

("ITS")<sup>9</sup> commitments are considered to be initiated from the Phlx floor. The Phlx retains the ITS clarification in Supplementary Material .06, and adds the following: (1) A Phlx member or member organization or employee thereof responsible for entering proprietary orders is presumed to have knowledge of any customer order held by the member organization unless the proper information barriers are in place; (2) this rule applies to series of transactions even if some of the transactions do not take place on the Phlx; (3) that a member on the Floor may only execute a proprietary order ahead in time of a customer order, to the extent that his member organization is permitted (*i.e.*, if the member organization is prohibited, then so is the member on the floor); (4) definitions of certain terms in the rule; and (5) procedures for utilizing the hedge exemption to the rule.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act<sup>10</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>11</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. The Phlx represents that the proposed rule change, as amended, balances fundamental investor protections with the requirements of evolving trading practices involving institutional investors and member firm proprietary trading operations. The limited types of transactions it would permit should promote just and equitable principles of trade. Many of these proprietary transactions should add liquidity to the market and help investors receive efficient execution of their orders.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition.

<sup>9</sup> See Phlx Rule 2001, Intermarket Trading System. The ITS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2 thereunder. See 15 U.S.C. 78k-1 and 17 CFR 240.11Aa3-2.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change, as amended, has been filed by the Exchange pursuant to section 19(b)(3)(A) of the Act<sup>12</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>13</sup> Consequently, because Phlx believes the foregoing rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4 thereunder.<sup>15</sup>

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change, as amended, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4.

public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room.

Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2003-32 and should be submitted by July 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-15087 Filed 6-13-03; 8:45 am]

**BILLING CODE 8010-01-P**

## **SMALL BUSINESS ADMINISTRATION**

**RIN 3245-AE96**

### **Small Business Technology Transfer Program Policy Directive**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of proposed policy directive.

**SUMMARY:** This document proposes revisions to the Small Business Technology Transfer (STTR) Program Policy Directive. The purpose of the Policy Directive is to provide guidance to participating Federal agencies for the general conduct of the STTR Program. This proposed Policy Directive reflects statutory amendments to the program. In addition, SBA proposes amendments to streamline and enhance the program.

**DATES:** Public comments on this proposed Policy Directive must be received on or before July 16, 2003.

**ADDRESSES:** Address all comments concerning this proposed Policy Directive to Maurice Swinton, Assistant Administrator for Technology, Office of Technology, Office of Government Contracting/Business Development, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416 or via email to [technology@sba.gov](mailto:technology@sba.gov).

**FOR FURTHER INFORMATION CONTACT:** Maurice Swinton, Assistant Administrator for the Office of Technology, at (202) 205-6450. You may also e-mail [technology@sba.gov](mailto:technology@sba.gov).

**SUPPLEMENTARY INFORMATION:** In 1992, Congress enacted the Small Business Technology Transfer Act of 1992 (STTR Act), Pub. L. 102-564 (codified at 15 U.S.C. 638). The STTR Act established the Small Business Technology Transfer Program (STTR Program) as a pilot

<sup>16</sup> 17 CFR 200.30-3(a)(12).

program that requires Federal agencies with extramural budgets for research or research and development (R/R&D) in excess of \$1 billion per fiscal year to enter into funding agreements with small business concerns (SBCs) that engage in a collaborative relationship with a research institution. The purpose of the STTR Program is to stimulate a partnership of ideas and technologies between innovative SBCs and research institutions. The program assists the small business and research communities by developing commercially-viable technologies. The STTR Program is a phased process, uniform throughout the Federal government, of soliciting proposals and awarding funding agreements for R/R&D to meet stated agency needs or missions.

The STTR Act requires the U.S. Small Business Administration (SBA) to "issue a policy directive for the general conduct of the STTR Programs within the Federal government." 15 U.S.C. 638(p)(1). SBA published its first STTR Policy Directive in 1993 (58 FR 42607-42620, Aug. 10, 1993).

Congress has since amended the STTR Act, most recently with the enactment of the Small Business Technology Transfer Program Reauthorization Act of 2001 (Reauthorization Act), Pub. L. 107-50. The Reauthorization Act extends the STTR Program through September 30, 2009, and changes its status from a pilot program to a permanent one. In addition, the Reauthorization Act: clarifies STTR data rights pertaining to STTR Phase I, II, and III awards (*see* proposed Policy Directive, sections 4(c)(2), 8(b) and App. I, Instructions, section 5(d)(1)(iii)); requires the establishment of an STTR Program Government-accessible and a public-accessible database (*see* proposed Policy Directive, section 11(e)); requires participating agencies, beginning October 1, 2003, to increase the amount of their extramural budget to be reserved for the STTR Program from 0.15 percent to 0.3 percent (*see* proposed Policy Directive, section 2(d)); permits agencies, beginning October 1, 2003, to increase the dollar value of STTR Phase II awards from \$500,000 to \$750,000 (*see* proposed Policy Directive, section 7(i)(1)); and permits agencies to approve a shorter or longer duration of time for award performance, where appropriate for a particular project (*see* proposed Policy Directive, section 7(h)).

The Reauthorization Act also requires SBA to report to the Senate Committee on Small Business and Entrepreneurship and to the House Committees on Science and Small Business on the STTR Programs of the

Federal agencies and to specifically address the number of proposals received from, and the number and total amount of awards to, Historically Underutilized Business Zones (HUBZones) SBCs under the STTR Program. Further, the Reauthorization Act requires agencies to 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 SBIR Program. The proposed Policy Directive addresses these requirements in sections 10(b)(5) and 9(a)(15), respectively.

In addition, the Reauthorization Act requires SBA to promulgate regulations establishing a single model agreement that allocates between SBCs and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization. SBA notes that it plans to issue proposed regulations implementing a model agreement for the STTR Program in the near future. The Reauthorization Act requires agencies to adopt this model agreement. This requirement is noted in the proposed Policy Directive at section 9(a)(13).

Further, the Reauthorization Act amends the Federal and State Technology Partnership (FAST) Program to require the Administrator and the Small Business Innovation Research (SBIR) Program Managers to consider whether proposals submitted address the needs of SBCs owned and controlled by women, SBCs owned and controlled by minorities, and located in areas that have historically not participated in the SBIR and STTR Programs. SBA notes that section 12 of the SBIR Policy Directive (67 FR 60072, September 24, 2002) (also available at <http://www.sba.gov/sbir/indexsbir-sttr.html>) establishes guidance for the FAST Program as does the FAST Program Announcement, which can be found at <http://www.sba.gov/sbir/indexprograms.html>. Further, the Reauthorization Act requires SBA to promulgate regulations establishing standards for the consideration of proposals under FAST, including the standards previously listed. SBA is currently drafting these regulations. These regulations are being drafted and are not addressed in this proposed Policy Directive. However, it will be addressed in a separate rulemaking.

