



## **SBIR/STTR PHASE II-ENHANCEMENT CONTRACTING HANDBOOK**

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## **1.0 Phase II Enhancement Guidelines**

NASA has developed the Phase II Enhancement Option (Phase II-E) to further encourage the transition of SBIR/STTR technologies into NASA acquisition programs, other Agency's programs, as well as the private sector. Under this initiative, the Program will provide an eligible Phase II small business with additional Phase II SBIR or STTR funds matching the investment funds the small business obtains from non-SBIR/non-STTR sources such as, NASA acquisition programs, other Agencies or the private sector.

### **1.1 General Phase II Enhancement Information**

The objective of the Phase II-E is to further encourage the advancement of innovations developed under Phase II via an option of R/R&D efforts underway on current Phase II contracts. Eligible firms shall secure an external investor to partner with and invest in enhancing their technology for further research, infusion, and/or commercialization.

### **1.2 Matching Levels**

Under this option, NASA will match external investor funds with SBIR/STTR funds to extend an existing Phase II project for a minimum of 4 months to perform additional R/R&D. The matching levels SBIR/STTR will provide will depend on matching levels offered at time of proposal; please refer to <http://sbir.nasa.gov/content/post-phase-ii-initiatives> for matching levels and other related information.

The non-SBIR or non-STTR contribution is not limited. Please refer to Definition of External Investor section for clarification of external investor.

### **1.3 Period of Performance**

NASA expects the period of performance to be commensurate with the total NASA and external investor funding received.

### **1.4 Definition of External Investor**

Investor(s) must be external to the NASA SBIR/STTR Program, which may include such entities as another company, a venture capital firm, an individual "angel" investor, a non-SBIR/non-STTR government program, or any combination of the above. An external investor cannot include the owners of the small business, their family members, and/or "affiliates" of the small business, as defined in Title 13 of the Code of Federal Regulations (C.F.R.), Section 121.103.

### **1.5 Government Investments**

If NASA or another Government Agency is the investment-funding source, the NASA SBIR/STTR Program will initiate negotiations to exercise the Phase II-E option and will provide matching funds dollar per dollar up to the applicable matching level at time of proposal, if the Phase II-E option is exercised. Refer to <http://sbir.nasa.gov/content/post-phase-ii-initiatives> for matching levels.



For NASA to successfully exercise the Phase II-E contract option the entire intended investment funding payment from the organization should be made in full to the firm within 45 business days after receipt of notification that the Phase II-E proposal/application has been selected. The funding to the firm shall be in a funding vehicle separate from the existing NASA Phase II contract, and must be fully funded. *The NASA SBIR/STTR Program will not add your investment funding to the existing Phase II contract.*

The NASA SBIR Phase III contracting handbook and basic information have the legal statutes that pertain to award of an SBIR Phase III contract. If necessary, please provide this documentation to your procurement office. These documents are available from download from the NASA SBIR/STTR website (<http://sbir.nasa.gov>).

If you or the Agency official has further questions on how to do a Phase III contract, please contact:

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## **2.0 General Guidance on What Qualifies As Investment**

The investment must be used to fund work that directly extends the work done in the Phase II.

NASA considers factors such as ownership, management, previous relationships with or ties to another concern and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, may be treated as one party with such interests aggregated. Although NASA is guided by this definition of affiliation in 13 C.F.R. Sec. 121.103, we also exercise our own discretion in determining whether a particular entity qualifies as an "external investor."

The investment must be an arrangement in which the external party provides funding to the small business in return for such items as: equity, a share of royalties, rights in the technology, a percentage of profit, or any combination of the above. Commitment must be made prior to the award, but the expenditure must be concurrent with the Phase II-E performance. The investor's funds must pay for activities that further the development and/or commercialization of the company's SBIR/STTR technology beyond the Phase II work (e.g., further R&D, manufacturing, marketing, etc.).



