



ONE NC SMALL BUSINESS PROGRAM

Helping small businesses develop & commercialize technologies

Small Business Innovative Research (SBIR)
Small Business Technology Transfer (STTR)
2018-2019 ***Matching Funds*** Program Solicitation

Application Submission Dates: July 1, 2018, through June 30, 2019
Closing Date: 5:00 PM, June 30, 2019

Funding Opportunity Number: NCBSTI-FY1819M

North Carolina Board of Science, Technology & Innovation

North Carolina Department of Commerce

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1326 Mail Service Center

Raleigh, NC 27699-1326

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Solicitation Release Date: September 14, 2018

Notice of Availability of Funds and FY 2018–2019 Program Solicitation for the One North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I Matching Funds Program

Announcement Type: Renewal. Notice of Solicitation for Grant Applications under the North Carolina SBIR/STTR Phase I Matching Funds Program (the “Match Program”).

Funding Opportunity Number: NCBSTI-FY1819M

Statute and Guidelines: This Solicitation is issued pursuant to the Match Program established under N.C.G.S. § 143B-437.81, and the Guidelines issued pursuant to N.C.G.S. §143B-437.82, which govern the administration of this program. **The Guidelines are set forth in Exhibit E hereto, and are incorporated into this Solicitation by reference** as though set forth in their entirety herein. These Guidelines may also be found on the North Carolina Board of Science, Technology & Innovation’s website at: <http://www.nccommerce.com/sti>.

Solicitation Period: July 1, 2018 – June 30, 2019 inclusive, or until funds have been exhausted.

Key Dates: The Closing Date for receipt of applications under this announcement is 5:00 p.m., June 30, 2019. No applications or supplemental materials submitted in response to this Announcement will be accepted after its Closing Date, or after funds available for this Solicitation have been exhausted. The Board must receive Applications for funding under this program no later than 45 days from the date of notification of a Phase I award by the Federal SBIR/STTR 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. For companies whose Federal notification occurred between the start date (July 1, 2018) and release date (September 14, 2018) of this solicitation, the Board must receive Applications within 45 days from the release date of this Solicitation.

****PLEASE NOTE: Applicants must have received official notification of Phase I award by a Federal SBIR/STTR agency during the Solicitation Period to be eligible.**

Maximum Grant Amount & Eligible Applicants: **50% of the Federal SBIR/STTR Program award, not to exceed \$50,000.**

Eligible applicants are limited to only those Phase I SBIR/STTR awardees that meet *either* of the two following conditions:

1. Have not previously received a matching award under the Match Program and have less than 10 employees, *or*
2. Are located in a Tier 1 or 2 county (2018 designations), as [defined](#) by the NC Department of Commerce.

Funding Available Under this Solicitation: The maximum amount of funding available for all grants awarded under this Solicitation is \$1,087,000.

I. SUMMARY	3
II. ELIGIBILITY & LIMITATIONS ON AWARDS.....	4
III. AWARD STRUCTURE; MILESTONES	4
IV. APPLICATION REQUIREMENTS, ELECTRONIC SUBMISSION	5
V. APPLICATION PREPARATION AND SUBMISSION, ELECTRONIC FILING WAIVER.....	7
VI. APPLICATION SUBMISSION AND APPROVAL.....	8
VII. GRANT AGREEMENT & PAYMENT OF AWARDS	8
VIII. REPORTING REQUIREMENTS	9
IX. GENERAL INFORMATION	10
Inquiries	10
X. APPENDICES	11
Appendix A – Interim Status Report Requirements.....	11
Appendix B – Final Report Requirements.....	11
Appendix C – State Grant Compliance Reporting Requirements	12
XI. EXHIBITS.....	13
Exhibit A – N.C. General Statutes Provisions Addressing Public Records.....	13
Exhibit B – N.C. General Statutes Provisions Addressing the Use of State Funds by Non-State Entities.....	16
Exhibit C – N.C. General Statutes Provisions Addressing the Collection of Tax Debts.....	20
Exhibit D – Policy Addressing Conflicts of Interest.....	21
Exhibit E – Program Guidelines	22

I. SUMMARY

The North Carolina SBIR/STTR Phase I Matching Funds Program (the “NC SBIR/STTR Matching Funds Program”) is designed to award matching funds to North Carolina companies who have been awarded a Small Business Innovation Research Program or Small Business Technology Transfer Program (the “Federal SBIR/STTR Program”) Phase I award. Companies compete for funding under this program by submitting proposals in response to solicitations issued by participating Federal agencies.

The Federal SBIR/STTR Program provides for funding competitions in two phases that are relevant to the North Carolina program: **Phase I** - to conduct feasibility research (typically, these awards average approximately \$150,000); and **Phase II** - to expand and develop Phase I results and develop commercially viable innovations (typically, Phase II awards average approximately \$750,000 or more). More information about the Federal SBIR/STTR Program may be found at: <http://www.sbir.gov> and <https://www.zynsys.com/sbir/>.

The North Carolina Board of Science, Technology & Innovation (the “Board”), administered by the North Carolina Department of Commerce, through its Executive Director, administers the NC SBIR/STTR Matching Funds Program in the manner set forth in Guidelines for the One North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I Matching Funds Program. **These Guidelines are incorporated into this Solicitation as Exhibit E. Terms not otherwise defined herein have the meaning set forth in the Guidelines.**

II. ELIGIBILITY & LIMITATIONS ON AWARDS

An Applicant must satisfy all eligibility requirements and is subject to the limitations set forth in the Guidelines and this Solicitation.