As previously discussed, SBA proposes amendments to the Policy Directive that address the Reauthorization Act's amendments. Further, SBA proposes several changes in this Policy Directive to simplify and

enhance the program. For example, SBA has organized the proposed Policy Directive into 11 self-explanatory sections: (1) Purpose; (2) Summary of Legislative Provisions; (3) Definitions; (4) Competitively Phased Structure of the Program; (5) Program Solicitation Process; (6) Eligibility and Application (Proposal) Requirements; (7) STTR Funding Process; (8) Terms of Agreement Under STTR Awards; (9) Responsibilities of STTR Participating Agencies and Departments; (10) Annual Report to SBA; and (11) Responsibilities of SBA. Two appendices are also included: (1) Instructions for STTR Program Solicitation Preparation; and (2) Tech-Net Data Fields for Public Database. In addition, SBA proposes the following substantive changes.

### Section-by-Section Analysis

Section 1 of the Policy Directive sets forth the purpose of the program. SBA made only minor changes to this section.

Section 2 of the Policy Directive is a summary of legislative provisions. SBA proposes to set forth the Reauthorization Act's amendments, which are described in detail above. In addition, SBA proposes changes to address the use of the government-wide point of entry (GPE) for synopses of business opportunities. GPE has recently replaced the *Commerce Business Daily* as a means of synopses for business opportunities. 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.

Section 3 of the proposed Policy Directive sets forth definitions pertinent to the program. SBA proposes several new definitions.

SBA proposes to define the term "essentially equivalent work" to occur when substantially the same research is proposed for funding in more than one application or to more than one agency, or a research objective and design for accomplishing an objective are the same or closely related in two or more proposals. SBA understands that STTR Participants often submit duplicate proposals to more than one agency. However, the proposed Policy Directive precludes agencies from funding

essentially equivalent work in the STTR Program.

In addition, SBA proposes to define the term "feasibility" because it is used when discussing Phase I of the program. Specifically, the purpose of Phase I is to determine the scientific and technical merit and feasibility of a 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. SBA proposes to define "feasibility" to mean the practical extent to which a project can be performed successfully.

SBA also proposes a definition for the term "innovation" because the term is used throughout the Policy Directive. SBA proposes "innovation" to mean 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.

SBA proposes to define the term "intellectual property" to incorporate all of the separate and distinct types of intangible property, such as patents and trademarks. The proposed definition would also specifically include STTR technical data and all types of intangible assets either proposed or generated by an SBC as a result of its participation in the STTR Program. SBA proposes this definition because the term is used throughout the Policy Directive and is important to SBCs in terms of their rights in intellectual property developed pursuant to the STTR Program.

SBA proposes to define the term "joint venture" to mean 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. Further, for purposes of the STTR Program, a joint venture would be viewed as a business entity in determining power to control its management and would be eligible under the STTR Program provided that the entity created is small and each concern that is part of the joint venture qualifies as a SBC. SBA proposes this definition of joint venture because it is consistent with the definition of joint venture in the Federal Acquisition Regulations (FAR) and is appropriate for the program.

SBA proposes to define the terms "outcomes" and "outputs" because SBCs will report on such measures when describing their Phase II awards.

This information will be utilized in the government's Tech-Net database to help SBA and the Federal agencies assess the STTR Program. SBA proposes to define "outcomes" as the measures of long-term, eventual, program impact and the term "output" as the measures of near-term program impact.

SBA proposes to define the term "principal investigator/project manager" as the individual designated by the applicant to provide the scientific and technical direction to a project supported by the funding agreement. The principal investigator/project manager is a key person to the project and the Policy Directive sets forth several requirements for this person, *i.e.*, they must be identified in the proposal and may have employment with the SBC or collaborative research partner at the time of award and during the period of performance.

SBA proposes to define the term "prototype" to mean a model of something to be further developed, which includes designs, protocols, questionnaires, software, and devices. The term "prototype" is used in the definition of R/R&D, which provides that R/R&D includes 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.

SBA proposes revising the definition of "research institution." Currently, the definition provides that the institution must meet the requirements of a United States research organization. In the proposed definition, SBA further clarifies this requirement to mean that it must have a place of business located in the United States, and 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. SBA proposes this definition because SBCs have always been required to meet these requirements to receive the benefits of this program, and thus the same should apply to research institutions receiving STTR benefits.

SBA adds definitions for the terms "STTR Technical Data" and "STTR Technical Data Rights" and deletes the term "data rights." SBA proposes these definitions because the Reauthorization Act requires SBA to clarify data rights under the program. In addition, SBA has received many inquiries from SBCs concerning what data is actually protected under the STTR Program, and what rights business concerns have regarding their STTR developed

technologies. The proposed definition defines "STTR Technical Data" to include all data generated during the performance of an STTR award. The proposed definition defines "STTR Technical Data rights" as those rights obtained in data generated during the performance of any STTR Phase I, II, or 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.

Section 4 of the proposed Policy Directive sets forth information pertaining to Phases I, II and III of the STTR Program. SBA has amended the Policy Directive to state, at section 4(a)(2), that "proposals will be evaluated on a competitive basis and that agencies must give consideration to the scientific and technical merit and feasibility of the proposal along with its potential for commercialization. The Policy Directive also allows agencies to consider program balance or critical agency requirements.

In section 4(b), SBA proposes a provision relating to novation and successor-in-interests for Phase II. Specifically, the proposed provision would allow STTR awardees in Phase I, including those identified via a novated or successor in interest agreement, to participate in Phases II and III. SBA proposes this change because it understands that many agencies already allow this to occur and agrees with the concept. However, SBA is also proposing to permit agencies "to 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." In addition, all applicants and their proposed personnel and key supporting staff, must meet the eligibility and scientific and technical qualifications attendant to the STTR Program. Furthermore, SBA notes that it amends section 6(a)(4) to permit agencies to approve a change in principal investigator. Finally, although novated funding agreements are discussed in the proposed Policy Directive in the context of Phase II, the same applies to situations involving Phase I and III awards.

SBA proposes several amendments to the Policy Directive, set forth in section 4(c), which clarify the scope of Phase III. It is SBA's understanding that many agencies do not treat Phase III awards as STTR awards. Therefore, SBA proposes to further define a Phase III award as one that derives from, extends, or logically concludes efforts performed under prior STTR funding agreements,

but is funded by sources other than the STTR Program. In addition, SBA proposes to clarify that a Phase III award is by its nature an STTR award and therefore the awardee must be accorded STTR data rights. In addition, SBA proposes to clarify that even if a competition is held, if the awardee was a Phase II STTR awardee and the contract is for work that derives from, extends, or logically concludes that concern's work, the contract has STTR Phase III status and must provide for STTR data rights.