## 2.1 Specific Examples of What Does and Does Not Qualify As

### Investment

This section contains questions and answers regarding NASA's guidance for the types of investment from external investors that qualify as an investment under the Phase II-E program.

The following includes specific examples of company-investor relationships and whether these relationships qualify as a Phase II-E investment or not. If you have questions about whether a particular company-investor relationship qualifies, please contact the NASA SBIR/STTR Help Desk at [sbir@reisys.com](mailto:sbir@reisys.com) or (301) 937-0888. The Help Desk will refer any policy or substantive questions to appropriate NASA personnel for an official response.

Item Number:	Question:	Answer:
1	<i>Can a small business contribute its own internal funds to qualify for the Phase II Enhancement?</i>	No. NASA is seeking external, third party validation of the technology, and requires that the funds come from an external investor. Please note that a subcontractor of the SBIR/STTR project will not qualify as an external investor.
2	<i>Company A spins off company B, which wins a SBIR award. Company A then wants to contribute matching funds to qualify company B for the Phase II Enhancement. Can A be considered an external investor for purposes of the Phase II Enhancement?</i>	In making our determination of whether company A is an external investor, we would be guided by the definition of "affiliates" in 13 C.F.R. Sec. 121.103, discussed above. Our presumption is that in this example A and B would be considered "affiliates," and that A would therefore not be an external investor for purposes of the Phase II Enhancement.
3	<i>Small business S wins a SBIR award. The president of S is a major shareholder in another company Y, which wants to contribute matching funds to qualify S for the Phase II Enhancement. Can Y be considered an external investor?</i>	Our presumption is that Y would not be considered an external investor. Our determination would be guided by whether the president's stake in Y is large enough that S and Y would be considered "affiliates" under <a href="#">13 C.F.R. Sec. 121.103</a> . Subsection (c) of Section 121.103 specifically discusses affiliation based on stock ownership:  c. Affiliation based on stock ownership.  A person is an affiliate of a concern if the person owns or controls, or has the power to



		<p>control 50 percent or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock.</p> <p>If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern. If S and Y are found to be affiliates, we would determine that Y is not an external investor.</p>
4	<i>Does the external investor have to be a single entity (e.g., a single venture capital firm) or can it be more than one entity (e.g., two angel investors and a venture capital firm)?</i>	It can be more than one entity.
5	<i>Small business A contributes matching funds to small company B in order to qualify B for the Phase II Enhancement, and, at the same time, B contributes matching funds to A in order to qualify A for the Phase II Enhancement. Do A and B qualify as external investors under the Phase II Enhancement?</i>	No. A and B's relationship is such that their investment in each other would not provide external validation of the commercial potential of their respective SBIR projects. We would therefore not consider them to be external investors for purposes of the Phase II Enhancement.
6	<i>Can a family member of an employee of small business S contribute funds to qualify S for the Phase II Enhancement?</i>	No, except under rare circumstances. Again, we would be guided by the definition of "affiliates" in 13 C.F.R. Sec. 121.103. The family member presumptively would be an affiliate of company S and not an external investor.
7	<i>Venture capital firm V currently is a 22 percent shareholder in small company S. Can V invest additional funds in S to qualify S for the Phase II Enhancement?</i>	Our presumption is yes. In making our determination, we would be guided by whether V and S are "affiliates," as defined in <a href="#">13 C.F.R. Sec. 121.103</a> . Section 121.103 provides (in subsection (b)(5)) that a venture capital firm is not affiliated with a company if the venture capital firm does not control the company -- e.g., by owning more than 50 percent of the stock of a small company (prior to its investment under the Phase II Enhancement), as described in <a href="#">13 C.F.R. 107.865</a> .



