



AFWERX

AFVENTURES

PHASE III:

Engaging the Market & Transition

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Program Background

Congressionally Mandated Program

- Created through Small Business Innovation Development Act of 1982 (P.L. 97-219)
- Small Business Technology Transfer (STTR) program established in 1992 to fund cooperative R&D projects with Small Businesses and non-profit Research Institutions (P.L. 102-564, Title II)
- In 2022, current program reauthorized for three years
- Governed by 15 U.S. Code § 638 and the SBA [SBIR/STTR Program Policy Directive](#), most recently updated 1 OCT 2020



Eligible Companies

- For-profit, small business of 500 or fewer employees
- Firm must be at least 51% owned by U.S. citizen
- At least 2/3 of research (Phase I) and 1/2 (Phase II) must be performed by the small business concern (SBC)
- Primary employment of Principal Investigator is 51% of time spent with proposing firm/SBC
- All R/R&D work must be performed in the U.S.
- Small businesses must properly mark all SBIR Data Rights protected material delivered to the Government; the Government cannot disclose SBIR data or software outside the government except as expressly permitted by the small business, for evaluation purposes, or for emergency repair or overhaul of items operated by the Government
- STTR ONLY: must have a single partnering RI doing >30% of the technical effort, with the SBC doing >40%

Award Phases

A SBIR/STTR program is structured in three phases:

- Phase I
- Phase II
- Phase III



Phase I Open Topic

Short-term feasibility study for proposed innovative solution to a problem

- Typically a three month period of performance
- Award amounts are up to \$75K
- Increased emphasis on customer discovery – critical to reducing the T2 gap



Phase II Open Topic

Demonstration phase in which prototypes are built and tested

- Solution validation, tested/deployed by airmen
- Typically 21 months (18 months of prototyping and 3 months of reporting)
- Award amounts are up to \$1.25M
- May involve matching customer funds

Phase III

Transition SBC effort into hardware, software, processes or services that benefit the Air Force enterprise and/or private sector

- Must be funded with non-SBIR/STTR funds
- No limit on value or time; any type of award vehicle
- AF SBIR/STTR Contracting Team does not award SBIR Phase IIIs but does provide awarding contracting office with guidance and tools to assist with execution

A DESCRIPTION OF PHASE III

“Work that derives from, extends or completes an effort made under prior SBIR/STTR funding agreements..., but is funded by sources other than SBIR/STTR set-aside funding.”

— SBIR AND STTR POLICY DIRECTIVES

Phase III Description

- **“Derives from”** - work that traces back to efforts performed under prior SBIR/STTR funding agreements
- **“Extends”** - work can be for other applications not researched or performed in prior SBIR/STTR efforts
- **“Completes”** - commercialization of the prior SBIR/STTR research into a commercial product or application

So, what IS a Phase III?

A Phase III is just another SBIR/STTR award - it retains status as a SBIR/STTR effort along with any rights associated therein.

- May look like a regular procurement because it can be funded by:
 - Procurement
 - Operations and Maintenance, construction, research OR
 - Any other type of agency funds
- No limit on number, duration, type, or dollar value of Phase III awards made
- No limit on time that may elapse between a Phase I or Phase II award
- No limit on time that may elapse between an initial and subsequent Phase III

So, what IS a Phase III? ...continued

- Small business size limits for Phase I & II awards do not apply to Phase III
- Subcontract to a Federally-funded prime contract may be a Phase III award
- Commercial contract
- Phase III work may be for products, production, services, R/R&D, or any such combination

Phase III: Defined

SBIR/STTR Policy Directive (October 2020), §4.(c)(1) provides that each of the following types of activities constitute SBIR/STTR Phase III work:

- Commercial application (including R/R&D, testing and evaluation of products, services or technologies for use in technical or weapons systems) of SBIR/STTR funded R/R&D that is financed by non-Federal sources of capital.
- SBIR/STTR-derived products or services intended for use by the Federal Government, funded by non-SBIR/STTR sources of Federal funding.
- Continuation of SBIR/STTR work, funded by non-SBIR/STTR sources of Federal funding including R/R&D.