SBA proposes amending section 4(c)(1)(i) of the Policy Directive to clarify the issue of the practical impact a Phase III designation would have in cases where no Federal funding is expended. SBA has proposed a revision that would explain that the guidance in this Policy Directive regarding STTR Phase III pertains to non-STTR federally-funded work described and does not address the nature of private agreements the STTR firm may make in the commercialization of its technology.

SBA has proposed clarification in the Policy Directive (at section 4(c)(2)), which provides that an agency official may determine, using the criteria set forth in the Policy Directive as guidance, whether a contract or agreement is a Phase III award. SBA understands that it is currently not clear whether such officials have his authority.

In section 4(c)(3), SBA proposes clarification of whether and when a Justification and Approval (J&A) should be issued during Phase III. SBA believes that a procuring agency may restrict competition under the STTR Program to small businesses or a small business (if that is all that can perform the award) and is not required by statute to prepare a J&A. Consequently, SBA proposes that a J&A is not required to fund an STTR Phase III project, but if an agency wishes to prepare one, "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)."

Further, in section 4(c)(6), SBA proposes clarification that the small business size limits for Phase I and Phase II awards do not apply to Phase III awards. SBA believes that the intent of Congress and purpose of the program is that STTR firms should be encouraged, in Phase III, to develop and expand business applications of their STTR research with the desired outcome that new employment and

income are generated. The purpose of Phase III is to commercialize the innovation and help the SBC grow. Restricting Phase III to only SBCs might hinder the growth of STTR participants.

Section 5 of the proposed Policy Directive provides guidance on the program solicitation process and section 6 sets forth the eligibility and application requirements. SBA did not propose substantive changes to these sections.

Section 7 of the proposed Policy Directive outlines the SBIR funding process. The Reauthorization Act requires SBA to amend the Policy Directive and provide that beginning with Fiscal year 2004, agencies may approve a shorter or longer duration of time for award performance, where appropriate for a particular project. SBA's Policy Directive has always provided flexibility to the participating agencies and therefore the proposed Policy Directive still provides for this policy at section 7(h).

In section 7(i), SBA proposes a clarification to identify \$100,000 in Phase I and \$500,000 in Phase II as award amounts that generally may not be exceeded. SBA proposes that agencies may exceed these dollar levels where appropriate for a particular project, but must provide justification to SBA for doing so. SBA believes that this is consistent with the statute and legislative history and that flexibility is necessary to achieve success in projects that most likely would not be successful otherwise, such as drug discovery.

In that same section, SBA also proposes addressing a change made by the Reauthorization Act, which provides that beginning October 1, 2003, a Phase II award may not generally exceed \$750,000.

Section 8 of the proposed Policy Directive sets forth the terms of agreement under STTR awards. The Reauthorization Act specifically requires SBA to clarify the rights in data that apply in Phases I, II, and III. Thus, in section 8(b), SBA proposes clarification that agencies are required by statute to protect STTR data rights developed from Phases I, II, and III awards, including subcontracts to such awards, for a period of at least 4 years from the last deliverable under that award. In addition, SBA proposes a provision that agencies can not condition a Phase III award on a concern giving up its STTR data rights. Likewise, the proposed Policy Directive clarifies that STTR data rights can not be negotiated or diminished by the funding agency. Further, the proposed Policy Directive prohibits the negotiation for STTR data rights before

awarding an STTR funding agreement. SBA proposes that negotiations with the STTR awardee regarding intellectual property rights must be via a separate agreement, made without pressure or coercion by the agency or any other party.

SBA added clarifying sentences to section 8(b)(2) of the Policy Directive that state: "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 4 years. The government retains a royalty-free license for government use of any technical data delivered under an STTR award, whether patented or not. This section does not apply to program evaluation."

SBA also proposes clarifying that any data developed under a Phase III funding agreement must be protected by STTR data rights. Any data developed under Phase I, II, or III continues to be protected for a period of at least 4 years from delivery of the last deliverable under that award. The Policy Directive clarifies that although agencies are released from obligation to protect STTR data upon expiration of the protection period, any such data that is also protected and referenced under a subsequent STTR award agreement must remain protected through the protection period of that subsequent STTR award agreement. For example, if a Phase III award that is issued within the Phase II data rights protection period refers to and protects the data developed and protected under the Phase II award, then that data must continue to be protected through the Phase III protection period.

Section 9 of the proposed Policy Directive outlines the responsibilities of SBIR Participating Agencies and Departments. In section 9(a)(5), SBA proposes that agencies must collect and maintain information from awardees and provide it to SBA so that SBA may develop and maintain the Technology Resources Network (Tech-Net) Database, which is described in detail in section 11(e) of this proposed Policy Directive. The Tech-Net Database is a requirement of the Reauthorization Act.

In section 9(a)(11), SBA also proposes that agencies must report those instances where a follow-on award with non-STTR funds was issued to a concern other than the STTR awardee that developed the technology to be pursued under the follow-on award. The statute and legislative history evidence

that the intent of the program is to help small businesses grow through commercialization in Phase III. Therefore, when agencies make follow-on awards to a concern other than the one that received the Phase I and II award, this should be reported to Congress.

The Reauthorization Act amended the STTR Program to require that agencies adopt the model agreement developed by SBA for allocating intellectual property between STTR awardees and research institutions to carry out follow-on research, development or commercialization. SBA proposes this requirement in the Policy Directive at section 9(a)(13).

The Small Business Act requires that agencies 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 are free from organizational conflicts of interests relative to the STTR Program; 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 use outside peer review as appropriate. SBA proposes these requirements in the proposed Policy Directive at section 9(a)(14).

The Reauthorization Act amended the STTR Program to require agencies to implement an outreach program to research institutions and SBCs in conjunction with any such outreach done for purposes of the SBIR Program to increase participation in and enhance the STTR Program. SBA has set forth this requirement in the proposed Policy Directive at section 9(a)(15).

In section 9(c)(2), SBA proposes to preclude agencies from allowing the funding agreement to include a provision subcontracting any portion of the STTR award back to the issuing agency or to any other Federal governmental unit. This mirrors a similar provision for the SBIR program that has been in effect since 1997. SBA believes that this restriction is necessary to avoid real and apparent conflicts of interest in STTR proposal evaluation and selection. SBA notes that this proposal will not restrict the use of Federal laboratory facilities by STTR awardees for STTR project work. It may only prohibit the use of STTR award funds to pay for Federal laboratory resources. In addition, SBA proposes a case-by-case waiver to this provision.

Section 10 of the proposed Policy Directive addresses each participating agency's annual report to SBA. The

proposed Policy Directive outlines the substance of the report, and explains when it is due and to whom. The Reauthorization Act amended the STTR Program to require that agencies identify, for both Phase I and Phase II, the number of proposals received from, and the number and total amount of awards to, HUBZone SBCs. HUBZones are specifically defined as areas of high unemployment and low income. Therefore, these locations would benefit economically from technology growth in the community. In addition, Congress believes that tracking awards to these businesses will aid in evaluating the FAST Program. The proposed Policy Directive addresses this requirement at section 10(b)(5).