Applicants are strongly encouraged to read and understand the Guidelines and this Solicitation to determine if they are eligible to submit an Application.

An Applicant may receive no more than one (1) Match Award during the period covered by this Solicitation, and no more than a total of five (5) Match Awards over its lifetime. An Applicant shall not receive concurrent funding support from other sources that duplicates the purpose of the Match Program.

In addition, due to funding limitations, eligible applicants under this solicitation are limited to only those Phase I SBIR/STTR awardees that meet *either* of the two following conditions:

1. Have not previously received a matching award under the Match Program and have less than 10 employees, *or*
2. Are located in a Tier 1 or 2 county (2018 designations), as [defined](#) by the NC Department of Commerce.

Special Provisions on STTR Awards: 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 a collaboration, up to the limits established in this Solicitation. See the Guidelines for a more complete description of this restriction.

III. AWARD STRUCTURE; MILESTONES

1. Applications will be considered, and funds awarded, as established in the Guidelines through the end of this Solicitation Period, or until the funds available under this Solicitation have been exhausted.
2. Subject to the satisfaction of all other requirements, Match Awards will be disbursed in **two Stages**:
 - a. **Stage 1** - 75% of the total Match Award will be disbursed following proof of Phase I award, as described in the Guidelines.
 - b. **Stage 2** - 25% of the total Match Award will be disbursed following application for a Stage 2 disbursement after submission and acceptance of the Phase I report by the Federal SBIR/STTR Program agency described in the Application and acknowledgement of receipt by that agency of the Phase II proposal corresponding to the Phase I effort, within the timeframe specified in the then-current Guidelines.
3. So long as funds remain available, for each approved Application, Match Awards will be made in the amount of:

50% of the Federal SBIR/STTR Program award amount, not to exceed \$50,000.

IV. APPLICATION REQUIREMENTS; ELECTRONIC SUBMISSION

Applicants must use the required application forms and methods provided in this Solicitation and must comply with all requirements of this Solicitation (including the Guidelines) in order to be eligible for funding. All Applications under this Solicitation must be submitted electronically using the Board's "*sciGrants*" system, which contains information about required supporting documents below and is accessible through the Board's website at: <https://www.nccommerce.com/sti/grant-programs/scigrants-grants-management>. **Stage 1** or **Stage 2** Applications that do not include ALL required responses, documents, and information will be deemed incomplete and **will not** be considered for funding.

Note: Stage 2 disbursements **will not be made automatically** to Match Award Recipients; a new Application must be submitted, which demonstrates that the Recipient has met the **Stage 2** disbursement requirements. **Only Stage 1 Recipients are eligible for Stage 2 disbursements.** Stage 2 disbursement Applications are made by invitation only; an invitation to apply for Stage 2 disbursement is automatically issued to a Match Award Recipient after all Stage 1 requirements of the Match Award grant agreement have been met by the Recipient. The Recipient must inform the Board's staff (see contact information on Solicitation cover page) when such requirements have been met. Unsolicited Stage 2 disbursement Applications are not permitted under this Solicitation.

In addition to completing all required sections of the online Match Program Application, Applicants who are selected to submit a full Application (see section VI below) will be required to submit the following documents and information during the online applications process:

1. A completed Application Certification and Signature Document. This document is generated by the *sciGrants* system during the Application process. ***Please note that the Application Reference Number, required on this document, will be e-mailed to the Applicant shortly after the Applicant submits the online application; there may be a slight (1-2 hour) delay between when the Applicant submits the application and receives the e-mail.*** Applicants who do not receive the e-mail should contact the Board's staff (see contact information on Solicitation cover page).
2. A copy of the Applicant's Articles of Incorporation and by-laws, trust indenture, or partnership agreement.
3. A *Certificate of Existence* or *Certificate of Authorization* for the Applicant, issued by the North Carolina Secretary of State (<http://www.sosnc.com/corporations/>), pursuant to N.C.G.S. §§ 55-1-28, and 57C-1-28, within 90 days of the date of the Applicant's Match Program Application. ***NOTE: You must create an account to obtain a copy of your Certificate of Existence or Authorization for the first time.***
4. A copy of the relevant page(s) of the Federal Phase I Solicitation associated with the Application, showing the solicitation topic description, closing date, and top reference number. ***Submission of a link to the solicitation does not satisfy this requirement.***
5. A copy of the Applicant's Phase I Proposal.

One NC SBIR/STTR Phase I Matching Funds Program – FY 2018-2019 Solicitation

6. *STTR Applicants Only*: A budget justifying the grant award amount requested (for STTR Match Awards, only the portion of the Federal STTR award made to the Small Business Applicant is eligible under this Program).
7. Names and addresses of all consultants retained to advise and assist the Applicant in securing the SBIR/STTR Phase I award.
8. **One** of the Following:

For a **Stage 1** disbursement (the 75% increment), evidence that the Applicant has received an SBIR/STTR Phase I award. This evidence must include:

- a. A copy of the executed SBIR/STTR Phase I contract; or,
- b. An Official Notification of Award (see below) from the Federal funding agency.