8	<b><i>Large company L makes a cash investment in small company S, and then serves as a subcontractor to S on an SBIR project. Can L's investment in S count as a matching contribution for purposes of the Phase II Enhancement?</i></b>	Only L's cash investment net of its subcontracting effort can count as matching funds for purposes of Phase II Enhancement. For example, if L invests \$750,000 in S and subcontracts with S for \$250,000, only L's net contribution (\$500,000) can count as matching funds for purposes of the Phase II Enhancement.
9	<b><i>Company Y makes a cash investment in small company S for purposes of Phase II Enhancement, and also enters into a separate contract with S under which Y provides certain goods/services to S in return for \$500,000. Can Y's cash investment in S count as a matching contribution for purposes of the Phase II Enhancement?</i></b>	As in the previous example, only Y's cash investment net of the \$500,000 it receives from S can count as matching funds for purposes of the Phase II Enhancement.
10	<b><i>A group of investors wishes to invest funds in small company S to qualify S for the Phase II Enhancement. One of the investors is a family member of S's president, who wants to contribute \$50,000 toward the effort. Can the group's investment in S count as a matching contribution to qualify S for the Phase II Enhancement?</i></b>	The family member's investment of \$50,000 does not count, as the family member is not an external investor (see item (6) above). Contributions of the other investors can count provided that they meet the other conditions for the Phase II Enhancement (e.g., each must be an external investor).
11	<b><i>Can a loan from an external party qualify as an "investment" for purposes of the Phase II Enhancement?</i></b>	No. The rationale behind the Phase II Enhancement is that an external party is betting on the company's success in bringing the technology to market as an investor -- not just its ability to recover a loan as a lender.
12	<b><i>How about a loan that is convertible to equity?</i></b>	A loan that is convertible to equity at the company's discretion would count as an investment under the following circumstances: (1) the loan is provided by a public entity (e.g., a state agency), or (2) the loan is provided by a private entity, and the SBIR company actually converts the loan to equity before the Phase II-E option contract is exercised.
13	<b><i>Can in-kind contributions from an external investor count as matching funds under the Phase II</i></b>	No. The matching contribution must be in funds, regardless of source. A cash contribution is a stronger signal of the external investor's interest in the technology, and can



	<i>Enhancement?</i>	be readily verified.
14	<i>Can purchases of a purchase order from an external investor count as a matching contribution under the Phase II Enhancement?</i>	No. Purchases will not be considered an investment, since a purchase may only represent a procurement need, not a desire to further the technology. Refer to question 15.
15	<i>If large company L pays small company S for work related to S's SBIR project and expects a deliverable (goods or services) from S in return, would that qualify as an "investment"?</i>	This arrangement would not qualify as an investment, for the same reason a loan does not qualify. Specifically, in this situation the large company is not betting on the small company's success in bringing the technology to market, but merely is looking to purchase a deliverable. Refer to item 14.
16	<i>Can entity E's investment in small company S during the first month of S's Phase I SBIR project count as a matching contribution to qualify S for the Phase II-E?</i>	No. The investment must occur within 45 business days of the company's notification of selection, without constraints.
17	<i>Small company S is collaborating with a university on an STTR project. Investor I wishes to provide funds to the university in order to qualify S for the STTR Phase II Enhancement. Can I's investment in the university count as a matching contribution to qualify S for the Phase II Enhancement?</i>	In order to qualify S for the STTR Phase II Enhancement, I's investment of funds must be in small company S, not in the university. S can then subcontract some of the funds to the university.
18	<i>Must the activities funded by the investor be explained in the proposal's statement of work for the small company's Phase II-E option?</i>	Yes. The external investor's funds must pay for activities that further the development and/or commercialization of the company's Phase II work. Including this information in the proposal assists with verification.
19	<i>Our small business has existing contracts and/or grants. Can these count as matching investments?</i>	Yes, if the existing contract or grant is directly related to the Phase II-E work proposed, e.g., a Phase III contract for the same technology or a modification and funding for another contract that specifically relates to the technology. Both of these must be awarded after the Phase II-E proposal is submitted to be considered a matching investment.