Section 11 of the proposed Policy Directive addresses SBA's responsibilities. Section 11(e) contains several proposals addressing the Reauthorization Act's Tech-Net Databases. The SBA's Office of Technology, as functional program manager for the STTR and the SBIR Programs, is required to collect and report to the Congress information regarding awards made to SBCs by each Federal agency participating in these programs. SBA will maintain two databases to meet this requirement.

SBA proposes a public Tech-Net Database that is a searchable, up-to-date, electronic database, which includes information on each SBC that has received an STTR or SBIR Phase I or Phase II award from a Federal agency. Specifically, it will include a description of the Phase I or II award; identification of any business concern or subsidiary established for the commercial application of a product or service for which an STTR award is made; and information regarding mentors and mentoring networks.

In addition, the Reauthorization Act specifically requires information pertaining to: whether the SBC or the research institution initiated their collaboration on the project; whether the SBC or the research institution originated any technology relating to the project; the length of time it took to negotiate any licensing agreement between the SBC and the research institution; and the percentage allocated between the SBC and the research institution of the proceeds from commercialization, marketing, or sale of technology resulting from the project. The collection of this information is set forth in section 11(e)(9)(v) of the proposed Policy Directive.

SBA also proposes a government Tech-Net Database that SBA, in consultation with the Federal agencies participating in the STTR and the SBIR

Programs, will develop and maintain. The purpose of the government Tech-Net Database is to maintain information useful for evaluating the program. SBA proposes that for each Phase II award, the database contains: information on revenue from the sale of new products or services resulting from the research conducted under each Phase II award; information on additional investment from any source, other than Phase I or Phase II STTR or SBIR awards, to further the research and development conducted under each Phase II award; and any other information received in connection with the award that the Administrator, in conjunction with the STTR Program Managers of the participating agencies, considers relevant and appropriate. Pursuant to an amendment made by the Reauthorization Act, SBA also proposes a paragraph stating that information provided to this government Tech-Net Database is privileged and confidential and not subject to disclosure pursuant to 5 U.S.C. 552 and shall not be considered to be publication for purposes of 35 U.S.C. 102 (a) or (b).

SBA proposes revisions to its "Instructions for STTR Program Solicitation Preparation," which are set forth in Appendix I. Currently, the Policy Directive requires that for both Phase I and Phase II, the R/R&D work must be performed in the United States. SBA proposes that 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. The proposal requires approval by the funding agreement officer for such specific conditions to be in writing.

Finally, SBA proposes to list the data fields for the public Tech-Net Database in Appendix II.

#### **Paperwork Reduction Act**

SBA has determined that this rule imposes additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., chapter 35. Specifically, the Reauthorization Act amended the Small Business Act to require the creation of a public and Government database on the SBIR and STTR Programs. According to the statute, the public database will include the name, size, location and an identifying number of each SBC that has received a Phase I or II STTR award from a Federal agency; a description of each Phase I or II award received by that SBC, including an abstract, the name of the Federal agency

making the award, and the date and amount of the award; the identification of any business concern or subsidiary established for the commercial application of a product or service for which an STTR award is made; and information regarding mentors and mentoring networks.

For purposes of the STTR Program, the public database will also include: Whether the SBC or research institution initiated the collaboration; whether the SBC or research institution originated any technology relating to the STTR project; the length of time it took to negotiate any licensing agreement between the SBC and research institution; and how the proceeds from commercialization, marketing, or sale of technology resulting from each STTR project were allocated between the SBC and research institution. In addition, the Small Business Act now requires the creation of a government database that will contain the following information for each Phase II award: Information on revenue from the sale of new products or services resulting from the research conducted under the award; information on additional investment from any source, other than Phase I or II STTR awards, to further the research and development conducted under the award; and any other information received in connection with the award that the Administrator and STTR Program managers consider relevant and appropriate. The government database will also include narrative information that a SBC receiving a Phase II award voluntarily submits to further describe the outputs and outcomes of its awards and for each applicant that does not receive a Phase II award, the name, size and location of the applicant, an abstract of the project and the Federal agency to which the application was made. Finally, the government database may also include any other data collected by or available to any Federal agency that such agency considers useful for SBIR program evaluation purposes.

In response to this statutory requirement, in section 9(a)(6), the Policy Directive proposes that Federal agencies to collect or maintain this information from awardees and provide it to SBA. In addition, as required by the statute, the Policy Directive proposes that a SBC receiving a Phase II award to update information in the database concerning that award. Further, as also required by statute, the SBC receiving a Phase II award shall be requested to voluntarily update such information annually for a period of five years.

Thus, the Policy Directive outlines the information SBA is required to collect

from the STTR agencies, who in turn collect some of this data from Phase I and II awardees (some of the data is already available to the agencies). Although the statute requires the collection of certain information from the agencies and STTR Phase I and II awardees, it also provides discretion to collect data SBA and the agencies deem relevant. SBA is currently in the process of developing the Tech-Net databases, which will house this information, and determining what information not prescribed specifically by statute may be relevant to the program.

SBA welcomes comments on this proposed Policy Directive and will revise the Policy Directive as necessary to improve the general conduct of the STTR Program based upon comments received. Specifically, we request comments on two sections of the proposed Policy Directive implementing the new statute: (1) The requirement in section 11(e)(9)(v) for certain additional data to the STTR public-accessible database regarding the SBC and its cooperative research institution, and (2) the requirement in section 11(e)(11)(iii) that information provided to the STTR government-accessible database is privileged, confidential, and not subject to the Freedom of Information Act.

*Title:* Technology Resources Network (Tech-Net) (No SBA Form Number).

*Summary:* The Tech-Net database is a searchable, up-to-date, electronic database that includes the name, size, location, funding agreement number and identification number assigned by the Administrator of each Small Business Concern (SBC) that has received an STTR Phase I or Phase II award from a Federal agency. A description of each STTR Phase I or Phase II award received by the SBC including an abstract of the project funded by the award, excluding any proprietary information so identified by the awardee, the Federal agency making the award and the date and amount of the award. An identification of any business concern or subsidiary established for the commercial application of a product or service for which an STTR award is made, and information regarding mentors and mentoring networks, as required in the Federal and State Technology (FAST) Partnership Program established under section 35(d) of the Act and described on the SBA's Internet site at <http://www.sba.gov/sbir/indexfast.html>. With respect to assistance under the STTR Program (as required under section 9(k)(1) of the Act) the database will also contain information on whether the SBC or the research institution initiated their collaboration on each assisted STTR

project; whether the SBC or the research institution originated any technology relating to the assisted STTR project; the length of time it took to negotiate any licensing agreement between the SBC and the research institution under each assisted STTR project, and the percentage allocated between the SBC and the research institution of the proceeds from commercialization, marketing, or sale of technology resulting from each assisted STTR project. Furthermore, the SBA, in consultation with the Federal agencies participating in the STTR Program, has developed and maintains a secure database that contains for each Phase II award, information on revenue from the sale of new products or services resulting from the research conducted under each Phase II award; information on additional investment from any source, other than Phase I or Phase II STTR or SBIR awards, to further the research and development conducted under each Phase II award; and any other information received in connection with the award that the Administrator, in conjunction with the STTR Program managers of the participating agencies, considers relevant and appropriate.

