

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

(1) Funding shall 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 STTR 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 STTR 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 STTR or other research;

(ii) The existence of Phase II funding commitments from private sector or other non-STTR 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.* STTR Phase III refers to work that derives from, extends, or logically concludes effort(s) performed under prior STTR funding agreements, but is funded by sources other than the STTR Program. Phase III work is typically oriented towards commercialization of STTR research or technology.

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

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

(ii) STTR-derived products or services intended for use by the Federal government, funded by non-STTR 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-STTR Federal funding sources.

(2) A Phase III award is, by its nature, an STTR award, has STTR status, and must be accorded STTR data rights. (See section 8(b)(2) regarding the protection period for data rights.) If an STTR awardee wins a competition for work that derives from, extends, or logically concludes that firm's work under a prior STTR funding agreement, then the funding agreement for the new, competed, work must have all STTR Phase III status and data rights. A Federal agency may enter into a Phase III STTR agreement at any time with a Phase II awardee. Similarly, a Federal agency may enter into a Phase III STTR 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 STTR 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 STTR 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 STTR award, it is sufficient to state for purposes of a Justification and Approval pursuant to FAR 6.302-5, that the project is a STTR Phase III award that is derived from, extends, or logically concludes efforts performed under prior STTR funding agreements and is authorized under 10 U.S.C. 2304(b)(2) or 41 U.S.C. 253(b)(2).

(4) The 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 STTR 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 the agency pursues research, development, or production of a technology developed by an STTR awardee, with a concern other than the one that developed the STTR technology. (See section 4(c)(8) immediately below for agency notification to SBA prior to award of such a funding agreement and section 9(a)(11) 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 STTR awardee of that agency, with an entity other than that STTR awardee, must notify SBA in writing prior to such an award. This notice requirement also applies to technologies of STTR awardees with STTR 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 award with the STTR awardee is not practicable; (b) the identity of the