

# Proposed Amendments to Guidelines for the North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I Matching Funds Program (“the Program”)

*As required by North Carolina General Statute 143B-437.82, the North Carolina Department of Commerce is publishing for public comment the attached proposed amendments to the Program. If approved, the amendments would take effect in late July 2016.*

*Hard copies of the Guidelines will be made available by the Office of Science, Technology & Innovation of the N.C. Department of Commerce to those persons requesting them. Electronic copies will be posted on the Department of Commerce website at the following location: <http://www.nccommerce.com/sti/grant-programs/one-nc-small-business-program>.*

***Public comments on the proposed amendments to the Guidelines will be accepted in written form until 5:00 p.m. on Thursday, July 9, 2015.*** Written comments are to be provided to the Office of Science, Technology, & Innovation of the N.C. Department of Commerce by e-mail delivery to the following address: [ncbst@nccommerce.com](mailto:ncbst@nccommerce.com)

*or by mail addressed to:*

*Office of Science, Technology & Innovation  
N.C. Department of Commerce  
1326 Mail Service Center  
Raleigh, North Carolina 27699-1326*

*or by hand delivery to:*

*Office of Science, Technology & Innovation  
N.C. Department of Commerce  
Education Building  
301 North Wilmington Street  
Raleigh, North Carolina*

*An opportunity for oral comments will be provided as well. A public comment session will take place from 10:00 a.m. to 11:00 a.m. on Tuesday, June 30, 2015, in the N.C. Department of Commerce Fourth Floor Boardroom in the Education Building (address above).*

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*Although there are several proposed amendments, the majority are stylistic, technical, or a re-ordering of information. **There are only three substantive amendments (highlighted in gray in the Guidelines) for which comments are solicited, as follows:***

- Page 4 — Definition 15***
- Page 5 — Subsections E6 and E7***

**The North Carolina Small Business Innovation Research (SBIR) and Small Business  
Technology Transfer (STTR) Phase I Matching Funds Program Guidelines**

(the “Guidelines”)

(As amended on ~~November 1, 2009~~ Date TBD)

A. **PROGRAM SUMMARY.** The North Carolina SBIR/STTR Phase I Matching Funds Program (the “Match Program”) is designed to award matching funds to North Carolina firms ~~who~~ that have been awarded a Small Business Innovation Research Program or Small Business Technology Transfer Program (the “Federal ~~SBIR/STTR~~ Program”) Phase I award. — See Section D for definitions of terms used herein.

The Federal ~~SBIR/STTR~~ Program is administered by 11 Federal ~~agencies~~ Agencies for the purpose of providing research and development funding to small companies. Companies compete for funding under ~~this program~~ the Federal Program by submitting proposals in response to SBIR-STTR solicitations issued by participating Federal ~~agencies~~ Agencies (“Federal Solicitations”).

The Federal ~~SBIR/STTR~~ Program provides for funding competitions in two phases that are relevant to the ~~North Carolina program~~ Match Program: **Phase I** - to conduct feasibility research; and **Phase II** - to expand and develop Phase I results and ~~develop~~ commercially viable innovations. The More information about the Federal ~~SBIR/STTR~~ Program ~~also includes, including a~~ Phase III ~~provision~~ program that provides commercialization support for ~~the product or process developed in~~ Phase II. ~~More information about the Federal SBIR/STTR Program products and processes,~~ may be found at:  
[www.sbirworldzyn.com/sbir-](http://www.sbirworldzyn.com/sbir-) and [www.sbir.gov](http://www.sbir.gov).

The North Carolina Board of Science, ~~and~~ Technology and Innovation (the “Board”), a division of the North Carolina Department of Commerce, through its Executive Director, administers the Match Program in the manner set forth in these Guidelines ~~for the One North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I Matching Funds Program (the “Guidelines”)~~.

Companies apply for funding under the Match Program by submitting an Application in response to a solicitation (a “Match Solicitation”) developed and issued by the Board. Under the Match Program, a qualified business may receive one (1) SBIR/STTR Phase I Matching Funds Award (either an SBIR or an STTR Phase I award, a “Match Award”) during a Match Solicitation ~~period. The Board, based~~ Period.