*Need and Purpose:* The database information will be used solely for program evaluation purposes by the Federal government or, in accordance with the Policy Directive issued by SBA, by other authorized persons who are subject to a use and nondisclosure agreement with the Federal government covering the use of the database. This collection of information pertains to the creation of a public and a government database for the STTR Program, as required by Pub. L. 107-50. SBA has determined that this law imposes additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., chapter 35. The continued need to have current information on the STTR awards will have a tremendous impact on the periodic program evaluation. Therefore, voluntary update by the SBC on all completed STTR Phase II awards for a period of five years will assist the Federal government in maintaining current and accurate information on each award, as well as any other data collected by or available to any Federal agency that such agency considers useful for STTR Program evaluation purposes.

*Description of Respondents:* All SBCs receiving a STTR Phase I or II award as outlined in Pub. L. 107-50, which states that any small business receiving a STTR award from any of the participating STTR Federal agencies

must be included in the database data collection effort.

SBA estimates the burden of this collection of information as follows:

(i) Approximately 300 concerns receive STTR Phase I and II awards each year. Each concern will be asked to complete the survey and voluntarily update such information annually for a period of 5 years.

(ii) SBA estimates that each respondent will require approximately .5 hour to complete the survey, for a total annual hour burden of 150 (300 times .5 equals 150).

(iii) The estimated annualized cost to respondents for the hour burden for collection of information should not be large as the information requested is kept in the ordinary course of business. A financial officer of the small business concern will likely input this information. SBA has assumed that the officer's pay is equal to a GS-14, step 1 in the Washington, DC area, which makes \$37.50/hour. Assuming this survey takes .5 hours to complete, then the estimated annualized cost to respondents is \$18.75 (\$37.50 times .5 equals \$18.75).

(iv) The total annual estimated cost includes the data that will be collected for the Government database.

SBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of SBA's responsibilities and functions under the STTR Program, including whether the information will have a practical utility; (2) the accuracy of SBA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

### Notice of Proposed Policy Directive; Small Business Technology Transfer Program

*To:* The Small Business Technology Transfer Program Directors.

*Subject:* Small Business Technology Transfer Program Reauthorization Act of 2001—Amendments to the Small Business Technology Transfer (STTR) Program.

1. *Purpose.* Section 9(p) of the Small Business Act (15 U.S.C. 638) (as amended by Public Law 107-50) requires the Administrator of the U.S. Small Business Administration (SBA) to modify its Small Business Technology

Transfer (STTR) Program Policy Directive, issued for the general conduct of the STTR Program.

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

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 STTR Program, issuance and management of funding agreements or contracts pursuant to the STTR 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, Office of Government Contracting, Office of Government Contracting and Business Development.

6. *Date.* A final Policy Directive will be effective when published in the **Federal Register**.

**Fred C. Armendariz,**

*Associate Deputy Administrator, Government Contracting/Business Development, Small Business Administration.*

**Hector V. Barreto,**

*Administrator, Small Business Administration.*

### Small Business Technology Transfer (STTR) Program; Draft Policy Directive

#### Contents

##### Section

1. *Purpose*
  2. *Summary of Legislative Provisions*
  3. *Definitions*
  4. *Competitively Phased Structure of the Program*
  5. *Program Solicitation Process*
  6. *Eligibility and Application (Proposal) Requirements*
  7. *STTR Funding Process*
  8. *Terms of Agreement under STTR Awards*
  9. *Responsibilities of STTR Participating Agencies and Departments*
  10. *Annual Report to the Small Business Administration*
  11. *Responsibilities of SBA*
- Appendix I: Instructions for STTR Program Solicitation Preparation*
- Appendix II: Tech-Net Data Fields for Public Database*

#### 1. Purpose

(a) Section 9(p) of the Small Business Act (Act) requires that the Small Business Administration (SBA) issue an

STTR Program Policy Directive for the general conduct of the STTR 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 STTR Program. Additional or modified instructions may be issued by the SBA as a result of public comment or experience.

(c) The purpose of the STTR Program is to stimulate a partnership of ideas and technologies between innovative small business concerns (SBCs) and research institutions through Federally-funded research or research and development (R/R&D). By providing awards to SBCs for cooperative R/R&D efforts with research institutions, the STTR Program assists the small business and research communities by commercializing innovative technologies.

(d) Federal agencies participating in the STTR Program (STTR 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 STTR 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 STTR Program.

#### 2. Summary of Legislative Provisions

(a) The Small Business Technology Transfer Program Reauthorization Act of 2001, Public Law 107-50, amended section 9 of the Act (15 U.S.C. 638).

(1) The amendments:

(i) Continue the STTR Program through September 30, 2009;

(ii) Clarify data rights pertaining to STTR 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 STTR Program.

(b) Each Federal agency with an extramural budget for R/R&D in excess of \$1,000,000,000 must participate in the STTR Program.

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



(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.



(o) *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.

(p) *Intellectual Property*. The separate and distinct types of intangible property that are referred to collectively as "intellectual property," including but not limited to: patents, trademarks, copyrights, trade secrets, STTR 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 STTR Program.

(q) *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.

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

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

(t) *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.

(u) *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 STTR Program solicitation.

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

(w) *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.

(x) *Research Institution*. One that has a place of business located in the United States, which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor, and is:

(1) A non-profit institution as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (that is, an organization that is owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual) and includes non-profit medical and surgical hospitals; or

(2) A Federally-funded R&D center as identified by the National Science Foundation in accordance with the government-wide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto).

(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 foreign 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) *STTR Participants*. Business concerns that have received STTR awards or that have submitted STTR proposals/applications.

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

(cc) *STTR Technical Data Rights*. The rights an SBC obtains in data generated during the performance of any STTR 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) *United States*. 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.

(ff) *Women-Owned SBC*. A 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 STTR 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 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

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/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 STTR (Phase I) Program solicitations in accordance with a Master Schedule coordinated between SBA and the STTR 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. Email: [technology@sba.gov](mailto:technology@sba.gov). Internet site: <http://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 STTR project. SBA's coordination of agency schedules minimizes 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 STTR Program solicitations can be requested or obtained, especially through electronic means.