Official Notifications of Award from a Federal Funding Agency: Official Notifications of Award may only be issued 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 SBIR/STTR Solicitation for which a Match Award is sought. All other forms of notification are not considered official for the purposes of the Match Program. *All Applications submitted without an Official Notification of Award will be rejected without consideration.*

-or-

For a **Stage 2** disbursement (the 25% increment), a Recipient must provide evidence that the SBIR/STTR Phase I final report was received and accepted by the Federal SBIR/STTR agency, that terms of the SBIR/STTR Phase I contract between the company and the participating Federal agency were met satisfactorily by the company, and that the Federal SBIR/STTR Phase II proposal was submitted and received by the participating Federal agency. Such evidence must include:

- a. A copy of the SBIR/STTR Phase I award or executed contract;
- b. A copy of the SBIR/STTR Phase I final report;
- c. Verification of the final payment to the Applicant under the Federal SBIR/STTR Phase I contract. In the event that final payment is pending, a certified letter from the relevant Federal agency documenting the company's successful completion of the Federal SBIR/STTR Phase I contract, including a statement of eligibility for final payment, may be substituted.
- d. Proof that the Federal SBIR/STTR Phase II proposal has been submitted to and received by the participating Federal agency within the required eligibility period. Examples include: a delivery notice from carrier service, *e.g.*, Federal Express, tracking report showing final delivery date, or written or electronic notification from the agency confirming the date of proposal receipt.

9. **One** of the following:

For a **Stage 1** disbursement (the 75% increment), a notarized statement signed by an authorized official of the Applicant, attesting that, at a minimum, fifty-one percent (51%) of the activity conducted under the Phase I effort will be performed in North Carolina. This document is generated by the *sciGrants* system during the Application process. ***Please note that the Application Reference Number, required on this document, will be e-mailed to the Applicant shortly after the Applicant submits the online application; there may be a slight (1-2 hour) delay between when the Applicant submits the application and receives the e-mail. Applicants who do not receive the e-mail should contact the Board's staff (see contact information on Solicitation cover page).***

-or-

For a **Stage 2** disbursement (the 25% increment), a notarized statement signed by an authorized official of the Applicant, attesting that:

- a. The applicant is eligible to submit an SBIR/STTR Phase II proposal;
- b. In the event that the company is awarded a Federal Phase II grant or contract, as a minimum, fifty-one percent (51%) of the activity conducted under the Phase II effort will be performed in North Carolina.

This document is generated by the *sciGrants* system during the Stage 1 Application process. ***Please note that the Application Reference Number, required on this document, will be e-mailed to the Applicant shortly after the Applicant submits the online application; there may be a slight (1-2 hour) delay between when the Applicant submits the application and receives the e-mail. Applicants who do not receive the e-mail should contact the Board's staff (see contact information on Solicitation cover page).***

Proprietary Material: Proprietary or classified material included in a proposal for Federal funding, but not directly related to the Applicant's eligibility under this Solicitation, 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. This statement may be combined with that described in Item 5 above. *The Board may determine that Applications containing proposals that attempt to restrict the dissemination of large amounts of information unacceptable and may reject these Applications at its discretion.*

V. APPLICATION PREPARATION AND SUBMISSION; ELECTRONIC FILING WAIVER

All Applications for Match Award disbursements under this Solicitation must be submitted electronically through *sciGrants*. Applications must be submitted and all required supporting materials received in full no later than 45 days past the Federal award date or 5:00 p.m. local time, on June 30, 2019, whichever comes first. No

One NC SBIR/STTR Phase I Matching Funds Program – FY 2018-2019 Solicitation

Applications or supplemental materials received in response to this Solicitation shall be accepted after the earlier of: 5:00 p.m. local time, June 30, 2019, and the time when total funds allocated to this Solicitation have been exhausted, except for supplemental material requested by the Board. Applicants are strongly encouraged to secure proof of submission and delivery for all materials transmitted in hard copy form. The Board is not responsible for Applications or materials lost in transmission. Applicants who are unable to obtain internet access or for whom the electronic filing requirement causes undue hardship may request a waiver from the electronic filing requirement in writing to:

North Carolina Board of Science, Technology & Innovation
301 N. Wilmington Street
1326 Mail Service Center
Raleigh, NC 27699-1326
ATTN: NC SBIR/STTR Matching Funds Program, FY18-19 Solicitation, Electronic Submission Waiver Request

This waiver request must clearly indicate why the electronic filing requirement causes undue hardship and include a list of all factors that make compliance difficult, expensive, or cumbersome for the Applicant. All waiver requests will be considered on a case by case basis.

VI. APPLICATION SUBMISSION AND APPROVAL

1. Applications will be reviewed to ascertain compliance with the requirements of this Solicitation (including the Guidelines), through the end of the Solicitation Period. Applications or supplemental materials received after 5:00 p.m. local time on the last business day of this Solicitation, or after funds have been exhausted, will not be accepted.
2. To qualify for funding, Applications must be complete and in full compliance with all requirements. Incomplete or non-compliant Applications will be rejected without further review. At its discretion, the Board may request supplemental materials from the Applicant, and such materials must be received within 15 days of the request date or the Application may be rejected without further review.
3. Applications that meet all requirements set forth herein will be approved on a rolling, first-come, first-served basis, through the end of the Solicitation Period, or until the funds available for the Match Program have been exhausted.