Based upon the availability of funds, the Board sets the available Match Award amounts and the dates during which proposals may be submitted.

Under the Match Program, the Board will review Applications through the end of a Match Solicitation Period, or until the funds available for the Match Program have been exhausted. For Match Solicitations supported by funding levels large enough to enable awards to all or most of the expected Applicants in the Match Solicitation Period at or close to the maximum amount allowable under these Guidelines, this review will occur on a first-come, first-served basis. However, for Match Solicitations supported by ~~significantly~~ lower funding levels, the Board's Executive Director may, with approval by a majority of a quorum of the Board, employ other bases that the Board deems appropriate for a given Match Solicitation. Such bases must be consistent with the overall objectives of the Match Program and must be specified in the applicable Match Solicitation. Awards will be made for up to 100% of a firm's Federal ~~SBIR/STTR~~ Program award, up to the maximum amount of \$100,000 (as set by the relevant Match Solicitation), through the end of a Match Solicitation Period, or until the funds available for the Match Program have been exhausted.

Applicants who receive Match Awards will receive 75% of the award amount upon receipt of ~~an~~ ~~SBIR/STTR~~ a Federal Program Phase I award, and will receive the additional 25% of the award, if and only if, the Phase I report is accepted by the ~~funding agency~~ Federal Agency and the Applicant submits the related Phase II application to the ~~funding agency~~ Federal Agency. "Fast Track" ~~SBIR/STTR~~ Federal Program Phase I ~~Program Awards~~ awards are also eligible under ~~this program~~ the Match Program (see Section M of these Guidelines for specific information about Fast Track).

- B. **STATUTORY AUTHORITY AND AMENDMENT.** These Guidelines apply to funds appropriated or otherwise deposited, granted or allocated to the One North Carolina Small Business Account established pursuant to N.C. Gen. Stat. §143B-437.71(c) ~~to be used for the SBIR/STTR Incentive and Matching Funds Program established pursuant to §143B-437.71(c) of the North Carolina General Statutes~~. The Match Program is established pursuant to N.C. Gen. Stat. § 143B-437.81. These Guidelines may be amended from time to time, using the same procedures set forth in N.C. Gen. Stat. §143B-437.82.
- C. **PROGRAM PURPOSE.** The purpose of the Match Program is to foster job creation and economic development in North Carolina by increasing the competitive position of North Carolina small businesses in attracting SBIR and STTR grant funding, and to provide an incentive for Phase I award-

winning firms to participate in the more substantial Phase II program. The goals of the Match Program are to:

1. Increase the amount of Federal research dollars received by North Carolina small businesses;
2. Help North Carolina companies bridge the funding gap period between the final Phase I payment and the first Phase II payment in the Federal ~~SBIR/STTR~~ Program;
3. Increase the intensity of the research conducted under Phase I, making North Carolina small businesses more competitive in the competition for Phase II funds; and
4. Encourage the establishment and growth of high-quality, advanced technology firms in the State ~~of North Carolina.~~

