

(d) Each STTR agency must establish an STTR Program by reserving, through September 30, 2003, not less than 0.15 percent of its extramural budget, and beginning October 1, 2003, reserving not less than 0.3 percent of such budget, for awards to SBCs for cooperative R/R&D through the following uniform, three-phase process:

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

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

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

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

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

(e) The Act directs each STTR agency to report annually to SBA. The Act also requires SBA to obtain annual reports and monitor each agency's STTR 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 of 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 STTR agencies using contracts as a STTR 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 STTR Phase II award process is exempt.

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

3. Definitions

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

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

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

(d) *Awardee*. The organizational entity receiving an STTR Phase I, Phase II, or Phase III award.

(e) *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.

(f) *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.

(g) *Cooperative Research and Development*. R/R&D conducted jointly by a SBC and a research institution in which not less than 40 percent of the work is performed by the SBC, and not less than 30 percent of the work is performed by the single, partnering research institution.

(h) *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.

(i) *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.

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

(k) *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.

(l) *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.

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

(n) *Grant*. A 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.