VII. GRANT AGREEMENT & PAYMENT OF AWARDS

The North Carolina Office of State Budget and Management (OSBM) has established specific performance and reporting requirements relative to the manner in which grants of State funds are to be made to and accounted for by Recipients. Prior to receiving an Award disbursement under this Program, Recipients will be required to enter into a grant agreement with the State of North Carolina which will include the OSBM requirements, as well as

those specific to the Match Program as described in the Guidelines. Additionally, prior to disbursement, Recipients will also be required to supply additional company information, including:

1. A notarized copy of the Recipient's policy addressing conflicts of interest. (See Exhibit D for more information);
2. A list of the Recipient's Board of Directors/Trustees;
3. A sworn statement certifying that there are no overdue state tax debts owed by the Recipient; and,
4. A Request for Electronic Payment.

After execution and return of the grant agreement and submission of the required additional information, the State of North Carolina will issue Match Program grant payments to Recipients electronically (Note: if this is the first state payment received by the Applicant, payment *may* be a mailed paper check). Payments will be deposited into the checking or savings account of the Recipient's choice.

VIII. REPORTING REQUIREMENTS

Recipients are responsible for managing the day-to-day operations of their Match Award-supported activities using their established controls and policies, as long as they are consistent with State and Federal requirements. However, in order to fulfill its role in regard to the stewardship of State funds, the Board monitors its grants to identify potential problems and areas where assistance might be necessary. This active monitoring is accomplished through review of reports and correspondence from Recipients and other information available to the Board. In addition, these reports allow the Board to measure and report on the impacts of the Program. All Recipients must submit the following electronically via *sciGrants*:

1. **Interim Status Reports** in the form and manner described in **Appendix A**, every six months after receipt of an Award (the Board, however, may require these reports more frequently at its discretion) until the company receives the Federal Phase II award or notification that the Federal award will not be granted;
2. **A Final Report** in the form and manner described in **Appendix B**, within thirty (30) days of notification of a Federal Phase II contract award or denial; and,
3. All reports described in **Appendix C** within six (6) months after the end of the Recipient's fiscal year in which a Match Award was received. All Recipients that receive, use, or expend a Match Award within the Recipient's fiscal year must comply with all applicable State Grant Compliance Reporting Requirements as described in **Appendix C**.

IX. GENERAL INFORMATION

Inquiries

Inquiries about the Match Program should be addressed to:

North Carolina Board of Science, Technology & Innovation
301 N. Wilmington Street
1326 Mail Service Center
Raleigh, NC 27699-1326
ruth.maitz@nccommerce.com
ATTN: Information Request - NC SBIR/STTR Matching Funds Program FY2018-2019

Current solicitation information for all Board funding programs is available on the Board website at:

<http://www.nccommerce.com/sti>. Current Federal SBIR/STTR solicitations and program information is available online at: <http://www.sbir.gov> and <https://www.zynsys.com/sbir/>.

X. APPENDICES

Appendix A – Interim Status Report Requirements

ONE NORTH CAROLINA SBIR/STTR PHASE I MATCHING FUNDS PROGRAM INTERIM STATUS REPORT REQUIREMENTS

All required Interim Status Reports must be submitted via *sciGrants* using the tools and forms provided therein for this purpose. As part of an Interim Status Report, Match Award Recipients will be required to provide a thorough and complete report of their progress to date, including summaries of their company's interim status at the time of the report in terms of:

1. Research progress;
2. The adequacy of NCBSTI SBIR/STTR Matching funds in meeting the company's needs; and
3. Whether the company is still prepared to accept a Federal Phase II contract if awarded.

Also, if the company is unable to continue operations, even with the One North Carolina SBIR/STTR Phase I Matching Funds Program award, it must provide a detailed explanation why.

This report is due every six months after receipt of a Match Award until (a) the Recipient of a Federal Phase II award for the program for which a Match Award was given or (b) notification the Federal award will not be granted. However, the Board at its discretion may require these reports more frequently.

Appendix B – Final Report Requirements

ONE NORTH CAROLINA SBIR/STTR PHASE I MATCHING FUNDS PROGRAM FINAL REPORT REQUIREMENTS

All Final Reports must be submitted via *sciGrants* using the tools and forms provided therein for this purpose. Final Reports must be filed within 30 days of notification of a Federal Phase II contract award or denial. As part of the Final Report, Match Award Recipients will be required to provide a thorough and complete report of their program performance, including responses to the following prompts:

1. If your company was awarded a Federal Phase II contract, please state the date of award and the contract amount.
2. If a Phase II contract was awarded but the company was unable or unwilling to accept the contract, please explain.
3. Please state whether the company plans to continue the proposed research with its own resources if a Federal Phase II contract was not awarded. If this is the case, will/did the One North Carolina SBIR/STTR Phase I Matching Funds Program award contribute to the company's ability to continue the research?
4. Please discuss any material effects the One North Carolina SBIR/STTR Phase I Matching Funds Program award had on your company.
5. Please provide any general comments you may have about this program.
6. Please provide a summary of progress toward the achievement of the originally stated aims, a list of the results (positive or negative) considered significant, and a list of publications.