#### D. DEFINITIONS.

1. *Applicant* - a Small Business that submits an application for a Match Award.
2. *Application* - the required form(s) to be completed and any supporting materials submitted by an Applicant in response to a Match Solicitation.
3. *Board* – Defined in Section A.
- ~~4. *Federal SBIR/STTR Programs* – Defined in Section A.~~
- ~~5.~~4. *Fast Track* - Federal program designed to provide interim Federal funding between the completion of a Federal ~~SBIR or STTR~~ [Program](#) Phase I grant and the beginning of the corresponding Federal ~~SBIR or STTR~~ [Program](#) Phase II grant. The ~~Federal SBIR/STTR~~ Fast Track program only applies to those Federal ~~agencies~~ [Agencies](#) that have elected to participate in the Federal Fast Track initiative.
5. *Federal Agency* – [the SBIR/STTR federal agency to which an Applicant applies for a grant under a Federal Program.](#)
6. *Federal Contract* – [the agreement governing the terms of a Federal Program award for which the Applicant is seeking a Match Award.](#)
7. *Federal Notice* – [official notice to an Applicant from a Federal ~~Agency~~ Agency that the Applicant has received a Federal Program award. Such notice may be issued only by the finance, accounting, contracting, or other unit of the Federal Agency officially authorized to commit and obligate the agency under the terms of the Federal Solicitation for which a Match Award is sought. All other forms of notification are not considered official for the purposes of the Match Program.](#)
8. *Federal Program* – Defined in Section A.
9. *Federal Solicitation* – Defined in Section A.
- ~~6.~~10. *Guidelines* – Defined in Section A.
- ~~7.~~11. *Match Award* - Defined in Section A.
- ~~8.~~12. *Match Program* - Defined in Section A.

~~9.~~13. Match Solicitation – Defined in Section A.

~~10.~~14. Match Solicitation Period – Defined in Section G.

15. Principal Place of Business – typically, the state in which an Applicant maintains its headquarters, where its books and records are kept, and where senior management is located, as reported to that state’s Secretary of State. In cases where an Applicant’s principal place of business is not obvious, a variety of factors may be considered when determining the Applicant’s principal place of business. Such factors include, but are not limited to, the following: the current location of the Applicant’s headquarters, the current location of the Applicant’s senior management, the current total revenue in each location, the current capital investment in each location, the current total number of employees in each location, the current total payroll in each location, the historical growth trend of the preceding listed factors, the location of the grant-funded project’s activities, the location of the grant’s expenditures, and other factors as relevant and for which information is available. The importance of each factor is conditional on the respective values of all other relevant factors. Accordingly, when considering all relevant criteria for which information is available, the Board’s Executive Director shall use a “weight of the evidence” process to determine the Applicant’s Principal Place of Business.

~~11.~~16. Recipient - an Applicant ~~who~~that has been approved to receive a Match Award.

~~12.~~17. Small Business - A small business concern as defined under the Federal ~~SBIR/STTR~~ Program guidelines that govern the ~~proposal~~Federal Solicitation for which the Applicant is applying.

18. State - The State of North Carolina.

- E. **ELIGIBILITY.** An Applicant must satisfy the following conditions in order to be eligible to submit an Application. Award disbursements under this Program are made in 2 stages (denoted **Stage 1** and **Stage 2** as defined in Section H of these Guidelines), each of which require an ~~application process.~~Application.
1. Applicant must be a for-profit Small Business with its ~~P~~pprincipal ~~P~~place of ~~B~~business in North Carolina.
  2. Applicant must meet all Federal ~~SBIR/STTR Programs~~Program eligibility requirements that are applicable to the relevant Federal ~~solicitation~~Solicitation.
  3. Applicant must have received ~~official notification~~a Federal Notice of Phase I award by the ~~federal SBIR/STTR agency~~Federal Agency during the Match Solicitation Period.
  4. To receive a **Stage 1** grant, Applicant must have received ~~an official notification~~a Federal Notice of a Federal-~~SBIR/STTR~~ Program Phase I ~~SBIR or STTR~~ award-that occurs during the Match Solicitation Period.