(3) Names, addresses, and phone numbers of agency contact points where STTR-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 STTR solicitations, the topic data should accurately describe the research solicited. For example, rather than just announcing topic information characterized as "Chemistry" or "Aerodynamics," the STTR agency should summarize the subtopic statements and, where appropriate, utilize National Critical Technologies.

(g) *Simplified, Standardized, and Timely STTR Program Solicitations*.

(1) The Act requires " \* \* \* simplified, standardized and timely

STTR solicitations" and for STTR 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. STTR 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 STTR Program solicitation replace or be used as a substitute for unsolicited proposals for R/R&D awards to SBCs. In addition, the STTR 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 STTR funds, each awardee of a STTR Phase I or Phase II award must qualify as an SBC.

(2) For both Phase I and Phase II, not less than 40 percent of the R/R&D work must be performed by the SBC, and not less than 30 percent of the R/R&D work must be performed by the single, partnering research institution.

(3) 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.

(4) For both Phase I and Phase II, the principal investigator can be with the SBC or the collaborative partner at the time of award and during the conduct of the proposed project. An SBC may replace the principal investigator on an STTR Phase I or Phase II award, subject to approval in writing by the funding agreement officer. For purposes of the STTR 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.

(b) *Proposal Requirements:*

(1) *Commercialization Plan.* A succinct commercialization plan must be included with each proposal for an STTR Phase II award moving toward commercialization. Elements of a commercialization plan may include the following:

(i) *Company information:* 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.

(2) *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. STTR Funding Process

Because the Act requires a "simplified, standardized funding process," specific attention must be given to the following areas of STTR 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) STTR 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 STTR or other Federal programs. For this purpose, the standardized program solicitation requires 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 STTR agency a listing of Phase I and Phase II awardees, their complete address, and the title of each STTR project. This information should be distributed no later than release of the funding agreement award information to the public.

(b) *Review of STTR Proposals.* SBA encourages STTR agencies to use their routine review processes for STTR 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 STTR agencies that all review procedures must be designed to minimize any possible conflict of interest as it pertains to applicant

proprietary data. The standardized STTR 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, STTR 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 STTR 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 STTR agency and each Phase I awardee considered for a Phase II award must arrange to manage Phase II proposal submissions, reviews, and selections.

(d) *Management of the STTR Project.* The SBC, and not the single, partnering research institution, is to provide satisfactory evidence that it will exercise management direction and control of the performance of the STTR funding agreement. Regardless of the proportion of the work or funding allocated to each of the performers under the funding agreement, the SBC is to be the primary party with overall responsibility for performance of the project. All agreements between the SBC and the research institution cooperating in the STTR funding agreement, or any business plans reflecting agreements and responsibilities between the parties during performance of STTR Phase I or Phase II funding agreement, or for the commercialization of the resulting technology, should reflect the controlling position of the SBC.

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

(f) *Payment Schedules and Cost Principles.*

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

(g) *Funding Agreement Types and Fee or Profit.* Statutory requirements for uniformity and standardization require consistency in application of STTR Program provisions among STTR 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 STTR 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 STTR funding agreements, consistent with normal profit margins provided to profit-making firms for R/R&D work.

(h) *Periods of Performance and Extensions.*

(1) In keeping with the legislative intent to make the largest possible number of STTR 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 1 year. However, agencies may provide a longer performance period where appropriate for a particular project. Beginning with FY 2004, agencies may approve a shorter or longer period of time, when 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. Beginning with FY 2004, agencies may approve a shorter or longer period of time, when appropriate for a particular project.

(i) *Dollar Value of Awards.*

(1) Generally, a Phase I award may not exceed \$100,000 and a Phase II award may not exceed \$500,000. Beginning October 1, 2003, a Phase II award may not generally 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 STTR 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 \$500,000 for Phase II (\$750,000 beginning October 1, 2003), the agency's STTR 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 of a funding agreement that would bring the cumulative dollar amount to a total in excess of the amounts set forth above.

## 8. Terms of Agreement Under STTR Awards

(a) *Proprietary Information Contained in Proposals.* The standardized STTR 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 STTR Program, from disclosure.

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

(1) Each agency must refrain from disclosing STTR 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) STTR agencies must protect from disclosure and non-governmental use all STTR technical data developed from work performed under an STTR funding agreement for a period of not less than 4 years from delivery of the last deliverable under that agreement (either Phase I, Phase II, or Federally-funded STTR Phase III) unless, subject to (b)(3) of this section, the agency obtains permission to disclose such STTR technical data from the awardee or STTR applicant. Agencies are released from obligation to protect STTR data upon expiration of the protection period except that any such data that is also protected and referenced under a subsequent STTR award must remain protected through the protection period of that subsequent STTR 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 STTR award, whether patented or not. This section does not apply to program evaluation.

(3) STTR technical data rights apply to all STTR awards, including subcontracts to such awards, that fall within the statutory definition of Phase I, II, or III of the STTR Program, as described in Section 4 of this Policy Directive. The scope and extent of the STTR technical data rights applicable to Federally-funded Phase III awards is identical to the STTR data rights applicable to Phases I and II STTR awards. The data rights protection period lapses only: (i) upon expiration of the protection period applicable to the STTR 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 STTR data rights clauses into all STTR 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 STTR Phase III award, or diminished or removed during award administration. An agency must not, in any way, make issuance of an STTR

Phase III award conditional on data rights. If the STTR awardee wishes to transfer its STTR 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 STTR data rights must be made without pressure or coercion by the agency or any other party. Following issuance of an STTR Phase III award, the awardee may enter into an agreement with the awarding agency to transfer or modify the data rights contained in that STTR Phase III award. Such a bilateral data rights agreement must be entered into only after the STTR Phase III award, which includes the appropriate STTR data rights clause, has been signed. SBA must immediately report to the Congress any attempt or action by an agency to condition an STTR award on data rights, to exclude the appropriate data rights clause from the award, or to diminish such rights.

(c) *Allocation of Rights.*

(1) An SBC, before receiving an STTR award, must negotiate a written agreement between the SBC and the single, partnering research institution, allocating intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization. The SBC must submit this agreement to the awarding agency upon request—either with the proposal or any time thereafter. The SBC must certify in all proposals that the agreement is satisfactory to the SBC.

(2) The awarding agency may accept an existing agreement between the two parties if the SBC certifies its satisfaction with the agreement, and such agreement does not conflict with the interests of the Government. Each agency participating in the STTR Program shall provide a model agreement to be used as guidance by the SBC in the development of an agreement with the research institution. The model agreement should direct the parties to, at a minimum:

(i) State specifically the degree of responsibility, and ownership of any product, process, or other invention or innovation resulting from the cooperative research. The degree of responsibility shall include responsibility for expenses and liability, and the degree of ownership shall also include the specific rights to revenues and profits.

(ii) State which party may obtain United States or foreign patents or otherwise protect any inventions resulting from the cooperative research.