### 3.0 Phase II Enhancement Application Requirements

Only active NASA SBIR/STTR Phase II contracts can apply for participation in the Phase II-E option.



A Phase II-E application may be submitted anytime starting the 13th month of performance of this contract and ending 60 days before it expires. Applications received after this timeframe will be deemed late and not considered. Please note there is no guarantee that the Government will exercise a Phase II-E option based on the fact that there are limited funds designated for the options.

Since the Phase II-E is a contract option, there will be no debriefings as defined by Part 15 of the FAR as to why the option was not exercised.

Phase II-E funding shall not be used to cover work that was part of the Phase II contract, e.g., incomplete or unsuccessful R&D.

During the Phase II effort, the small business shall submit a Phase II Enhancement application through the NASA SBIR/STTR Contract Administration and Closeout EHB. It should be noted that all contractual rules and regulations that are applicable to the Phase II contract also apply to the Phase II-E since it is a continuation of the work.

### **3.1 Phase II Enhancement Application**

A Phase II-E application package consists of the items listed below, and shall be submitted through the NASA EHB Submission website.

#### **3.1.1 Phase II Enhancement Application Form**

The application form must be submitted electronically, in its entirety, and requires the following:

- Anticipated SBIR/STTR Contribution: List the anticipated SBIR/STTR Program contribution to be matched. This value cannot be greater than the current offered level at time of Phase II-E proposal
- External Investment: List the total amount of investment funds from the investor(s). There is no maximum amount of external investor funds a firm can receive. The current applicable minimum investment must be proposed in order for the SBIR/STTR Program to match the invested funds. Refer to <http://sbir.nasa.gov/content/post-phase-ii-initiatives> for details.
- Proposed Start Date and End Date: List the proposed start and end date for the Phase II-E proposed work.
- Justification for period of performance: Required in application if a firm requires a Phase II-E period of performance longer than 12 months.
- Is NASA the source of investment?: List “Yes” if NASA is the source of investment funds or “No” if NASA is not the source of investment funds.
  - Mission Directorate Supported: (If “Yes” above) list the mission directorate that is supporting the investment.
  - Program/Project/Application: List the program, project, or application for the mission directorate.
  - Non-NASA Investment Source: (If “No” above) List the investor(s).
- Final TRL: Provide the estimated Technology Readiness Level (TRL) at the end of the Phase II-E.



- Comments: Provide any additional comments, if needed.

### 3.1.2 Letter of Commitment

A letter of commitment from the external investor shall be provided during the application period (similar documentation without a corresponding commitment letter will not be accepted). The letter of commitment must contain the following information:

- The investor contact information including their business address, title, email address, phone number, and be on official letterhead;
- The investor's willingness to verify the commitment;
- the total amount of the investment, accompanying an acknowledgment that the investment is being made in response to and referencing the company's specific Phase II R&D effort;
- an acknowledgment that the entire amount of matching funds will be available for transfer within 45 business days of the company's notification that it has been approved for a Phase II-E work, without constraints; and
- Statement of investment use
  - For an investment from a government program, it should include a brief statement of how the resulting Phase II-E technology will be integrated into the acquisition program's future activities and how they will provide funding to the SBC. For investment(s) from a private sector investor, it should include a brief statement of how the investment will further the technology originally proposed in the Phase II, or the commercialization of a product resulting from the Phase II.

For letter of commitment example, please see the EHB Document Library.

### 3.1.3 Statement of Work (SOW)

A concise statement of work for the Phase II Enhancement effort should be submitted as a PDF file.

The SOW must state the specific objectives of the Phase II-E effort and provide a detailed work plan defining specific tasks and the methods planned to achieve each task, performance schedules, project milestones, and deliverables. The SOW must address how it will significantly improve upon the work performed in the Phase II. The statement of work must show separately the work done for the Phase II-E SBIR/STTR portion from the portion funded by external investor matching funds.

### 3.1.4 Cost Proposal

Detailed cost proposals are required and should be submitted as a PDF file.