5. To receive a **Stage 2** grant, Applicant must have:
  - (a) Received a **Stage 1** ~~NC SBIR/STTR Matching Funds Program~~Match Award for the appropriate Federal ~~SBIR/STTR~~ Program Phase I ~~SBIR or STTR~~ award;
  - (b) Successfully completed the Phase I effort corresponding to the Federal Program award and submitted a final Phase I report to the granting Federal ~~SBIR/STTR Program agency~~Agency;
  - (c) Received ~~notification~~Federal Notice of the successful completion of the Phase I effort from the participating Federal ~~SBIR/STTR Program agency~~Agency;
  - (d) Demonstrated that the participating Federal ~~SBIR/STTR Program agency~~Agency has an interest in the related Phase II proposal, which may take the form of a formal request for a Phase II proposal from the ~~agency~~Federal Agency;
  - (e) Submitted a Phase II proposal in response to the Federal ~~SBIR/STTR Program agency's~~Agency's Phase II proposal request.
6. Applications for **Stage 1** funding under ~~this program~~ the Match Program must be received no later than 45 days from the date of ~~notification~~ the Federal Notice of Phase I ~~award~~. The Board's Executive Director may grant an exception to this time limit, in his or her sole discretion, if the Executive Director reasonably believes that the Match Program goals would be best served by granting such an exception.
7. Applications for **Stage 2** funding under ~~this program~~ the Match Program must be received no later than 90 days from the later of the following two dates: the date of submission of the Phase I final report to the federal SBIR/STTR agency Federal Agency or the date of submission of the Phase II application to the Federal Agency. The Board's Executive Director may grant an exception to this time limit, in his or her sole discretion, if the Executive Director reasonably believes that the Match Program goals would be best served by granting such an exception.
8. Applicant must certify that at least fifty-one percent (51%) of the activity conducted under the Phase I research and subsequent Phase II effort, if awarded, will be performed in North Carolina, and that the business will maintain significant ~~North Carolina~~ North Carolina operations for the duration of the Phase I and, if awarded Federal funding, Phase II performance periods.
9. Applicant may not apply for a second ~~NC SBIR/STTR Matching Funds Program~~Match Award for a proposal for which the Applicant has already received a ~~NC SBIR/STTR Matching Funds Program~~Match Award.
10. Any Applicant that, in the judgment of the Board, has failed to correct a material breach of a grant agreement or award under any program administered by the Board is ineligible to submit an Application.

11. Applicant must satisfy any other eligibility requirements established by the Board and published in ~~this~~ [the relevant Match Solicitation](#).

F. **LIMITATIONS ON MATCH AWARDS.** An Applicant may receive no more than one (1) Match Award during the period covered by a Match Solicitation, and no more than a total of five (5) Match Awards over its lifetime.

**Specific Limitations on STTR Match Awards.** Federal STTR awards are granted to a cooperative research collaboration between a Small Business and a single research institution. *The Board will consider ~~for~~ funding under the Match Program only the fraction of the total of a Federal STTR grant amount made to the Small Business Applicant in the collaboration, up to the limits established in the Match Solicitation. The research institution component of the collaboration is ineligible for funds under the Match Program and the portion of the Federal STTR award made to it will not be considered in establishing the amount of any Match Award made to the Small Business.*

G. **MATCH SOLICITATION, PERIOD, AND SUBMISSION.** For each funding cycle of the Match Program, the Board will issue a request for ~~funding~~ proposals in the form of a Match Solicitation. These Guidelines are incorporated into all Match Solicitations, which shall also include but not be limited to: opening and closing dates for the ~~solicitation~~ [Match Solicitation](#) (the “Match Solicitation Period”), the award amount available, reporting and proposal preparation guidance, and any required Application forms.

To qualify for an award under a Match Solicitation, an Applicant must have ~~been notified~~ [received Federal Notice](#) that it is the recipient of a Federal ~~SBIR/STTR~~ Program Phase I award within the Match Solicitation Period.

No applications or supplemental materials submitted in response to a Match Solicitation will be accepted after its closing date, or after funds have been exhausted.

H. **FUNDING TERMS, MILESTONES.**

1. Completed Applications will be considered, and funds awarded, on the basis described in Section A through the end of a Match Solicitation Period, or until the funds available for the Match Program have been exhausted.
2. So long as funds remain available, ~~for each approved Application,~~ funds will be awarded in an amount up to 100% of the Federal ~~SBIR/STTR~~ Program award [for each approved Application](#), but

not to exceed \$100,000, or such lesser amount specified by the Board in a Match Solicitation. The Board may modify the award amounts based on availability of funds.

