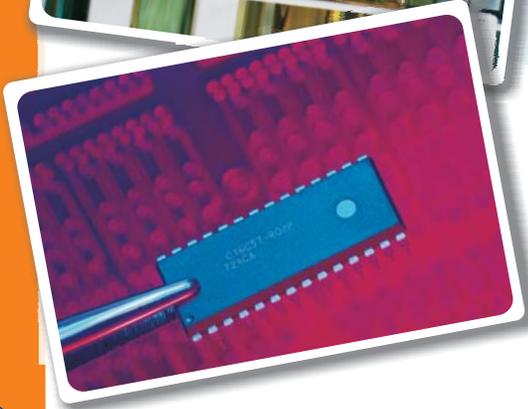


SBIR/STTR Incentive Funds Program



ONE NC SMALL BUSINESS PROGRAM

*Helping small businesses
commercialize technology*

Small Business Innovative Research (SBIR)
Small Business Technology Transfer (STTR)
2007-2008 Incentive Funds Program Solicitation

*Submission Dates: July 2, 2007, through June 30, 2008
Closing Date: 5:00 PM, June 30, 2008*

Funding Opportunity Number: NCBST-FY07081

North Carolina Board of Science and Technology

North Carolina Department of Commerce

301 North Wilmington Street

1326 Mail Service Center

Raleigh, NC 27699-1326

Phone: 919-733-6500

Fax: 919-733-8356

Email: ncbst@nccommerce.com

Website: <http://www.ncscienceandtechnology.com>



**Notice of Availability of Funds and FY 2007 – 2008 Program Solicitation for
The One North Carolina Small Business Innovation Research (SBIR)
and Small Business Technology Transfer (STTR) Phase I Incentive Funds Program**

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

Funding Opportunity Number: NCBST–FY0708I, Rev. 0701

Statute and Guidelines: This Incentive Solicitation is issued pursuant to the Incentive Program established under N.C.Gen. Stat. §143B-437.81, and the Guidelines issued pursuant to N.C.Gen. Stat. §143B-437.82, which govern the administration of this program. **The Guidelines are set forth in Exhibit E hereto, and are incorporated into this Incentive 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’s website at: <http://www.ncscienceandtechnology.org/>.

Solicitation Period: July 2, 2007 – June 30, 2008 inclusive (the “Incentive Solicitation Period”).

Key Dates: The Closing Date for receipt of Applications under this announcement is the earlier of June 30, 2008 or the date on which funds available for this Incentive Solicitation have been exhausted. No Applications (including supplemental materials) submitted in response to this Announcement will be accepted after the Closing Date. The Board must receive Applications for funding under this program no later than 45 days from the closing date of the Federal solicitation associated with the Phase I proposal (the “Phase I Proposal”) submission for which Incentive Awards are requested. Applicants must have received official notification of receipt of their Phase I Proposal by a Federal SBIR/STTR agency during the Incentive Solicitation Period to be eligible.

Maximum Grant Amount: **50% of the approved Phase I Proposal preparation costs not to exceed \$3,000.**

Funding Available Under This Solicitation: The maximum amount of funding available for all grants awarded under this Incentive Solicitation is five hundred thousand dollars (\$500,000).

I. SUMMARY2

II. ELIGIBILITY & LIMITATIONS ON AWARDS.....2

III. AWARD STRUCTURE; MILESTONES3

IV. APPLICATION REQUIREMENTS, ELECTRONIC SUBMISSION3

V. APPLICATION PREPARATION AND SUBMISSION, ELECTRONIC FILING WAIVER; DEADLINES.....4

VI. APPLICATION REVIEW AND APPROVAL5

VII. GRANT AGREEMENT & PAYMENT OF AWARDS5

VIII. REPORTING REQUIREMENTS5

IX. GENERAL INFORMATION.....6
Inquiries.....6
Workshops.....6
X. APPENDICES7
Appendix A – State Grant Compliance Reporting Requirements.....7
Appendix B – Final Report Requirements.....8
XI. EXHIBITS.....9
Exhibit A – N.C. General Statute Provisions Addressing Public Records.....9
Exhibit B – N.C. General Statute Provisions Addressing the Use of State Funds by Non-State Entities..... 11
Exhibit C – N.C. General Statute Provisions Addressing the Collection of Tax Debts ..14
Exhibit D – Policy Addressing Conflicts of Interest..... 15
Exhibit E – Program Guidelines 16

I. SUMMARY

The North Carolina SBIR/STTR Phase I Incentive Funds Program (the “Incentive Program”) is designed to reimburse qualified North Carolina firms for a portion of the costs incurred in preparing and submitting Phase I Proposals to the Federal Small Business Innovation Research Program and Small Business Technology Transfer Program (the “Federal SBIR/STTR Program”), in response to solicitations issued by participating Federal agencies. Phase I of the The Federal SBIR/STTR Program (“Phase I”) provides grants to conduct feasibility research in areas specified in the corresponding Federal solicitation.

