

**Guidance for Businesses Seeking SBIR/STTR Phase III Awards from the Department of Energy**  
Office of SBIR/STTR Programs  
February 9, 2022

## Who is this guidance for?

This guidance is provided to businesses that have already received SBIR/STTR Phase I or II awards from the Department of Energy (DOE) or other Federal agencies and are seeking a Phase III award from DOE. Although much of the discussion below would be applicable to those seeking Phase III awards at other Federal agencies, some portions are unique to DOE.

Please note that although a business must be a small business at the time of a Phase I or II award, there are no size limitations applicable to Phase III.

## What is an SBIR/STTR Phase III Award?

Phase III is work that derives from, extends, or completes the effort performed in Phase I or II. Please note that to receive a Phase III award you will be required to identify the specific Phase I or II award from which the Phase III work derives and explain how it is an extension of that previous effort. It is not sufficient to simply have a prior Phase I or II award in the general technical area of the proposed Phase III award.

Phase III is generally the commercialization effort of the project, which may include sale of products to the Government, but may be additional research or development. For DOE, most Phase III awards are for further research and development, although there may be cases where the technology is sufficiently mature, that it will be acquired for commercial deployment.

By statute, DOE sets aside funding for SBIR/STTR Phase I and II awards, which are awarded by the Office of SBIR/STTR Programs within the Office of Science or by ARPA-E's SBIR/STTR Programs. These funds cannot be used for Phase III awards. There is no similar statutory provision that sets aside funding for Phase III awards.

Please be aware that because of the differing missions of DOE's program offices, not all offices will issue Phase III awards. For example, the Office of Science, whose mission is basic science, does not issue Phase III awards. These awards are more likely to be issued by program offices whose missions are more focused on applied science or technology development.

## Non-competitive SBIR/STTR Phase III Awards from the Department of Energy

The most direct way to receive a Phase III award is if the DOE program office that funded your Phase I or II award would like to continue funding your technology towards commercialization. The program office can issue your Phase III award non-competitively. It is strongly recommended that you engage with the program official that is overseeing your Phase I or II award to communicate both your technical progress and potential impact. Building such a relationship will assist with discussions of the potential for follow-on funding such as non-competitive Phase III awards.

It is not a requirement that your Phase III award come from the same DOE office that funded your Phase I or II award. Your Phase I or II award can also be from a different agency. However, in those cases it may be more challenging to find a program official that is interested in providing further funding for your technology. See the section below regarding competitive Phase III awards.

Federal law and policy were set up to ensure that competitive solicitations are used to obtain the best value and outcomes when awarding taxpayer funds. So, although non-competitive awards are permitted, they are the exception not the rule. Non-competitive Phase III awards are one example of this exception. Technically Phase III awards can be provided non-competitively (sole source) because the competition for Phase I or II awards satisfies the competition requirement. In addition, preference can be given to Phase III awards when a Federal agency wishes to continue funding work that is derived from Phase I or II awards.

Because Phase III awards are not very common, DOE contracting officers may not have prior experience with issuing non-competitive Phase III awards. If you encounter such a situation, please notify the contact person provided at the end of this document, and internal DOE guidance can be provided to the contracting officer to assist with making a Phase III award.

In addition to the ability to receive a non-competitive (sole source) award, a Phase III award will have SBIR/STTR data rights like Phase I or II awards. Deliverables associated with your award, such as final technical reports, that are properly marked, will be protected from disclosure for 20 years from the date you received your Phase III award. These data rights are provided to keep the technical information associated with your award confidential while you pursue commercialization.

### Competitive SBIR/STTR Phase III Awards from the Department of Energy

DOE issues many solicitations each year that span research, development, and demonstration. This may be a desirable way to obtain a Phase III award, particularly if your Phase I or II award was not issued by DOE. If you are selected for award AND the application you submitted derives from a Phase I or II award, your award must be designated as a Phase III award. The primary benefit of a competitive Phase III award is that your award will carry SBIR/STTR data rights as was discussed in the section above.

Some businesses have mistakenly believed that if an agency issues a broad solicitation that covers the technical area of your Phase I or II award, that they are entitled to receive a sole source award or preference over other competitors to the solicitation. This is not true. Only in the case where the agency is seeking the specific technology that was developed under a prior SBIR/STTR award, do sole source and preference apply.

### Cost share requirement at the Department of Energy

There is a cost share requirement for both research and development and demonstration awards at DOE. Phase III awards, like Phase I and II awards, are considered awards under the SBIR/STTR programs and are therefore exempt from DOE's cost share requirement.

## Contacts for Assistance with Phase III Awards

If you have additional questions or need assistance with Phase III awards at DOE, please contact the DOE personnel below.

- General Questions:
  - Carol Rabke, Tech to Market Advisor, Office of SBIR/STTR Programs  
(301) 489-1128, carol.rabke@science.doe.gov
- Questions concerning patents and data rights:
  - Mike Dobbs, Deputy Chief Counsel, Intellectual Property Law  
(331) 465-1317, mike.dobbs@science.doe.gov