The cost proposal should be broken into two sections, containing first the budget summary for the work being done with the SBIR/STTR Program matching funds and second the budget summary for the work being done with the external investment funds. The Cost Proposal should contain



estimated costs with detailed information for each cost element, consistent with the offeror's cost accounting system.

### 3.1.5 Briefing Chart

An updated briefing chart with non-proprietary information for the Phase II–E work proposed shall be provided with the application; this briefing chart may be freely distributed by the Government.

### 3.1.6 Commercialization Plan

Per the guidelines outlined in the Solicitation, an updated plan for commercialization (Phase III) of the proposed innovation must be provided. The commercialization plan should be submitted as a PDF file and at a minimum, shall address the following areas:

- **Market Feasibility and Competition:** Describe (a) the target market(s) of the innovation and the associated product or service, (b) the competitive advantage(s) of the product or service; (c) key potential customers, including NASA mission programs and prime contractors; (d) projected market size (NASA, other Government and/or non-Government); (e) the projected time to market and estimated market share within five years from market-entry; and (f) anticipated competition from alternative technologies, products and services and/or competing domestic or foreign entities.
- **Commercialization Strategy and Relevance to the Offeror:** Present the commercialization strategy for the innovation and associated product or service and its relationship to the SBC's business plans for the next five years. Infusion into NASA missions and projects is an option for commercialization strategy.
- **Key Management, Technical Personnel and Organizational Structure:** Describe: (a) the skills and experiences of key management and technical personnel in technology commercialization; (b) current organizational structure; and (c) plans and timelines for obtaining expertise and personnel necessary for commercialization.
- **Production and Operations:** Describe product development to date as well as milestones and plans for reaching production level, including plans for obtaining necessary physical resources.
- **Financial Planning:** Delineate private financial resources committed to the development and transition of the innovation into market-ready product or service. Describe the projected financial requirements and the expected or committed capital and funding sources necessary to support the planned commercialization of the innovation. Provide evidence of current financial condition (e.g., standard financial statements including a current cash flow statement).
- **Intellectual Property:** Describe plans and current status of efforts to secure intellectual property rights (e.g., patents, copyrights, trade secrets) necessary to obtain investment, attain at least a temporal competitive advantage, and achieve planned commercialization.



## **4.0 General Information on Exercising the Phase II Enhancement Contract Option**

### **4.1 Exercising the Phase II Enhancement Contract Option**

If it is decided that the contract option should be exercised, the firm will receive a “Notice of Intent” from the NASA Shared Services Center (NSSC). The letter will notify the firm of the Government's intent, in accordance with FAR Clause 52.217-9 entitled, "Option to Extend the Term of the Contract", to exercise the Phase II–E Option.

This notification does not commit the Government to exercise the pre-priced Option nor does it in any manner obligate Government funds against the subject contract. The firm must show proof of funds transferred from the external investor to the small business 45 business days after receipt of notification that the Phase II-E proposal/application has been selected. If proof of receipt of the investment funds is not received by NASA within the 45 business days, the option for Phase II-E matching funds will expire.

If the SBIR/STTR Program exercises the Option, it will be accomplished via a bilateral modification. The modification will specifically identify the Option period of performance and contract amount. NSSC is responsible for executing the Phase II-E modifications to the contract. Please note that the firm is not authorized to commence work or incur any costs under the Phase II-E option until the Phase II-E modification to contract has been executed.

### **4.2 Not Exercising the Phase II Enhancement Contract Option**

If it is decided that the contract option should be not exercised, the firm will receive a notice from NSSC. Since the Phase II-E is a contract option, there will be no debriefings or explanation as to why the option was not exercised.

## **5.0 Time to Remedy Deficiencies**

If a deficiency in the Phase II-E application or proposal is noted to the SBIR/STTR small business, the small business will have 45 calendar days to remedy this deficiency from the first time it is notified of a deficiency; otherwise the proposal will not be selected.