Appendix C – State Grant Compliance Reporting Requirements

A company, corporation, partnership, association, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution that receives, uses, or expends at least \$25,000 but less than \$500,000 in NC state funds within its fiscal year must file annually with the State agency that disbursed the funds a:

1. Certification completed by the grantee Board and management stating that the funds were received, used, or expended for the purpose intended;
2. Schedule of Grantee Receipts and Expenditures accounting for those funds; and, a
3. Description of activities and accomplishments undertaken with those State funds.

For the purposes of the required reports, the grantee's fiscal year is used to determine the amounts received, used, or expended. The **due date** for filing the required report is **six months after the grantee organization's fiscal year-end**, and the **accounting must be certified and sworn to by the Treasurer and one other authorized officer of the grantee**. This certification is a representation by management and is not intended to be an independent assessment.

The Office of the State Auditor has developed, in coordination with the Office of State Budget and Management and other key State agencies, standard reporting formats for meeting the reporting requirements outlined in N.C.G.S. Chapter 143C and Title 9, Subchapter 3 of the North Carolina Administrative Code. There are no exceptions to using financial reporting formats specified by the State Auditor.

The standard reporting formats for grantees receiving at least \$25,000 but less than \$500,000 include:

- Certification and sworn statement by the Treasurer and a second authorized officer on the entity's letterhead;
- State Grants Compliance report, which includes supplemental compliance information;
- Schedule of Grantee Receipts and Expenditures (cash basis); and
- Program Activities and Accomplishments Report

The Office of State Budget and Management has responsibility for the State Grant Compliance Reporting requirements. Approximately two months before a grantee organization's State Grant Compliance Report is due, the Board will notify the grantee organization via e-mail and provide additional information regarding procedures for submitting the State Grant Compliance Report. If a grantee organization wishes to submit the report sooner, it should contact the Board at ruth.maitz@nccommerce.com or 919-814-4642.

XI. EXHIBITS

Please note: The following reproductions of the N.C. General Statutes are for general information purposes only, and are reproduced herein as a courtesy without any guarantee as to accuracy. The N.C. General Statutes may be amended on a yearly basis. Therefore, for the most up-to-date versions you should consult the N.C. General Assembly's website at <http://www.ncleg.net/gascripts/statutes/Statutes.asp>.

Exhibit A – N.C. General Statutes Provisions Addressing Public Records

Exhibit A to the One NC Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) Phase I Matching Funds Program Agreement

Provisions of N.C. General Statutes Addressing Public Records, Confidential Information, and Economic Development Projects

§ 132-1. "Public records" defined

(a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

(b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

§ 132-1.1. State tax information

....

(b) State and Local Tax Information. – Tax information may not be disclosed except as provided in G.S. 105-259. As used in this subsection, "tax information" has the same meaning as in G.S. 105-259. Local tax records that contain information about a taxpayer's income or receipts may not be disclosed except as provided in G.S. 153A-148.1 and G.S. 160A-208.1.

....

§ 132-1.2. Confidential information.

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

- (1) Meets all of the following conditions:
 - a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
 - b. Is the property of a private "person" as defined in G.S. 66-152(2).
 - c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.
 - d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

....

§ 66-152. Definitions

As used in this Article, unless the context requires otherwise:

....

One NC SBIR/STTR Phase I Matching Funds Program – FY 2018-2019 Solicitation

(2) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, joint venture, or any other legal or commercial entity.

(3) "Trade secret" means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:

- a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

§ 132-1.11. Economic development incentives

(a) Assumptions and Methodologies. – Subject to the provisions of this Chapter regarding confidential information and the withholding of public records relating to the proposed expansion or location of specific business or industrial projects when the release of those records would frustrate the purpose for which they were created, whenever a public agency or its subdivision performs a cost-benefit analysis or similar assessment with respect to economic development incentives offered to a specific business or industrial project, the agency or its subdivision must describe in detail the assumptions and methodologies used in completing the analysis or assessment. This description is a public record and is subject to all provisions of this Chapter and other law regarding public records.

(b) Disclosure of Public Records Requirements. – Whenever an agency or its subdivision first proposes, negotiates, or accepts an application for economic development incentives with respect to a specific industrial or business project, the agency or subdivision must disclose that any information obtained by the agency or subdivision is subject to laws regarding disclosure of public records. In addition, the agency or subdivision must fully and accurately describe the instances in which confidential information may be withheld from disclosure, the types of information that qualify as confidential information, and the methods for ensuring that confidential information is not disclosed."

§ 132-6. Inspection, examination and copies of public records

(a) Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law. As used herein, "custodian" does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing.

....

(c) No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information. If it is necessary to separate confidential from nonconfidential information in order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public records relating to the proposed expansion or location of specific business or industrial projects may be withheld so long as their inspection, examination or copying would frustrate the purpose for which such public records were created; provided, however, that nothing herein shall be construed to permit the withholding of public records relating to general economic development policies or activities. Once the State, a local government, or the specific business has announced a commitment by the business to expand or locate a specific project in this State or the business has made a final decision not to do so, of which the State or local government agency involved with the project knows or should know, the provisions of this subsection allowing public records to be withheld by the agency no longer apply. Once the provisions of this subsection no longer apply, the agency shall disclose as soon as practicable, and within 25 business days, public records requested for the announced project that are not otherwise made confidential by law. An announcement that a business or industrial project has committed to expand or locate in the State shall not require disclosure of local government records relating to the project if the business has not selected a specific location within the State for the project. Once a specific location for the project has been determined, local government records must be disclosed, upon request, in accordance with the provisions of this section. For purposes of this section, "local government records" include records maintained by the State that relate to a local government's efforts to attract the project.