The North Carolina Board of Science and Technology (the “Board”), a division of the North Carolina Department of Commerce, through its Executive Director, administers the Incentive 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 Incentive Funds Program (the “Guidelines”). **These Guidelines are published on the Board’s website at: <http://www.ncscienceandtechnology.com>, and are incorporated into this Incentive 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 the eligibility requirements and is subject to the limitations set forth in the Guidelines.

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

An Applicant may receive no more than one (1) Incentive Award during the period covered by this Incentive Solicitation, and no more than a total of ten (10) Incentive Awards over its lifetime.

Special Provisions on STTR Awards: The Board will consider for reimbursement under the Incentive Program **only** the fraction of the expenses directly incurred by the Small Business Applicant in a collaboration, up to the limits established in this Incentive Solicitation. See the Guidelines Section F 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 Incentive Solicitation Period, or until the funds available under this Incentive Solicitation have been exhausted.
2. Subject to satisfaction of all other requirements, Incentive Awards will be disbursed upon proof of receipt of a qualifying Phase I Proposal submission to a participating Federal agency, as described in the Guidelines.
3. So long as funds remain available, for each approved Application, Incentive Awards will be made in the amount of:

50% of approved and documented proposal preparation costs, not to exceed \$3,000.

IV. APPLICATION REQUIREMENTS, ELECTRONIC SUBMISSION

An Application includes all required forms and supporting materials. Applicants must use the required Application forms and methods provided in this Incentive Solicitation and must comply with all requirements of this Incentive Solicitation (including the Guidelines) in order to be eligible for funding. The primary Application form for this Incentive Solicitation is the “Grant Application and Agreement.” This must be submitted electronically using the Board’s “*sciGrants*” system accessible through its website at: <http://www.ncscienceandtechnology.com>.

Additional materials will be required to be submitted in hardcopy (including the executed hardcopy of the Application’s attestations). Applicants will be assigned an Application Reference Number generated by the on-line process. This number should be used when submitting all hardcopy materials and in any correspondence about the Application. Applications that do not include ALL required responses, documents, and information will be considered incomplete and will not be considered for funding.

Each Applicant must submit the following documents and information:

1. A completed **Grant Application and Agreement**. This document is generated by the **sciGrants** system during the Application process. It incorporates a statement that must be sworn and signed by an authorized official of the Applicant (and submitted in hardcopy form following the online process), attesting, among other things, that:
 - a. Applicant is a for-profit Small Business with its principal place of business in North Carolina;
 - b. Applicant has not received concurrent funding support from other sources that duplicates the purpose of the Incentive Award;
 - c. Applicant will conduct at least 51% of the activities described in the Phase I Proposal in North Carolina, and will maintain significant North Carolina operations during the entire Phase I project, if awarded Federal funding;
 - d. Applicant has a formal policy addressing conflicts of interest (See Exhibit D); and,
 - e. Applicant has no overdue tax debts.

2. A *Certificate of Existence* or *Certificate of Authority* for the Applicant issued by the North Carolina Secretary of State pursuant to G.S. 55-1-28 and 57C-1-28, within 90 days prior to the date of Application.
3. A copy of the relevant page(s) of the Federal SBIR Phase I Solicitation associated with the Application, showing the solicitation topic description, closing date, and topic reference number. *Submission of a link to the solicitation does not satisfy this requirement.*
4. A copy of the Submission Cover, Abstract, and Budget Pages from the Applicant's Phase I Proposal.
5. Evidence that the relevant Federal agency has received Applicant's Phase I Proposal, such as a delivery notice from a carrier service (e.g. Federal Express, UPS), the tracking report showing delivery date, or written or electronic notification from the Federal agency confirming the date of receipt.
6. A sworn expense statement certifying the expenses claimed under the Incentive Solicitation. A template for this statement is generated by the **sciGrants** system during the Application process. See the Guidelines Section H for a description of allowed and disallowed expenses under the Incentive Program.
7. Copies of ALL receipts or supporting documents corresponding to requested reimbursement expenses. *Expenses not documented by appropriate receipts will not be reimbursed.*
8. A Request for Electronic Payment.

