally from the SBIR funding agreement.

(12) Covenant Against Contingent Fees. No person or agency has been employed to solicit or secure the funding agreement upon an understanding for compensation except bonafide employees or commercial agencies maintained by the awardee for the purpose of securing business.

(13) Gratuities. The funding agreement may be terminated by the Government if any gratuities have been offered to any representative of the Government to secure the award.

(14) Patent Infringement. The awardee must report each notice or claim of patent
infringement based on the performance of the funding agreement.

(15) American Made Equipment and Products. When purchasing equipment or a product under the SBIR funding agreement, purchase only American-made items whenever possible.

(k) Additional Information. Information pertinent to an understanding of the administration requirements of SBIR proposals and funding agreements not included elsewhere must be included in this section. As a minimum, statements essentially as follows must be included under "Additional Information" in SBIR Program solicitations:

(1) This program solicitation is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting SBIR funding agreement, the terms of the funding agreement are controlling.

(2) Before award of an SBIR funding agreement, the Government may request the applicant to submit certain organizational, management, personnel, and financial information to assure responsibility of the applicant.

(3) The Government is not responsible for any monies expended by the applicant before award of any funding agreement.

(4) This program solicitation is not an offer by the Government and does not obligate the Government to make any specific number of awards. Also, awards under the SBIR Program are contingent upon the availability of funds.

(5) The SBIR Program is not a substitute for existing unsolicited proposal mechanisms. Unsolicited proposals must not be accepted under the SBIR Program in either Phase I or Phase II.

(6) If an award is made pursuant to a proposal submitted under this SBIR Program solicitation, a representative of the contractor or grantee or party to a cooperative agreement will be required to certify that the concern has not previously been, nor is currently being, paid for essentially equivalent work by any Federal agency.

6. Submission of Proposals

(a) This section must clearly specify the closing date on which all proposals are due
to be received.

(b) This section must specify the number of copies of the proposal that are to be submitted.

(c) This section must clearly set forth the complete mailing and/or delivery address(es) where proposals are to be submitted.

(d) This section may include other instructions such as the following:

(1) Bindings. Please do not use special bindings or covers. Staple the pages in the upper left corner of the cover sheet of each proposal.

(2) Packaging. All copies of a proposal should be sent in the same package

7. Scientific and Technical Information Sources.

Wherever descriptions of research topics or subtopics include reference to publications, information on where such publications will normally be available must be included in a separate section of the solicitation entitled "Scientific and Technical Information Sources."

8. Research Topics

Describe sufficiently the R/R&D topics and subtopics for which proposals are being solicited to inform the applicant of technical details of what is desired. Allow flexibility in order to obtain the greatest degree of creativity and innovation consistent with the overall objectives of the SBIR Program.

9. Submission Forms and Certifications

Multiple copies of proposal preparation forms necessary to the contracting and granting process may be required. This section may include Proposal Summary

Proposal Cover, Budget, Checklist, and other forms the sole purpose of which is to meet the mandate of law or regulation and simplify the submission of proposals. This section may also include certifying forms required by legislation, regulation or standing operating procedures, to be submitted by the applicant to the contracting or granting agency. This would include certifying forms such as those for the protection of human and animal subjects.

APPENDIX II:

TECH-NET DATA FIELDS FOR PUBLIC DATABASE

The following are the data fields for the Public Tech-Net Database described in Section 11(e)(9) of this Policy Directive.

(a) For all Agency SBIR/STTR Annual Data Submissions to the SBA

Field Name	Type	Width	Description
Program Identification	Numeric	1	SBIR/ STTR Award Program Identifier* (see below)
Company	Char	80	Company Name *
Street1	Char	80	Street Address 1*
Street2	Char	80	Street Address 2
City	Char	40	City*
State	Char	2	State*
Zip	Numeric	5	Zip*
Zip4	Numeric	4	Zip + 4
Minority Code	Numeric	1	Minority code indicator 0 = yes 1 = no *
Women	Numeric	1	Women-owned company indicator 0=yes 1=no*
Contact First	Char	40	Company Official contact first name
Contact Last	Char	40	Contact last name
Contact Middle Init	Char	1	Contact middle initial
Contact Title	Char	40	Contact Official title
Contact Phone	Char	10	Contact Official phone
Contact Email Address	Char	50	Contact email address
Employees	Numeric	5	Number of employees
Agency Code	Numeric	2	Awarding agency name (ex. DOD) * (see below)
Branch	Number	1	Awarding DOD branch name (ex. Navy) (see below)
Phase	Numeric	1	Phase number 1 or 2*
Award Year	Numeric	4	Phase award year *
Award Amount	Numeric	10	Phase award amount *
PI First	Char	40	Principal Investigator First Name*
PI Last	Char	40	Principal Investigator Last Name*
PI Middle Init	Char	1	Principal Investigator middle initial
PI Title	Char	40	Principal Investigator Title
PI Phone	Char	10	Principal Investigator phone
PI Email Address	Char	50	Principal Investigator email address
Topic Code	Char	15	Agency Solicitation Topic Number *
RI TYPE	Numeric	1	Type of research institution (see below)
RI Name	Char	80	Research institution
RI Street 1	Char	80	Research institution address
RI Street 2	Char	80	Research institution address

