

Commercialization 101

Phase III Rules, Requirements and
Considerations



Agenda

SBIR Program Overview

Phase III and Commercialization

Phase III Challenges and misperceptions

Transition to a Program of Record

SBIR Program Objectives

- Stimulate technological innovation;
- Meet Federal R&D needs while strengthening the role of small businesses;
- Foster and encourage participation in innovation and entrepreneurship by socially and economically disadvantaged persons; and,
- Increase private-sector commercialization of innovations derived from Federal research and development funding.

SBIR/STTR Phases

Phase I (Feasibility)

- + “Feasibility Study” or “Proof of Concept”
- + “establish the technical merit, feasibility, and commercial potential” of the efforts

Phase II (Prototype)

- + Full R&D effort leading to prototype
- + Enhancements/ extensions possible
- + Commercialization/transition assistance if warranted

Phase III (Commercialization)

- + Final development/production
- + External (non-SBIR) funding (government or private sources)

SBIR Phase III

Within DoD, Phase III includes a number of activities that move a technology along the path to use by the Warfighter or the commercial market.

Phase III is unfunded.

- + By statute, SBIR/STTR funding cannot be used for Phase III
- + No set aside for Phase III

Phase III, also referred to as “Commercialization”, provides additional advantages to both the Government and the Small Business.

What is Commercialization

Commercialization - The process of developing products, processes, technologies, or services and the production and delivery (whether by the originating party or others) of the products, processes, technologies, or services for sale to or use by the Federal government or commercial market. (SBA SBIR Policy Directive)

Commercialization Confusion

Within DoD, Commercialization has an additional, broader meaning.

For DoD, Commercialization is a broad term encompassing any kind of commercial activity (e.g. sales, licensing, investment) as well as transition activities.

What Qualifies as Phase III?

Phase III Defined – Work that “derives from, extends, or completes prior SBIR work.”

AND

Funding comes from a source other than SBIR Funds

Phase III - Derives From, Extends or Completes

“*Derives from*” refers to work that can be traced back to a previous SBIR/STTR contract. Prior work could be from a Phase I or a Phase II effort.

“*Extends*” could include work that applies the SBIR technology to a different purpose or end user.

“*Completes*” could include efforts to productize, manufacture, or otherwise commercialize the technology.

Advantages of a Phase III

- No limit on time elapsed between phase I/II and Phase III
- No limit on the number, duration, type, or dollar value of Phase III awards made to a business concern
- Government (or Prime) contract can be awarded on a sole source basis (any agency) (Section 4(c)(3) of SBIR Policy Directive)
- Small business standards do not apply
- SBIR/STTR Data Rights do apply (make sure the contracting officer indicates that it is a phase III)
- A mod to a Phase I or II contract can qualify as a Phase III if non SBIR funding is used

SBIR Data Rights

- Scientific or technical data generated under an SBIR effort. Can include reports, code, algorithms, equations, drawings, etc.
- SBIR protection is five years from the end of the project (DoD – DFARS 252.227-7018)
- To be protected, data must be marked



Credit: businesscomputingworld.co.uk

Marking SBIR Data

SBIR Data Rights (DFARS 252.227-7018)

Contract Number: _____

Contractor Name: _____

Contractor Address: _____

Expiration of SBIR Data Rights Period: _____



SBIR Phase III - Key Points

A Phase III award is a federal contract (or subcontract from a prime) which is certified by a contracting officer

Certification is necessary to receive the Phase III benefits

- + It is often the SBC that must make sure that the contracting officer understands the unique aspects of SBIR Phase III

The Small Business awardee must:

- + Notify the contracting officer that the contract qualifies
- + Provide a letter to the contracting officer explaining how the effort to be contracted derives from, extends, or completes a prior SBIR/STTR effort

SBIR Phase III - Key Points

- + Phase I can go straight to phase III
- + Phase III can follow a phase III
- + Phase II and Phase III can be awarded simultaneously
- + Government can issues a sole-source phase III
- + Prime contractors can award Phase III subcontract on sole-source basis
- + Mod to a Phase I or II is a Phase III is funding is non-SBIR (only non-SBIR funded portion counts)

Transition

“Technology Transition” is a generally used to describe activities that support moving a technology from a lab or R&D activity to an acquisition program or into military operations.

- Requirement for all acquisition PMs to address SBIR/STTR technologies in acquisition strategy

DoDI 5000.02

Operation of the Defense Acquisition System

“Small Business Innovation research (SBIR)/Small Business technology Transfer (STTR) Program Technologies: Statutory. Program managers will establish goals for applying SBIR and STTR technologies in programs of record and incentive primes to meet those goals. For contracts with a value at or above \$100 million, program managers will establish goals for the transition of Phase III technologies in subcontracting plans and require primes to report the number and dollar amount of Phase III SBIR and STTR contracts. Not required at Milestone B. Source(s): 15U.S.C. 638 [Ref. (i)]”

Transition to a Program of Record

PM/PEO guidance includes:

- + adopt, mature and transition SBIR/STTR technologies into POR and fielded systems through direct SBIR/STTR Phase III Awards
- + assure SBIR/STTR technology can satisfy topic requirements – as prime or sub to prime – to determine if GFE is an advisable strategy
- + Include SBIR/STTR in planning process for insertion at milestone reviews
- + prepare all required procurement documents for delivery to the contracting officer
- + advised to search their service database for prior SBIR/STTR projects adaptable to meet program needs

References

- The SBIR Reauthorization Act of 2011
- The February 24, 2015 SBA SBIR Policy Directive
- Data Rights - FAR Clause 52.227-20, and DFARS clause 252.227-7018

Helpful Resources

SBIR/STTR Web Site (<https://www.sbir.gov>)

DoD SBIR/STTR Web Site (<http://www.acq.osd.mil/osbp/sbir/>)

SBA (<https://www.sba.gov>)

Federal Acquisition Regulation Site (FARSite) (<http://farsite.hill.af.mil/>)

Defense Innovation Marketplace

(<http://www.defenseinnovationmarketplace.mil/>)

+ Rapid Innovation Fund

Small Business Technology Council (<http://www.sbtc.org/>)



SBIR Beyond Phase II and Mentor Protégé Training Week



Thank You



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