Records relating to the proposed expansion or location of specific business or industrial projects that are in the custody of the Department of Commerce or an entity with which the Department contracts pursuant to G.S. 143B-431A shall be treated as follows:

- (1) Unless controlled by another subdivision of this subsection, the records may be withheld if their inspection, examination, or copying would frustrate the purpose for which the records were created.

One NC SBIR/STTR Phase I Matching Funds Program – FY 2018-2019 Solicitation

- (2) If no discretionary incentives pursuant to Chapter 143B of the General Statutes are requested for a project and if the specific business decides to expand or locate the project in the State, then the records relating to the project shall not be disclosed.
- (3) If the specific business has requested discretionary incentives for a project pursuant to Chapter 143B of the General Statutes and if either the business decides not to expand or locate the project in the State or the project does not receive the discretionary incentives, then the only records relating to the project that may be disclosed are the requests for discretionary incentives pursuant to Chapter 143B of the General Statutes and any information submitted to the Department by the contracted entity.
- (4) If the specific business receives a discretionary incentive for a project pursuant to Chapter 143B of the General Statutes and the State or the specific business announces a commitment to expand or locate the project in this State, all records requested for the announced project, not otherwise made confidential by law, shall be disclosed as soon as practicable and within 25 days from the date of announcement.

....

§ 132-9. Access to records

....

(b) In an action to compel disclosure of public records which have been withheld pursuant to the provisions of G.S. 132-6 concerning public records relating to the proposed expansion or location of particular businesses and industrial projects, the burden shall be on the custodian withholding the records to show that disclosure would frustrate the purpose of attracting that particular business or industrial project.

....

Exhibit B – N.C. General Statute Provisions Addressing the Use of State Funds by Non-State Entities

Exhibit B to the One NC Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) Phase I Matching Funds Program Agreement

§ 143C-6-8. State agencies may incur financial obligations only if authorized by the Director of the Budget and subject to the availability of appropriated funds.

(a) **Limitation.** - Unless otherwise authorized by the Director as provided by law, purchase orders, contracts, salary commitments, and any other financial obligations by State agencies shall be subject to the availability of appropriated funds or available funds that are not State funds as defined in this Chapter. Any employment contract or salary commitment that is paid in whole or in part with State funds shall also be subject to this limitation.

(b) **Notice.** - Any written purchase order, contract, salary commitment, or other financial obligation subject to this section shall include a clause that sets forth the limitation imposed by subsection (a) of this section. Where this section applies but there is no written document to which the limitation may be added, the entity that administers the State funds at issue shall notify the person or entity of the limitation.

§ 143C-6-22. Use of State funds by non-State entities.

(a) **Disbursement and Use of State Funds.** - Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State Treasury.

(b) **Compliance by Non-State Entities.** - If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, or fails to submit or falsifies the information required by G.S. 143C-6-23 or any other provision of law, the Director shall take appropriate administrative action to ensure that no further irregularities or violations of law occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. Appropriate administrative action may include suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.

(c) **Civil Actions.** - Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County.

§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.

(a) **Definitions.** - The following definitions apply in this section:

- (1) **Grant or grant funds.** - State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers and State Employees, or other similar medical programs.
- (2) **Grantee.** - A non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
- (3) **Subgrantee.** - A non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
- (4) **Encumbrance.** – A financial obligation created by a purchase order, contract, salary commitment, unearned or prepaid collections for services provided, or other legally binding agreement. A financial obligation is not an encumbrance for purposes of this section unless it (i) is in writing and has been signed by a person or entity who has authority to legally bind the grantee or subgrantee to spend the funds or (ii) was created by the provision of goods or services to the grantee or subgrantee by a third party under circumstances that create a legally binding obligation to pay for the goods or services.

(b) **Conflict of Interest Policy.** - Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's

One NC SBIR/STTR Phase I Matching Funds Program – FY 2018-2019 Solicitation

disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

(c) No Overdue Tax Debts. - Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.

(d) Office of State Budget Rules Must Require Uniform Administration of State Grants. - The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:

- (1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.
- (2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.
- (3) Ensure that State funds are spent in accordance with the purposes for which they were granted.
- (4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of grant funds.
- (5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds. These policies shall require each grantee and subgrantee to ensure that, for accounting purposes, State funds and interest earned on those funds remain separate and apart from other funds in the possession or control of the grantee or subgrantee.
- (6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b) and (c) of this section.
- (7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.
- (8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (i) of this section.
- (9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by grant funds and each subgrantee project, program, or activity supported by grant funds.
- (10) Provide procedures for the suspension of further disbursements or use of grant funds for noncompliance with these rules or other inappropriate use of the funds.
- (11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of grant funds.
- (12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee (i) in accordance with subsection (f1) of this section or (ii) in the event that the grantee or subgrantee is unable to fulfill the purposes of the grant for a reason not set forth in that subsection.