RI City	Char	40	Research institution city
RI State	Char	2	Research institution State
RI Zip	Numeric	5	Research institution Zip
RI Zip4	Numeric	4	Research institution Zip + 4
RI Official First	Char	40	Research institution Official First Name
RI Official Last	Char	40	Research institution Official Last Name
RI Official Initial	Char	1	Research institution Official Middle Initial
RI Official Phone	Char	10	
Tracking Number	Char	20	Agency key identifier (Internal number scheme)*
TIN/EIN	Char	10	Taxpayer/Employer Identification number * Prefix with 1 for EIN 2 for Social Security Number
Contract/Grant Number	Char	20	Agency award contract/grant number
Solicitation Number	Char	20	Solicitation Number
Solicitation Year	Numeric	4	Year of the Solicitation
Project Initiator	Char	1	Initiator of STTR collaborative effort
Technology Used (Y/N)	Char	1	SBC or RI originate any technology used in the STTR project
Time to establish license agreement (months)	Numeric	2	Time duration to establish any STTR license agreement
STTR Proceeds Distribution to SBC (%)	Numeric	3	Allocation of proceeds from sale of STTR technology
STTR Proceeds Distribution to RI (%)	Numeric	3	Allocation of proceeds from sale of STTR technology

***** From this point each data element should be sent as a separate file *****

TITLE	Char	800	Title of research project *
Tracking Number	Char	20	Agency key identifier (Internal number scheme)*

Abstract	Char	1500	Technical abstract (500 words)
Tracking Number	Char	20	Agency key identifier (Internal number scheme)*
Abstract SeqNmb	Numeric	1	

Results	Char	1000	--Project anticipated results
Tracking Number	Char	20	Agency key identifier (Internal number scheme)*

COMMENTS	Char	1000	--Project comments
Tracking Number	Char	20	Agency key identifier (Internal number scheme)*

Industry Share Amount	Numeric	10	ATP Program Cost Share Amount
Cost Share Tracking #	Char	20	ATP Cost Share Tracking Number

Note: Those fields denoted with an asterisk are deemed mandatory in all agency submissions. It is understood that all agencies will not have data for each data field listed above. Each agency must ensure that data submissions to the SBA include all of the data fields above, even if they are empty.

(1) Codes — Research Institution Types

Codes	Research Institution Types
1	Nonprofit college or university
2	Domestic nonprofit research organization
3	Federally-funded research and development center (FFRDC)

(b) Codes

(1) Program Identification Code
0 STTR (Small Business Technology Transfer)
1 SBIR (Small Business Innovation Research)
2 ATP (Advanced Technology Program)

(2) Codes — Agency

Codes	Agency
1	DOD (Department of Defense)
2	DOE (Department of Energy)
3	NASA (National Aeronautics and Space Administration)
4	HHS (Health and Human Services)
5	NSF (National Science Foundation)
6	DOT (Department of Transportation)
7	EPA (Environmental Protection Agency)
8	ED (Department of Education)
9	DOA (Department of Agriculture)
10	DOC (Department of Commerce)
11	NIST (National Institute of Standards and Technology)

(3) Codes — Branch

Codes	Branch
1	AF (Department of the Air Force)
2	ARMY (Department of the Army)
3	MDA (Missile Defense Agency)
4	DARP (Defense Advanced Research Projects Agency)
5	DSWA (Defense Special Weapons Agency)
6	NAVY (Department of the Navy)
7	OSD (Office of the Secretary of Defense)
8	SOCO (Special Operations Command)
9	NIMA (National Imaging and Mapping Agency)

(4) If any new codes, please advise the Office of Technology.