(iii) State which party has the right to any continuation of research, including non-STTR follow-on awards.

The Government will not normally be a party to any agreement between the SBC and the research institution. Nothing in the agreement is to conflict with any provisions setting forth the respective rights of the United States and the SBC with respect to intellectual property rights and with respect to any right to carry out follow-on research.

(3) Pursuant to the Act, SBA will establish a single model agreement 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. Written comments from affected Federal agencies, SBCs, research institutions, and other interested parties will be solicited in the development of the model agreement. Each agency participating in the STTR Program will adopt the agreement developed by SBA as the agency's model agreement.

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

(e) *Continued Use of Government Equipment.* The Act directs that an agency allow an STTR awardee participating in the third phase of the STTR 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 STTR Program.

(f) *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.

(g) *Conflicts of Interest.* SBA cautions STTR 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 STTR 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.

(h) *American-made Equipment and Products.* Congress intends that the awardee of a funding agreement under the STTR 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 STTR agency must provide to each awardee a notice of this requirement.

## 9. Responsibilities of STTR Participating Agencies and Departments

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

(1) Unilaterally determine the categories of projects to be included in its STTR 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.

(2) Release STTR solicitations in accordance with the SBA master schedule.

(3) 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.

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

(5) 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.

(6) Administer its own STTR funding agreements or delegate such administration to another agency.

(7) Include provisions in each STTR 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.

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

(9) Make payments to awardees of STTR 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.

(10) Provide an annual report on the STTR Program to SBA. See section 10 of this Policy Directive.

(11) 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 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



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) STTR Program total fiscal year dollars derived by applying the statutory percentum to the agency's extramural R/R&D total obligations.

(3) STTR Program fiscal year dollars obligated through STTR 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, and the number and total amount of awards to 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 \$500,000 for Phase II (\$750,000 beginning October 1, 2003).

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

(9) For an agency Phase III award using non-STTR 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 dollar amount of award. Information must be collected quarterly but updated in the agency's annual report.

(11) 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 STTR awards to such National Critical Technologies topics.

(12) Report all instances in which an agency pursued R/R&D, services, production, or any such combination of a technology developed by an STTR awardee and determined that it was not practicable to enter into a follow-on funding agreement with non-STTR funds with that concern. See section 9(a)(11) for minimum reporting requirements.

### 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 STTR 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 STTR Pre-Solicitation Announcement.

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

(1) *STTR Funding Allocations.* The magnitude and source of each STTR agency's annual allocation reserved for STTR awards are critical to the success of the STTR Program. The Act defines the STTR effort (R/R&D), the source of the funds for financing the STTR Program (extramural budget), and the percentage of such funds to be reserved for the STTR Program (0.15 percent through 2003, 0.3 percent thereafter). The Act requires that SBA monitor these annual allocations.

(2) *STTR Program Solicitation and Award Status.* The accomplishment of scheduled STTR events, such as STTR Program solicitation release 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 STTR 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 STTR 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 STTR 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- or interagency STTR 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 STTR Program and Federal and commercial assistance and services available for STTR 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 STTR and the SBIR 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 STTR and the SBIR Programs. The system also stores the 200-word technical abstract for each STTR and SBIR 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 STTR 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 Access 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 STTR/SBIR awards data

from all STTR agencies. Tech-Net also allows any end-user to perform keyword searches and create formatted reports of STTR/SBIR awards information. Tech-Net will allow for potential research partners to view research and development efforts that are ongoing in the STTR and the SBIR Programs, increasing the investment opportunities of the STTR/SBIR 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 STTR/SBIR awardees. This will ultimately produce investments, partnerships, and strategic alliances resulting in commercialization of STTR/SBIR research.

(5) Tech-Net also houses legislatively mandated information on all STTR and SBIR 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 STTR /SBIR Federal agency.

(7) Project commercialization and sales data can only be viewed by Congress, the General Accounting Office (GAO), agencies participating in the STTR and the SBIR 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 Web site <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 identification number assigned by the Administrator of each SBC that has received an STTR or SBIR Phase I or Phase II award from a Federal agency;

(ii) A description of each STTR or SBIR 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 STTR or SBIR award is made; and

(iv) Information regarding mentors and Mentoring networks, as required in the Federal and State Technology (FAST) Partnership Program established under section 35(d) of the Act and described on the SBA's Internet site at <http://www.sba.gov/sbir/indexfast.html>.

(v) With respect to assistance under the STTR Program (as required under section 9(k)(1) of the Act):

(A) Whether the SBC or the research institution initiated their collaboration on each assisted STTR project;

(B) Whether the SBC or the research institution originated any technology relating to the assisted STTR project;

(C) The length of time it took to negotiate any licensing agreement between the SBC and the research institution under each assisted STTR project; and

(D) The percentage allocated between the SBC and the research institution of the proceeds from commercialization, marketing, or sale of technology resulting from each assisted STTR project.

(10) *Government Tech-Net Database*. SBA, in consultation with the Federal agencies participating in the STTR and the SBIR 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 STTR or SBIR 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 STTR 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, and identification 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 STTR 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 to a use and nondisclosure agreement with the 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.

## Appendix I: Instructions for STTR Program Solicitation Preparation

### 1. General

Section 9(p) of the Small Business Act (15 U.S.C. 638(p)) requires “\* \* \* simplified, standardized and timely STTR solicitations” and for STTR 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. STTR solicitations must be prepared and issued as program solicitations in accordance with the following instructions.

## 2. 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 STTR solicitation to produce the least number of pages (electronic and printed), consistent with the procurement/assistance standard operating procedures and statutory requirements of the participating Federal agencies.

## 3. Format

STTR 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.

## 4. Cover Sheet

The cover sheet of an STTR Program solicitation must clearly identify the solicitation as a STTR 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 STTR Program Solicitation; Sections 1 through 9

#### 1. Program Description

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

(b) Describe in narrative form the agency's STTR 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 a SBC for R/R&D purposes at the time of award. The SBC will submit a proposal for "cooperative research and development" with a non-profit "research institution" (terms as defined in this Policy Directive). 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 research or 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 STTR Program solicitation.

#### 2. Definitions

Whenever terms are used that are unique to the STTR Program, a specific STTR solicitation or a portion of a solicitation, they will be defined in a separate section entitled "Definitions." At a minimum, the definitions of "R/R&D," "cooperative research and development," "funding agreement," "research institution," "SBC," "STTR technical data," "STTR 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 to firms 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) STTR 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 (8½" × 11"; 21.6 cm × 27.9 cm) and should conform to the standard formatting instructions. Margins should be 2.5 cm and the type at least 10 point font.

An SBC, before receiving an STTR award, must negotiate a written agreement between the SBC and the single, partnering research institution, as discussed in section 8(c) of this Policy Directive. While an agency may require this agreement to be submitted at the time of the proposal (or at a later date), it is not considered to be part of the proposal and is not subject to the page limitation.