(d1) Required Grant Terms. – The terms of each grant shall include all of the following, which shall be deemed a part of the grant:

- (1) The limitation contained in G.S. 143C-6-8 concerning the availability of appropriated funds.
- (2) The relevant provisions of any legislation authorizing or governing the administration of the grant.

One NC SBIR/STTR Phase I Matching Funds Program – FY 2018-2019 Solicitation

- (3) The terms of this section.
- (e) Rules Are Subject to the Administrative Procedure Act. - Notwithstanding the provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.
- (f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. - The Office of State Budget and Management, after consultation with the administering State agency, shall have the power to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.
- (f1) Return of Grant Funds. – Except as otherwise provided by federal law, a grantee or subgrantee shall return to the State all affected grant funds and interest earned on those funds if any of the following occurs:
- (1) The funds are in the possession or control of a grantee and are not expended, made subject to an encumbrance, or disbursed to a subgrantee by August 31 immediately following the fiscal year in which the funds are appropriated by the General Assembly, or a different period set forth in the terms of the applicable appropriation or federal grant.
 - (2) The funds remain unexpended at the time that the grantee or subgrantee dissolves, ceases operations, or otherwise indicates that it does not intend to spend the funds.
 - (3) The Office of State Budget and Management seeks to recover the funds pursuant to subsection (f) of this section.
- (f2) Use of Returned Grant Funds. – Encumbered funds returned to the State pursuant to subsection (f1) of this section by a grantee or subgrantee shall upon appropriation by the General Assembly be spent in accordance with the terms of the encumbrance. All other funds returned to the State by a grantee or subgrantee pursuant to subsection (f1) of this section shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly. Nothing in this section shall be construed to authorize an expenditure pursuant to an unlawful encumbrance or in a manner that would violate the terms of the appropriation of the grant funds at issue.
- (g) Audit Oversight. - The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds.
- (h) Report on Grant Recipients That Failed to Comply. - Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section with respect to grant funds received in the prior fiscal year.
- (i) State Agencies to Submit Grant List to Auditor. - No later than October 1 of each year, each State agency shall submit a list to the State Auditor, in the format prescribed by the State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal year. The list shall include the amount disbursed to each grantee and other information as required by the State Auditor to comply with the requirements of this section.
- (j) Use of Interest Earned on Grant Funds. – Except as otherwise required by federal law or the terms of a federal grant, interest earned on grant funds after receipt of the funds by a grantee or subgrantee shall be credited to the grantee or subgrantee and shall be used for the same purposes for which the grant or subgrant was made.
- (k) Reporting by Grantees and Subgrantees That Cease Operations. – A grantee or subgrantee that intends to dissolve or cease operations shall report that decision in writing to the Office of State Budget and Management and to the Fiscal Research Division at least 30 days prior to taking that action.

§ 143C-10-1. Offenses for violation of Chapter.

(a) Class 1 misdemeanor. - It is a Class 1 misdemeanor for a person to knowingly and willfully do any one or more of the following:

- (1) Withdraw funds from the State treasury for any purpose not authorized by an act of appropriation.
- (2) Approve any fraudulent, erroneous, or otherwise invalid claim or bill to be paid from an appropriation.
- (3) Make a written statement, give a certificate, issue a report, or utter a document required by this Chapter, any portion of which is false.
- (4) Fail or refuse to perform a duty imposed by this Chapter.

(b) Class A1 misdemeanor. - It is a Class A1 misdemeanor for a person to make a false statement in violation of G.S. 143C-6-23(c).

....

§ 143C-10-2. Civil liability for violation of Chapter.

A person convicted of an offense under G.S. 143C-10-1 is liable in a civil action for any damages suffered by the State in consequence of the offense.

Exhibit C – N.C. General Statute Provisions Addressing the Collection of Tax Debts

Exhibit C to the One NC Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) Phase I Matching Funds Program Agreement

§ 105-243.1. Collection of tax debts.

(a) Definitions. - The following definitions apply in this section:

- (1) Overdue tax debt. - Any part of a tax debt that remains unpaid 90 days or more after it becomes collectible under G.S. 105-241.22. The term does not include a tax debt for which the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the tax debt became collectible, if the taxpayer has not failed to make any payments due under the installment agreement.
- (2) Tax debt. - The total amount of tax, penalty, and interest collectible under G.S. 105-241.22.

....

(d) Fee. - A collection assistance fee is imposed on an overdue tax debt that remains unpaid 30 days or more after the fee notice required by this subsection is mailed to the taxpayer. In order to impose a collection assistance fee on a tax debt, the Department must notify the taxpayer that the fee will be imposed if the tax debt is not paid in full within 30 days after the date the fee notice was mailed to the taxpayer. The Department may not mail the fee notice earlier than 60 days after the tax debt becomes collectible under G.S. 105-241.22. The fee is collectible as part of the debt. The Secretary may waive the fee pursuant to G.S. 105-237 to the same extent as if it were a penalty.

The amount of the collection assistance fee is twenty percent (20%) of the amount of the overdue tax debt. If a taxpayer pays only part of an overdue tax debt, the payment is credited proportionally to fee revenue and tax revenue.

....