Proprietary Material: Proprietary or classified material included in a Phase I submission to a Federal agency, but not directly related to the Applicant's eligibility under this Incentive 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 7 above. *The Board may find Applications 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; DEADLINES

The Grant Application and Agreement must be submitted electronically through **sciGrants**, unless a waiver is obtained

Applicants not able to obtain Internet access or for whom the electronic filing requirement causes an undue hardship may request a waiver of the electronic filing requirement, by submitting a request in writing to:

North Carolina Board of Science & Technology
301 N. Wilmington Street
1326 Mail Service Center
Raleigh, NC 27699-1326

ATTN: NC SBIR/STTR Incentive Funds Program, FY0607 Solicitation, Electronic Submission Waiver Request

In this request, Applicant must clearly indicate why the electronic filing requirement causes undue hardship and provide a list of all factors that make compliance difficult, expensive or cumbersome. All waiver requests will be

handled on a case-by-case basis. If a waiver is granted, the Applicant will be assigned a manual Application Reference Number which should be used with all Application materials and correspondence.

Applications must be submitted and all required supporting materials received in full no later than 5:00 PM Eastern Standard Time, on June 30, 2008. No Applications (including supplemental materials) received in response to this Incentive Solicitation shall be accepted after the earlier of 5:00 PM Eastern Standard Time on June 30, 2008, and the time when total funds allocated to this Incentive Solicitation have been exhausted (unless the Board has requested certain supplemental materials for a substantially completed Application).

Applicants are strongly encouraged to secure proof of submission and delivery for materials that must be transmitted in hard copy form. The Board is not responsible for any Application materials lost in transmission.

VI. APPLICATION REVIEW AND APPROVAL

1. Applications will be reviewed to ascertain compliance with the requirements of this Incentive Solicitation (including the Guidelines), through the Closing Date.
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 fifteen (15) days of the date of the request or the Application may be rejected without further review.
3. Applications that meet all the requirements set forth herein will be approved on a rolling, first-come, first-served basis, through the Closing Date.

VII. GRANT AGREEMENT & PAYMENT OF AWARDS

The North Carolina Office of State Budget and Management (OSBM) has established specific performance and reporting requirements governing the manner in which State grants are to be made to and accounted for by Recipients. These requirements are incorporated in the Grant Application and Agreement generated by the sciGrants system that is part of the Application, which must be executed by the Recipient prior to receiving a disbursement under this Incentive Program.

Once an Application is complete and an Incentive Award has been approved, the State of North Carolina will issue Incentive Program grant payments to Recipients electronically. Payments will be deposited into the checking or savings account of the Recipient's choice, as indicated on the Recipient's Request for Electronic Payment, submitted as part of the Application. Notification of the deposit will be made either by fax or by e-mail.

VIII. REPORTING REQUIREMENTS

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. Recipients

are required to submit any additional document requested by the Board in order to monitor compliance with the Incentive Program.

All Recipients must submit electronically via *sciGrants* a **Final Report** in the form and manner described in **Appendix B**, within thirty (30) days of notification of a Federal Phase I contract award or denial.

IX. GENERAL INFORMATION

Inquiries

Inquiries about the Incentive Program should be addressed to:

North Carolina Board of Science & Technology
301 N. Wilmington Street
1326 Mail Service Center
Raleigh, NC 27699-1326
ATTN: Information Request - NC SBIR/STTR Incentive Funds Program FY2007-2008

Current solicitation information for all Board funding programs is available on the Board website at: <http://www.ncscienceandtechnology.com> . Current Federal SBIR solicitations and program information is available on-line at: <http://www.sbirworld.com>.

Workshops

The Board conducts workshops on Application preparation during the Incentive Solicitation period in collaboration with the Small Business Technology Development Centers and other organizations across the State. For additional information about the workshops or the One North Carolina SBIR/STTR Incentive and Matching Funds Programs in general, please visit the Board website at <http://www.ncscienceandtechnology.com>, the North Carolina Small Business Technology Development Centers at: <http://www.sbtde.org>, and the Small Business Center Networks of the NC Community College System at: <http://www.nccommunitycolleges.edu>.