3. Subject to satisfaction of all other requirements, including submission of a qualifying Application, Match Awards will be made available in **two Stages**:
  - a. **Stage 1** - 75% of the total Match Award will be paid upon proof of Phase I award,
  - b. **Stage 2** - 25% of the total Match Award will be paid upon submission and acceptance of the Phase I report by the Federal ~~SBIR/STTR Program agency~~Agency described in the Application, and submission to and acknowledgement of receipt by the ~~agency~~Federal Agency of the Phase II proposal corresponding to the Phase I effort.

I. **APPLICATION REQUIREMENTS.** Applicants must use the required forms provided in the Match ~~Solicitation~~Solicitation, and must fully comply with all requirements of these Guidelines and the Match Solicitation within the time period specified, in order to be eligible for a Match Award. **Stage 1** or **Stage 2** Applications that do not include ALL of the documents specified in the Match Solicitation, or that contain documents that have not been fully completed, will be considered incomplete and will be returned to the Applicant without further review. At its discretion, the Board may request supplemental materials from ~~the~~an Applicant and such materials must be received within 15 days of the date of the request or the Application may be returned to the Applicant without further review.

**Stage 2** disbursements **will not be made automatically** to Recipients of Stage 1 awards; a new Application must be submitted which demonstrates that the ~~Recipient~~Stage 1 Recipient has met the Stage 2 disbursement requirements. **Only Stage 1 Recipients are eligible for Stage 2 disbursements.**

Proprietary or classified material included in a proposal for Federal funding, but not directly related to the Applicant's eligibility under the Match ~~Program~~Program, may be excluded from the Application. If excluded, the Applicant must submit a notarized statement, signed by an authorized official of the Applicant, attesting that the excluded material is proprietary or classified and that economic harm or violation of Federal rules pertaining to classified materials will result if such materials are submitted.

J. **APPLICATION REVIEW AND APPROVAL.** Applications will be reviewed to ascertain compliance with the requirements in a Match Solicitation on the basis described in Section A, through the end of a Match Solicitation Period, or until the funds available for the Match Program have been exhausted. If review is done on a first-come, first-served basis, the date and time of receipt of the complete Application (including which includes all required documents) will be used to establish the order for consideration of Applications.

Applications will be approved on the basis of satisfactory compliance with all requirements as stated in these Guidelines and in the Match Solicitation.

- K. **APPEAL.** If the Executive Director denies an Application, the Applicant may appeal this decision to the full ~~Board,~~ Board by written notice within thirty (30) days of the date of the denial notification or return of the ~~Application,~~ Application requesting reconsideration of the Application. Any reconsideration will be subject to availability of funds.
- L. **GRANT AGREEMENT.** The terms under which a Match Award is made will be reflected in a grant agreement between the State ~~of North Carolina~~ and the Recipient. Terms of performance in the grant agreement will include but will not be limited to the following:
1. The Recipient shall comply with all requirements described in these Guidelines and the Match Solicitation.
  2. The Recipient shall agree to prepare and submit regular status reports to the Board as outlined in the Match Solicitation.
  3. The Recipient shall agree to prepare and submit a final report as described in the Match Solicitation, to the Board within thirty (30) days of notification of the Federal Phase II contract award or denial.
  4. The Recipient shall agree to complete and submit to the Board its annual Matching Funds Program Survey for a period of up to five (5) years following receipt of the Match Award.
  5. The Recipient, or designated agent, shall maintain records and accounts that properly document and account for the application of all Match Program funds for a minimum of five (5) years after the date of award. All such records and accounts shall be made available on demand by authorized representatives of the Board, the State Auditor, or other State authority for inspection and use in carrying out its responsibilities with respect to the administration of the Match Program.
  6. The Recipient or designated agent shall comply with the State's audit ~~policy of the State of North Carolina~~ policies with respect to the disposition of Match Award funds and shall comply with the certifications made by the Recipient as a condition of its Match Award. The Recipient shall also provide the Board with timely copies of reports on any audits that review the use of Match Award funds.
  7. In the event that an audit results in the determination that the Recipient has expended Match Award funds improperly, or that the Recipient has not complied with the certifications made by it as a condition of its Match Award, the Recipient shall, at a minimum, be required to reimburse the Match Program for all such costs, up to the full amount of the Match Award, ~~plus any costs of~~ collection.

