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SMALL BUSINESS ADMINISTRATION

[Docket Number: 2013-0008]

Small Business Innovation Research and Small Business Technology Transfer Programs

Commercialization Benchmark

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: The Small Business Administration (SBA) is publishing the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) program Commercialization Benchmark for the 11 participating agencies for public comment. This benchmark establishes the commercialization results a Small Business Concern (SBC) that has been awarded multiple prior Phase II awards is required to achieve from work it performed under its prior Phase II awards in order to be eligible to receive a new Phase I award. This requirement is described in Section 4(a) of the SBIR Policy Directive and the STTR Policy Directive which implements section 5165 of the SBIR/STTR Reauthorization Act of 2011, Pub. L. 112-81, 125-Stat. 1298.

DATES:

EFFECTIVE DATE: [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] and when published on www.sbir.gov.

COMMENT DATE: Comments to this notice must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Docket Number 2013-0008 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail/Hand Delivery/Courier: Edsel Brown, Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416.

SBA will post all comments to this notice without change on www.regulations.gov. If you wish to submit confidential business information (CBI) as defined in the User Notice at www.regulations.gov, you must submit such information to Edsel Brown, Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416; or send an email to Technology@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether to publish it.

FOR FURTHER INFORMATION CONTACT: Edsel Brown, Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW, Washington, DC 20416; telephone (202) 205-6450; email (Technology@sba.gov).

SUPPLEMENTARY INFORMATION:

On August 6, 2012, SBA published the SBIR and STTR Policy Directives at 77 FR 46806 and 77 FR 46855 respectively. Section 4(a)(3) of these Policy Directives requires each agency to establish an SBA-approved Commercialization Rate Benchmark for firms that have been awarded multiple prior Phase II awards. The benchmark establishes the level of commercialization results an SBC must have received from work it performed under prior Phase II awards in order to be eligible for a new Phase I award.

The Commercialization Rate benchmark is the second of two requirements designed to ensure that SBCs that have previously won multiple Phase II awards demonstrate a minimum

level of progress towards commercialization of their SBIR/STTR-funded research. The first requirement was described in the Transition Rate Benchmark notice published in the Federal Register on October 16, 2012 at 77 FR 63410. The Transition Rate benchmark sets the minimum ratio of Phase II to Phase I awards that must be met by firms that have been awarded over 20 Phase I awards over the past 5 years (excluding the most recently completed fiscal year) in order to be eligible for a Phase I award. The Commercialization Rate benchmark establishes the level of Phase III commercialization results an SBA must have achieved from work it performed under prior Phase II awards.

The Commercialization Benchmark requirement will apply only to firms that have received more than 15 Phase II awards during the last 10 fiscal years, excluding the two most recently completed fiscal years.

To implement the Commercialization Benchmark, the eleven SBIR/STTR-participating agencies and the SBA have identified a measure of commercialization results that will be applied across all agencies. The SBA will use data it collects from awardees in its Company Registry on the SBIR.gov website to identify those companies that do not meet the required level of commercialization for their past Phase II work. To be consistent with the process used for the Transition to Phase II Benchmark requirement, and provided that the necessary data systems are available, SBA will generate, on June 1 of each year, a list of companies that fail to meet the Commercialization Benchmark rate. These companies will be ineligible to receive a Phase I award for a period of one year from that date. This list will be made available to officials at the participating agencies. It will not be available to the public. The firms on the list will be notified directly and will be able to view their status on the Company Registry at SBIR.gov. As the

SBIR/STTR program data system develops, SBA may modify the date on which SBA identifies the firms that do not meet the benchmark requirements to earlier in the year.

The purpose of the Commercialization Benchmark is to measure an SBC's progress from Phase II to Phase III. Phase III is defined in Section 4(c)(3) of the Policy Directives as "work that derives from, extends, or completes an effort made under prior SBIR funding agreements, but is funded by sources other than the SBIR Program."

For the purposes of the Commercialization Benchmark, Phase III commercialization of a company's past Phase II work will be measured using both monetary and non-monetary results.

The following data will be used for the benchmark:

- Total sales or revenues that resulted, at least in part, from work performed under Phase II awards received in the 10-year period.
- Total dollars invested to continue the work and move it towards commercial application.
- The number of patents that resulted, at least in part, from work performed under Phase II awards received in the 10-year period.

The Commercialization Benchmark requirement will be expressed as follows: Each company that has won 16 or more Phase II awards during the past 10 years, excluding the most recently completed two fiscal years, must have received an average of at least \$100,000 of sales and/or investments per Phase II award received; or have received a number of patents equal to or greater than 15% of the number of Phase II awards received during the period. For example, if a company won 18 Phase II awards during fiscal years 2007 through 2011, it would be required to meet the commercialization benchmark calculated on June 1st 2014 because it had received more than 16 Phase II awards in the 5 year time period. On June 1st 2014, the company shows, through its reporting on these 18 awards, that it has achieved \$1.7 million in sales and/or

additional investment and 3 patents resulting directly from the work done under these awards. The sales and investment amount is not sufficient to meet the benchmark of \$100,000 per award, however, with 3 patents the company exceeds the patent requirement of 2.7 (15% of 18 awards) and therefore meets the benchmark requirement.

As the data system for the SBIR/STTR programs develops and is able to collect additional data for measuring commercialization results, the agencies and SBA may refine the Commercialization Benchmark to include other measures and/or adjust the required performance levels.

SBA has reviewed and approved this benchmark. Section 5165 of the SBIR/STTR Reauthorization Act of 2011 requires SBA to publish, at least 60 days before becoming effective, the system and performance standard to be used, and the approval by SBA. Therefore, SBA will review all comments received in response to this notice and issue the final commercialization benchmark requirement within 60 days of the date this notice is published. That notice will be made available at www.sbir.gov.

For greater detail on the Commercialization Rate benchmark requirement, see Section 4(a)(3) of the SBIR Policy Directive (77 FR 46806) and the STTR Policy Directive (77 FR 46855).

Pravina Raghavan,
Deputy Associate Administrator for Investments and Innovation.

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