



Acquisition guidance for SBIR phase III



What is SBIR?

The SBIR Program is structured in three phases:

Phase I.

The objective of Phase I is to establish the technical merit, feasibility, and commercial potential of the proposed R/R&D efforts.

Phase II.

The objective of Phase II is to continue the R/R&D efforts initiated in Phase I.

Phase III.

The objective of Phase III, where appropriate, is for the small business to pursue commercialization objectives resulting from the Phase I/II R/R&D activities.

Are Phase III sole source awards permissible?

Yes, because the competition for SBIR 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. The Phase III award is made directly to the SBIR firm, but not made under the Sole Source provisions of FAR part 6. Therefore, an agency that wishes to fund an SBIR Phase III project is not required to conduct another competition in order to satisfy those statutory provisions. Phase III provides an opportunity for a directed award, which will bypass formal solicitation, evaluation, and award procedures.

What funding can be used for Phase III contracts?

Phase III contracts can be funded with any appropriation. Our Phase III contracts are commonly funded with Operations and Maintenance monies.

Can services be applied to a SBIR Phase III contract?

Yes. Phase III efforts include products, services, Research/Research and Development or any combination thereof.

Can a SBIR Phase III contract be awarded to a company that has either outgrown the small business size standard or which has been acquired by a large business?

Yes, per the SBA Policy Directives, a Phase III contract may be awarded to a firm that has outgrown the small business size standard. There are no NAICS code size limits applicable to Phase III, and no limits on company or contract size, contract duration, type/color of money or the number of Phase III awards.



Must an RFP or BAA be issued for a Phase III effort?

No, a Phase III contract could result from an unsolicited proposal, simplified acquisition solicitation, an ordering process allowed under IDIQ or multiple-award contracts, or a non-competitive award. No J&A is required if the award is based (Phase I/II awards are the basis) on any competitive solicitation. The government has a statutory preference for awarding any Phase III awards to the contractor who performed related development work on the initial Phase I or Phase II SBIR contracts. “To the greatest extent practicable, federal agencies... shall issue Phase III awards relating to technology, including sole source awards, to the SBIR...award recipients that developed the technology.” 15 U.S.C. § 638(r)(4)

Can a Phase III contract include options for additional work or additional quantities?

Yes, in accordance with FAR 17.205.

How do I know if a proposed effort is an SBIR derived product or process?

The product must derive from or extend to complete efforts developed under a previously awarded Phase I or Phase II funding agreement.

Can multiple Phase III contracts be awarded to the same firm?

Yes. There is no limit to the number of Phase III contracts awarded to the same firm.

What does the term “commercialization” mean?

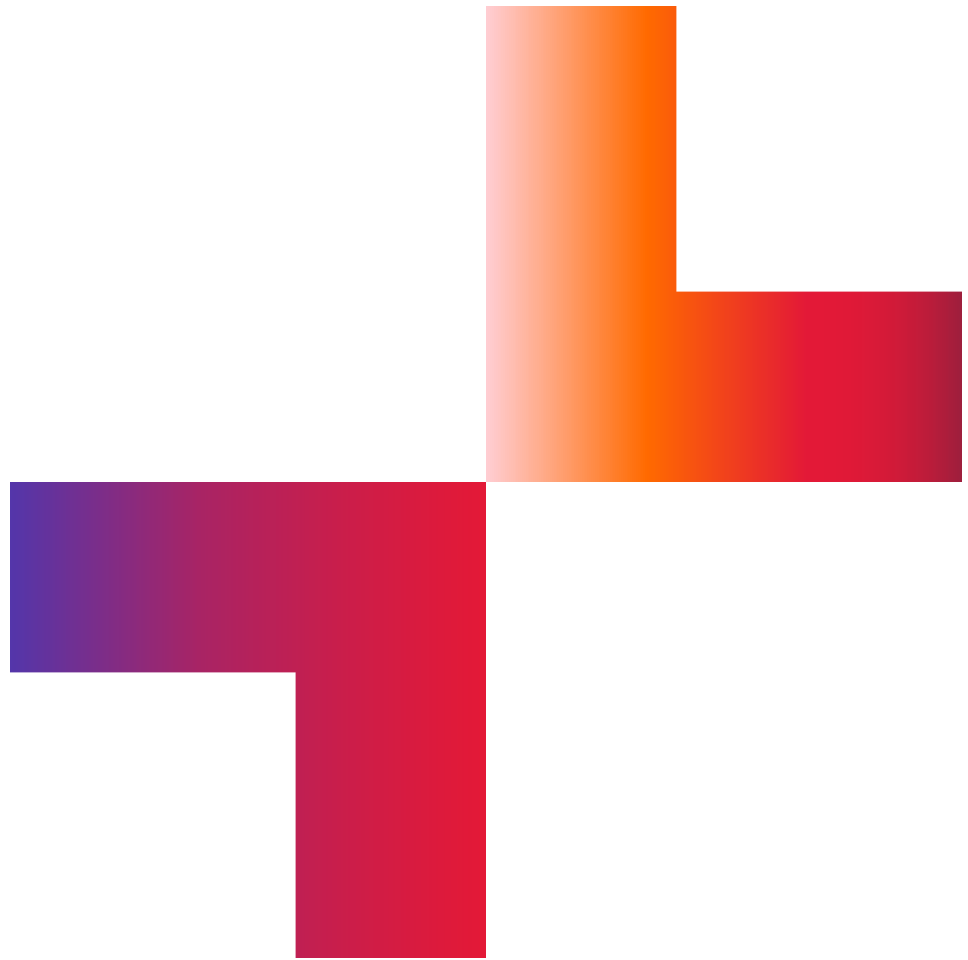
The term “commercialization” means the process of developing products, processes, technologies, or services; and the production and delivery (whether by the originating party or by others) of products, processes, technologies, or services for sale to or use by the federal government or commercial markets.

References

SBIR Reauthorization Law; PL 112-81: <http://www.gpo.gov/fdsys/pkg/PLAW-112publ81/pdf/PLAW-112publ81.pdf>

SBIR in the US Code; 15 USC 638 (Section 9 of US Small Business Act): http://www.law.cornell.edu/uscode/pdf/uscode15/lii_usc_TI_1_5_CH_14A_SE_638.pdf

Commercialization: <https://www.govinfo.gov/content/pkg/USCODE-2020-title15/html/USCODE-2020-title15-chap14A-sec638.htm>



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