## M. FAST TRACK PROVISION

1. Fast Track Applicant Eligibility. In order to be eligible to be considered for an award under the Fast Track provisions of the Match Program, the Applicant must comply with all provisions set forth in these Guidelines and **in addition** must:
  - a. Have applied for a Federal ~~Phase II SBIR or STTR~~ [Program](#) award through the Fast Track program, and;
  - b. Provide evidence of participation in the Fast Track program.

*NOTE:* Companies that are participating in the Federal Fast Track program with a Federal ~~agency~~ [Agency](#) which requires its Federal Phase I, Fast Track, and Federal Phase II applications to be submitted at the same time, will not be eligible under the Fast Track provisions of the Match Program until that company has obtained a fully-executed Federal ~~SBIR or STTR~~ [Program](#) Phase I contract with a *confirmed* budget.

2. Fast Track Funding Terms. Funding for approved Fast Track Matching Awards will be disbursed to a Recipient only when the Board has received all documentation required by ~~this~~ [the Fast Track](#) program, and the firm's Phase I final report. The Phase I final report must be submitted to the Board within 12 months of the Match Award start date.
3. Fast Track Application Requirements. Applicants must submit evidence that the SBIR or STTR Fast Track application and SBIR or STTR Phase II application were submitted in accordance with the requirements outlined by the Federal ~~agency solicitation.~~ [Solicitation](#). Such evidence must include:
  - a. A copy of the SBIR or STTR Phase I contract;
  - b. A copy of the Federal SBIR or STTR Fast Track application or a copy of the Federal SBIR or STTR Phase I and Phase II application cover sheet(s) which indicates application to the Federal Fast Track program;
  - c. Verification of the amount paid to the Applicant under the Federal Phase I contract, including a copy of the invoice(s) and/or pending invoice(s) submitted to the Federal ~~agency~~ [Agency](#) and a copy of the SBIR or STTR Phase I final report when the Federal Phase I project is completed.
4. Fast Track Application Review, Approval, and Award. Upon approval by the Board, a letter will be mailed to the Recipient indicating the approved award amount and stipulating that funds will be disbursed only upon receipt of all documentation required under this program; specifically, the Federal Phase I final report and documentation of payment. The Recipient may then forward a copy

of this letter to the applicable Federal ~~agency~~ Agency to satisfy the requirements of the Federal SBIR or STTR Fast Track application.

**N. GENERAL TERMS.**

1. No oral statement of any person shall modify or otherwise affect the terms and conditions of these Guidelines or of a Match Solicitation.
2. The Board may reject any Application that does not comply with the requirements of the Match Program.
3. The Board may refuse to approve an Application if it is not in keeping with the purpose of the Match Program.
4. The Board may withdraw a Match Solicitation at any time.
5. The Match Program is funded by State appropriations and awards are contingent upon the availability of State funds for these purposes.

**P. RELEASE OF INFORMATION.** All documents submitted to the Board, including Applications, are public records governed by Chapter 132 of the North Carolina General Statutes and applicable provisions of the North Carolina General Statutes protecting confidential information. When specific information in an Application is regarded by the Applicant and by law as confidential and not subject to disclosure under the North Carolina Public Records Act, the Applicant should specifically and clearly designate it as such in writing on that portion of the Application in which the information appears. An Applicant should provide an explanation for why particular information is regarded as confidential. Applications should not be indiscriminately marked as confidential. However, the final determination of whether a document constitutes confidential information, whether or not it is so marked by the Applicant, shall be made by the Board, in accordance with applicable law.

**Q. PUBLICATION OF MATCH SOLICITATIONS AND GUIDELINES.** The Board will publish the Guidelines and all Match Solicitations on the Board website at:

~~<http://www.nescitech.com><http://www.nccommerce.com/sti>, accessible from a direct link on the North Carolina Department of Commerce website at-~~