(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 Certifications (by statement or checkbox) as follows:

(a) "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."

(b) "The above concern certifies that at least 40 percent of the work under this project will be performed by the SBC and at least 30 percent of the work under this

project will be performed by the research institution."

(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

"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 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 STTR 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 a 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.* STTR Program solicitations must require as a minimum the following to be included in proposals submitted thereunder:

(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 or award received.

(v) Titles of research projects.

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

(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 STTR 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 STTR 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 STTR or other research,

(B) The existence of second phase funding commitments from private sector or non-STTR 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 STTR Program solicitations.

(c) *Peer Review.* The program solicitation must indicate if the STTR agency contemplates that as a part of the STTR 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 STTR 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 STTR 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 STTR Funding Agreements.* Agencies should insert essentially the following statement in their STTR Program solicitations to notify SBCs of the necessity to mark STTR technical data before delivering it to the Agency:

"To preserve the STTR data rights of the awardee, the legend (or statements) used in the STTR Data Rights clause included in the STTR award must be affixed to any submissions of technical data developed under that STTR award. If no Data Rights clause is included in the STTR award, the following legend, at a minimum, should be affixed to any data submissions under that award.

These STTR data are furnished with STTR rights under Funding Agreement No. \_\_\_ (and subcontract No. \_\_\_ if appropriate), Awardee Name \_\_\_\_, Address, Expiration Period of STTR 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 STTR award shall remain protected through the protection period of that subsequent STTR 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 funding agreement 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 STTR 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:

"STTR 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 STTR 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 both Phase I and Phase II, not less than 40 percent of the R/R&D work must be performed by the SBC, and not less than 30 percent of the R/R&D work must be performed by the single, partnering research institution, as defined in this solicitation."

(i) *Awardee Commitments.* To meet the legislative requirement that STTR solicitations be simplified, standardized and uniform, clauses expected to be in or required to be included in STTR funding agreements must not be included in full or by reference in STTR 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 STTR Program solicitations. Essentially, the following statement must be included in the "Considerations" section of STTR 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 applicant 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 STTR 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 shall 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 STTR funding agreement, purchase only American-made items whenever possible.

(k) *Additional Information.* Information pertinent to an understanding of the administration requirements of STTR 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 STTR 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 STTR funding agreement, the terms of the funding agreement are controlling.

(2) Before award of an STTR 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 STTR Program are contingent upon the availability of funds.

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

(6) If an award is made pursuant to a proposal submitted under this STTR 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 shall 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 STTR 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 standard 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 STTR/SBIR Annual Data Submissions to the SBA.**

Field name	Type	Width	Description
Program Identification .....	Numeric .....	1	STTR/SBIR 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*.

Field name	Type	Width	Description
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.

*Code Research Institution Types*

- 1 Nonprofit college or university
- 2 Domestic nonprofit research organization
- 3 Federally funded research and development center (FFDRC)

(b) Codes

(1) *Program Identification Code*

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

(2) *Agency Codes*

- 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) *Branch Codes*

- 1 AF (Department of the Air Force)
- 2 ARMY (Department of the Army)
- 3 MDA (Missile Defense Agency)
- 4 DARPA (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.

[FR Doc. 03-14635 Filed 6-13-03; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending June 6, 2003

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST-2003-15359.

*Date Filed:* June 4, 2003.

*Parties:* Members of the International Air Transport Association.

*Subject:* Mail Vote 302, PTC2 ME-AFR 0110 dated 4 June 2003, TC2 Middle East-Africa, Special Passenger Amending Resolution 010p from Qatar, Intended effective date: 15 June 2003.

*Docket Number:* OST-2003-15383.

*Date Filed:* June 6, 2003.

*Parties:* Members of the International Air Transport Association.

*Subject:* Mail Vote 301, PTC3 0650 dated 6 June 2003, Resolution 078ee-PEX Fares from Korea (Rep. of) to South East Asia, Intended effective date: 1 September 2003.

**FOR FURTHER INFORMATION CONTACT:** Andrea M. Jenkins, Telephone: (202) 366-0271.

Andrea M. Jenkins,  
*Federal Register Liaison.*

[FR Doc. 03-15082 Filed 6-13-03; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Intent To Rule on Application 03-10-C-00-MDW To Impose a Passenger Facility Charge (PFC) at Chicago Midway International Airport, Chicago, IL and Use PFC Revenue at Gary/Chicago Airport, Gary, IN

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the

application to impose a PFC at Chicago Midway International Airport and use the revenue from a PFC at Gary/Chicago Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

**DATES:** Comments must be received on or before July 16, 2003.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 312, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas R. Walker, Commissioner, City of Chicago Department of Aviation at the following address: Chicago O'Hare International Airport, P.O. Box 66142, Chicago, Illinois 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Philip M. Smithmeyer, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 312, Des Plaines, Illinois 60018, (847) 294-7335. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose a PFC at Chicago Midway International Airport and use the revenue at Gary/Chicago Airport under the provisions of 49 U.S.C. 40017 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 3, 2003, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Chicago Department of Aviation was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 4, 2003.

The following is a brief overview of the application.

*Level of the proposed PFC:* \$3.00.

*Proposed charge effective date:*

January 1, 2040.

*Proposed charge expiration date:*

February 1, 2040.

*Total estimated PFC revenue:*

\$1,550,00.

*Brief description of proposed projects:* Expand Passenger Terminal, Hangar Ramp Construction.

Class or classes of air carriers, which the public agency has requested, not be

required to collect PFCs: air taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois, on June 9, 2003.

**Barbara J. Jordan,**

*Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.*

[FR Doc. 03-15145 Filed 6-13-03; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Proposed Policy Statement No. ANE-2002-33.15-R0]

#### Policy for 14 CFR 33.15, Materials

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed policy statement; request for comments.

**SUMMARY:** The Federal Aviation Administration (FAA) announces the availability of proposed policy for 14 CFR 33.15, Materials.

**DATES:** Comments must be received by August 1, 2003.

**ADDRESSES:** Send all comments on the proposed policy to the individual identified under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Tim Mouzakis, FAA, Engine and Propeller Standards Staff, ANE-110, 12 New England Executive Park, Burlington, MA 01803; e-mail [timoleon.mouzakis@faa.gov](mailto:timoleon.mouzakis@faa.gov), telephone: (781) 238-7114; fax: (781) 238-7199.

**SUPPLEMENTARY INFORMATION:**

#### Comments Invited

The proposed policy statement is available on the Internet at the following address: <http://www.airweb.faa.gov/rgl>. If you do not have access to the Internet, you may request a copy by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**. The FAA invites interested parties to comment on the proposed policy. Comments should identify the subject of the proposed policy and be submitted to the individual identified under **FOR FURTHER INFORMATION CONTACT**. The FAA will consider all comments received by the