Phase III - Acquisition Planning

- **DD2579 is required based on 2022 AFFARS update**
- **Phase I and/or II satisfies competition requirement**
 - No J&A required under FAR 6.302-5 (10 U.S.C 2304 (f)(6))
 - PCO prepares memo for the file (with input from PE/PM) on how the Phase III “derives from/extends/completes” previous SBIR/STTR award(s)
- **Phase III awards shall be made to the SBIR awardee that developed the technology**
 - Agency must report to SBA if Phase III award made to entity other than the SBIR/STTR awardee

Data Rights - SBIR Rights Still Apply

- **DFARS 252.227-7018, Rights in Noncommercial Technical Data and Computer Software-Small Business Innovation Research (SBIR) Program – IAW DFARS 227.7104(a)**
 - Required in ALL Phase III awards
 - “SBIR Data Rights” – the Government’s rights during the SBIR data protection period to use, modify, reproduce, release, perform, display or disclose technical data or computer software generated in a SBIR award as follows:
 - Limited rights in such SBIR technical data; and
 - Restricted rights in such SBIR computer software

Data Rights - SBIR Rights Still Apply

- “Government Purpose Rights, with teeth”
- Protection Period of 5 years □ extended to 20 years (SBIR ONLY!) via OSD Class Deviations 2020-O0007
 - 5 year protection period still applicable for STTR
- Additional provisions/clauses required as well, IAW DFARS 227.7104(e)
- Negotiation of other than SBIR data rights on SBIR/STTR contracts is prohibited. ([15 U.S.C. §638 \(ee\)\(2\)\(C\)](#))

Phase III: Contracting Process

- **Identification of a requirement that could be performed by a SBIR/STTR Company – usually, this is something that the requirements team (i.e. Program Management) identifies during the market research process**
- **Collaborate with stakeholders to discuss requirement**
 - Program Management
 - Contracting
 - Finance
 - Legal
 - Small Business
 - Quality Assurance, Administration Team, etc.

Phase III: Contracting Process

- **Involve critical stakeholders throughout, to ensure requirements are understood and the team is operating on the same page. Misunderstandings or lack of communication can cripple acquisition strategy and delay execution!**
- **Secure Funding**
 - Ensure that the funding is appropriate for the type of requirement you are looking to contract for!
 - Must be non-SBIR/STTR funding for Phase III

Phase III: Contracting Process

- **Requirements/PR Package to the PCO – things to identify include:**
 - Period of Performance
 - Type of Funding (O&M, RDT&E, Procurement, etc.)
 - CDRLs
 - GFP/GFI/Base Support
 - Data Rights
 - DD254
 - International Traffic in Arms Regulations (ITAR) Restrictions
 - Anything else pertinent to the requirement

Phase III: Contracting Process

- **Once the Contracting Officer has all the information needed, RFP can be sent to the Contractor**
- **Proposal is received and evaluated by the Project Engineer/Program Manager**
 - No standard technical evaluation criteria for Phase III (Phase I/II criteria provided in solicitation)
 - Cost reviewed against proposed technical effort – see FAR 15.404-1
 - Contractor has clear understanding of the requirement
 - Proposed costs consistent with various elements of technical proposal
 - Proposed costs realistic for proposed technical approach and POP

Phase III: Contracting Process

- **Contracting Officer:**

- Performs duties of evaluating proposed cost/price, ensures required documentation received from contractor and PE/PM, negotiates any outstanding issues, prepares contract for contractor signature, completes required reviews and makes award
- Synopsis of proposed SBIR contract action NOT required – see FAR 5.202(a)(7)
- Synopsis of SBIR contract award NOT required see – FAR 5.301(b)(2)

Potential Holdups

- Requirements definition
- Funding commitments
- Technical evaluation
- Data Rights – assertions, review and possible negotiation of rights
- Miscellaneous Requirements – ex. FAR 16.301-3(a)(3) requires contractors to have an adequate accounting system before being awarded a cost-reimbursement contract

Critical Takeaways

- Derive From, Extend or Complete
- Maximum Flexibility
- J&A, Pre/Post Award Synopsis
- DD2579 now required
- Any Type of Funding (just not SBIR!)
- Any Contract Type
- SBIR Data Rights & Clause are Mandatory
- Useful, adaptable tool to help get requirements to the warfighter
- Assist agency with meeting Small Business goals
- Improve Agency ROI on SBIR Funding

Resources

- SBA SBIR/STTR Website – <https://www.sbir.gov>
- AFWERX Website – <https://www.afwerx.com>
- AFVentures Website – <https://afwerx.com/afventures-overview>
- Defense SBIR/STTR Innovation Portal (Proposal Submission Website) <https://www.dodsbirsttr.mil/submissions/login>
- [SBIR/STTR Policy Directive](#)
- OSD Class Deviation 2020-O0007, dated 17 Mar 2020
- [84 FR 12794](#), Small Business Administration Final SBIR and STTR Policy Directive
- [SBIR Statute](#) (15 U.S.C. §638)
- [Small Business Size Regulations](#), Small Business Innovation Research (SBIR) Program and Small Business Technology Transfer (STTR) Program (13 CFR 121.7)
- SBIR/STTR Data Rights - <https://www.sbir.gov/faq/data-rights>
- [Sam.gov](#)



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Questions?

Please type your questions in the Q&A.