



ACQUISITION AND  
TECHNOLOGY

DEPUTY UNDER SECRETARY OF DEFENSE  
3015 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3015

DEC - 8 2008

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
DIRECTORS OF DEFENSE AGENCIES

SUBJECT: Small Business Innovation Research (SBIR) Program Phase III Guidance

A primary purpose of Small Business Innovation Research (SBIR) Program is to stimulate technological innovation by increasing small business participation in federally funded Research and Development (R&D). The Department of Defense (DoD) SBIR Program is executed by the DoD Components. The Program is funded via 2.5% set-aside of the extramural Research Development Test and Evaluation (RDT&E) budget in excess of \$100 million and is implemented through a uniform, three-phase competitive process. Proposals are submitted in response to DoD solicitations and funding agreements (contracts) are awarded to qualifying small businesses for R&D to meet stated Department needs. The SBIR Program invests over \$1.1 billion annually to develop needed technologies through selection and award of roughly 2,000 Phase I feasibility studies and over 1,000 Phase II development efforts per year across the Department.

SBIR Phase III is both a principal objective of the SBIR Program and a means through which the Department realizes value from SBIR. SBIR Phase III refers to work that derives from, extends, or logically concludes effort(s) performed under prior SBIR funding agreements. Phase III work is typically oriented towards commercialization of SBIR research or technology to bring it to the marketplace, and must be funded by non-SBIR sources. There are several characteristics and requirements associated with SBIR Phase III detailed in the Small Business Administration's Policy Directive that must be understood by all DoD component contracting and acquisition activities.

**1. SBIR technical data rights extend to Phase III.** A Phase III award is, by its nature, an SBIR award, has SBIR status, and must be accorded SBIR data rights. If an SBIR awardee wins a competition, or receives a sole-source award or a subcontract, for work that derives from, extends, or logically concludes effort(s) performed under prior SBIR funding agreements, then the funding agreement for the new award must have SBIR Phase III status.

**2. Phase III contracts or subcontracts may be awarded without further competition.** The competition for SBIR Phase I and Phase II awards satisfies statutory competition requirements. Therefore, an agency that wishes to fund an SBIR Phase III project is not required to conduct another competition, or process a Justification and Approval (J&A) pursuant to FAR 6.302-5, in order to satisfy those statutory provisions, and may do so directly from Phase I or Phase II. If an





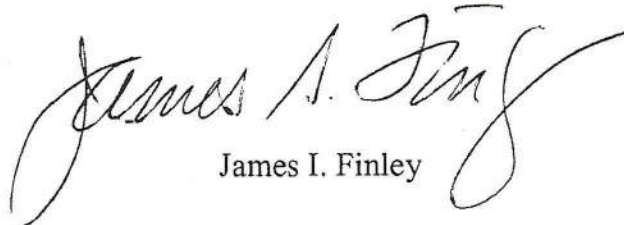
agency requires processing of a J&A in conducting actions relative to a Phase III SBIR award, it is sufficient to state, for purposes of the justification, that the project is an SBIR Phase III award that is derived from, extends, or logically concludes efforts performed under prior SBIR funding agreements and is authorized under 10 U.S.C. 2304(b) (2). In addition, the small business size standard, once met at the time of Phase I or II award, does not apply to Phase III.

**3. The Department must show preference for SBIR-funded technology in Phase III.** For Phase III, Congress intends that agencies or Government prime contractors that pursue R&D or production for agencies utilizing technology developed under the SBIR Program, give preference, including sole-source awards, to the awardee that developed the technology. Further, the Small Business Act requires that agencies report to the SBA all instances in which R&D or production of a technology developed by an SBIR awardee is pursued with a concern other than the one that developed the SBIR technology.

To properly implement this responsibility, DoD R&D and acquisition offices should be aware (and major systems prime contractors should be made aware) of relevant technologies being developed through SBIR, and through all other DoD programs and activities. Consistent with DoD policy, program managers should include SBIR as part of ongoing program planning and give favorable consideration, in technology and acquisition planning processes, for funding successful SBIR technologies. ACAT 1 programs should address plans for funding and insertion of SBIR-funded technologies at milestone reviews.

**4. SBIR Phase III contract actions must be reported.** Work performed under a DoD prime contract that principally derives from, extends, or logically concludes work begun under a prior SBIR effort should be coded as SBIR Phase III in the Federal Procurement Data System-Next Generation (FPDS-NG). At the present time, FPDS-NG only allows identification of Phase III awards to Small Businesses. A change request was submitted on January 18, 2008 to allow it to identify Phase III awards to other than small businesses.

As a vehicle to tap thousands of high-technology small businesses for solutions, the SBIR Program is an exceptional source of innovation and industrial base vitality. As such, it is imperative that SBIR Phase III efforts be executed in a manner consistent with the tenets listed above. DoD SBIR policy discussed in this memorandum will be reflected, as appropriate, in DoD regulations. I appreciate your support and assistance.

A handwritten signature in black ink, reading "James I. Finley". The signature is written in a cursive style with a large, sweeping flourish at the end.

James I. Finley