

development, production, or any such combination of a technology developed by an SBC using an award made under the STTR Program of that agency, where the agency determined that it was not practicable to enter into a follow-on non-STTR Program funding agreement with that concern. The report shall 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.

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

(13) Adopt the model agreement to be developed by SBA for use in the STTR Program that allocates between SBCs and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization.

(14) Develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that Federally-funded research and development centers that participate in STTR agreements:

(i) Are free from organizational conflicts of interests relative to the STTR Program;

(ii) Do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

(iii) Use outside peer review as appropriate.

(15) Implement an outreach program to research institutions and SBCs for the purpose of enhancing its STTR Program, in conjunction with any such outreach done for purposes of the Small Business Innovation Research (SBIR) Program.

(b) Interagency actions.

(1) *Joint funding.* An STTR 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 STTR 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 STTR project, agencies shall promptly search the Tech-Net Database System for awards for essentially equivalent work. Discussion among agencies receiving similar proposals is strongly encouraged before an STTR award is made.

(4) *Participation by women-owned SBCs and socially and economically disadvantaged SBCs in the STTR 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 STTR Program information system. These SBCs will be required to compete for STTR 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 STTR Program.

(c) *Limitation of participation and use of funds.*

(1) An agency must not use any of its STTR budget for the purpose of funding administrative costs of the program, including costs associated with program operations, employee salaries, and other associated expenses, or, in the case of a SBC or a research institution, costs associated with employee salaries and other associated expenses, including administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the Federal Acquisition Regulation).

(2) A Federal agency must not issue an STTR 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 STTR 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 STTR project with non-STTR money.

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

(3) No agency, at its own discretion, may unilaterally cease participation in the STTR Program. R/R&D agency budgets may cause fluctuations and trends that must be reviewed in light of STTR Program purposes. An agency may be considered by SBA for a phased withdrawal from participation in the STTR 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 STTR Federal participating agency from the STTR Program will be accomplished in a standardized and orderly manner in compliance with these statutorily mandated procedures.

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

(5) Agencies may not make available, for the purpose of meeting the required percentage of expenditure on SBCs for the STTR Program (see section 2(d) of this Policy Directive) an amount of its extramural budget for basic research that exceeds those percentages.

(6) Funding agreements with SBCs for R/R&D that result from competitive or single source selections other than an STTR Program shall not be considered to meet any portion of the percentage requirements of section 2(d) set forth in this Policy Directive.

## 10. Annual Report to the Small Business Administration

The Act requires a "simplified, standardized and timely annual report" from the STTR 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