Exhibit D – Policy Addressing Conflicts of Interest

Prior to the release of Award funds, all Recipients will be required to file with the Board a copy of Recipient's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the Recipient's employees or members of its board or other governing body, from the Recipient's disbursing of State funds and shall include actions to be taken by the Recipient or the individual, or both to avoid conflicts of interest and the appearance of impropriety. **The policy shall be filed before the Agency may disburse the grant funds.** (N.C.G.S. § 143C-6-23(b))

Sample Policy Addressing Conflicts of Interest:

A conflict of interest is defined as an actual or perceived interest by a management Employee or Board member in an action that results in, or has the appearance of resulting in, personal, organizational or professional gain. A conflict of interest occurs when a management Employee or Board member has a direct or fiduciary interest, which includes:

- Ownership with
- Employment of or by
- Contractual relationship with
- Creditor or debtor to
- Consultative or consumer relationship with:

a member of the Board of Directors/Trustees or an employee where one or the other has supervisory authority over the other or with a client who receives services. The definition of conflict of interest includes any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group. An example, for instance, might involve a person who is an employee and a Board member, or a person who is an employee and who hires family members as consultants.

It is in the interest of the organization, individual employees and Board members to strengthen trust and confidence in each other, to expedite resolution of problems, to mitigate the effect and to minimize organizational and individual stress that can be caused by a conflict of interest.

Employees are to avoid any conflict of interest, even the appearance of a conflict of interest. This organization serves the community as a whole rather than only serving a special interest group. The appearance of a conflict of interest can cause embarrassment to the organization and jeopardize the credibility of the organization. Any conflict of interest, potential conflict of interest, or the appearance of a conflict of interest is to be reported to your supervisor immediately. Employees are to maintain independence and objectivity with clients, the community, and organization. Employees are called to maintain a sense of fairness, civility, ethics and personal integrity even though law, regulation or custom does not require them.

Employees, members of an employee's immediate family, and members of the Board are prohibited from accepting gifts, money or gratuities from the following:

- a. Persons receiving benefits or services from the organization;
- b. Any person or organization performing or seeking to perform services under contract with the organization; and
- c. Persons who are otherwise in a position to benefit from the actions of any employee of the organization.

Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave or leave without pay. If the employee is acting in any official capacity, honoraria received by an employee in connection with activities relating to employment with the organization are to be paid to the organization.

Exhibit E – Program Guidelines

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 May 14, 2015)

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 that have been awarded a Small Business Innovation Research Program or Small Business Technology Transfer Program (the “Federal Program”) Phase I award. See Section D for definitions of terms used herein.

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

The Federal Program provides for funding competitions in two phases that are relevant to the Match Program: **Phase I** - to conduct feasibility research; and **Phase II** - to expand and develop Phase I results and commercially viable innovations. More information about the Federal Program, including a Phase III program that provides commercialization support for Phase II products and processes, may be found at: www.sbir.gov and <https://www.zynsys.com/sbir/>.

The North Carolina Board of Science, Technology & 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.

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. 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 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 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 a Federal Program Phase I award, and will receive the additional 25% of the award, if and only if, the Phase I final report is accepted by the Federal Agency *and* the Applicant submits the related Phase II application to the Federal Agency. "Fast Track" Federal Program Phase I awards are also eligible under 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). 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 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.

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. *Fast Track* - Federal program designed to provide interim Federal funding between the completion of a Federal Program Phase I grant and the beginning of the corresponding Federal Program Phase II grant. The Fast Track program only applies to those Federal 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 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.
10. *Guidelines* – Defined in Section A.
11. *Match Award* - Defined in Section A.
12. *Match Program* - Defined in Section A.
13. *Match Solicitation* – Defined in Section A.
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.

16. *Recipient* - an Applicant that has been approved to receive a Match Award.
17. *Small Business* - A small business concern as defined under the Federal Program guidelines that govern the 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.

1. Applicant must be a for-profit Small Business with its Principal Place of Business in North Carolina.
2. Applicant must meet all Federal Program eligibility requirements that are applicable to the relevant Federal Solicitation.
3. Applicant must have received a Federal Notice of Phase I award by the Federal Agency during the Match Solicitation Period.
4. To receive a **Stage 1** grant, Applicant must have received a Federal Notice of a Federal Program Phase I award that occurs during the Match Solicitation Period.
5. To receive a **Stage 2** grant, Applicant must have:
 - (a) Received a **Stage 1** Match Award for the appropriate Federal Program Phase I 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 Agency;
 - (c) Received Federal Notice of the successful completion of the Phase I effort from the participating Federal Agency;

- (d) Demonstrated that the participating Federal 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 Federal Agency;
 - (e) Submitted a Phase II proposal in response to the Federal Agency's Phase II proposal request.
6. Applications for **Stage 1** funding under the Match Program must be received no later than 45 days from the date of the Federal Notice of Phase I. 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 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 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 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 Match Award for a proposal for which the Applicant has already received a 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 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 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 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 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 received Federal Notice that it is the recipient of a Federal 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, funds will be awarded in an amount up to 100% of the Federal 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 Agency described in the Application, and submission to and acknowledgement of receipt by the 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, 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 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 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, 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 (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 by written notice within thirty (30) days of the date of the denial notification or return of the 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 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 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 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 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 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 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 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 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 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.

O. 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.

P. PUBLICATION OF MATCH SOLICITATIONS AND GUIDELINES. The Board will publish the Guidelines and all Match Solicitations on the Board website at: <http://www.nccommerce.com/sti>.