X. APPENDICES

Appendix A – State Grant Compliance Reporting Requirements

A firm, 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 \$1.00 but less than \$25,000 in state funds within its fiscal year must file annually with the state agency that disbursed the funds a certification completed by the grantee Board and management stating that the funds were received, used, or expended for the purpose intended, and an accounting of receipts and expenditures of all the state funds.

For purposes of the required report, the grantee's fiscal year is used in determining the amounts received, used, or expended. The due date for filing the required report is six months after the grantee organization's year-end, and the accounting must be certified and sworn to by the Treasurer and one other authorizing 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, which should be used by all state agencies for meeting reporting requirements outlined in G.S. 143-6.2 and Title 9, Subchapter 3 of the North Carolina Administrative Code. It is the intent of the State Auditor that there be no exceptions to the financial reporting format.

The standard reporting format for grantees receiving greater than \$1 but less than \$25,000 includes:

1. Certification by the Treasurer and a second authorizing officer on the entity's letterhead;
2. State Grants Compliance report, which includes supplemental compliance information, as well as financial and programmatic information

These reports are submitted via *sciGrants* using the tools and forms provided therein for this purpose at the time of Application.

Appendix B – Final Report Requirements

ONE NORTH CAROLINA SBIR/STTR PHASE I INCENTIVE 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 I contract award or denial. As part of the Final Report, Incentive Award Recipients will be required to provide a thorough and complete report, including responses to the following questions:

- 1) If your firm was awarded a Federal Phase I contract, please state the date of award and the contract amount.
- 2) If a Phase I 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 I contract was not awarded. If this is the case will/did the One North Carolina SBIR/STTR Phase I Incentive Funds Program award contribute to the firm's ability to continue the research or to repropose to the Federal agency?
- 4) Please discuss any material effects the One North Carolina SBIR/STTR Phase I Matching Incentive Program award had on your firm.
- 5) Please provide any general comments you may have about the Incentives 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 related to the Phase I project.

XI. EXHIBITS

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

Exhibit A to the One NC Small Business Innovation Research (SBIR/STTR) Phase I Incentive 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. . .

§ 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 (Trade Secrets Protection Act)

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

- (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.

§ 132-1.8. 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 and examination of 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. . .

(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 a final decision not to do so and the business has communicated that commitment or decision to the State or local government agency involved with the project, 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."

§ 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 (SBIR/STTR) Phase I Incentive Funds Program Agreement

§ 143-6.2. Use of State funds by non-State entities.

(a) **(Effective July 1, 2005)** 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. For the purposes of this section, the term "non-State entity" means a firm, 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. For the purposes of this section, "unit of local government" has the meaning set out in G.S. 159-7(15) and "public authority" has the meaning set out in G.S. 159-7(10). The following definitions apply:

(1) Non-State entity. – A firm, corporation, partnership, association, county, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution.

(2) Unit of local government. – A municipal corporation that has the power to levy taxes, including a consolidated city-county as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.

(3) Public authority. – A municipal corporation that is not a unit of local government or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation and (ii) operates on an area, regional, or multiunit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.

(b) **(Effective July 1, 2005)** For the purposes of this section, the term "grantee" means a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The term "subgrantee" means a non-State entity that receives a grant of State funds 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. The terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees'

Comprehensive Major Medical Plan, or other similar medical programs.

(b1) Conflict of Interest Policy. – Every grantee shall file with the State agency or department 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 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 department or agency may disburse the grant funds.**

(b2) 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. 143-34(b).

(c) **(Effective July 1, 2005)** 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 any information required by this section 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 includes suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.

(d) 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 rules shall establish policies and procedures for disbursements of grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. Such 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.

One NC SBIR/STTR Phase I Incentive Funds Program – FY 2007-2008 Solicitation

- (3) Ensure that 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 State grant funds.
 - (5) Provide for adequate oversight and monitoring to prevent the misuse of State funds.
 - (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 (b1) and (b2) of this section.
 - (7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all State 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 (h) of this section.
 - (9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by State grant funds and each subgrantee project, program, or activity supported by State grant funds.
 - (10) Provide procedures for the suspension of further disbursements or use of State 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 State grant funds.
 - (12) Provide procedures for the recovery and return to the grantor State agency of unexpended State grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.
- (e) 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) 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 subsection (d) of this section.
- (g) **(Effective July 1, 2005)** The Office of State Budget and Management, after consultation with the administering agency, shall have the power to suspend disbursement of State grant funds to grantees or subgrantees, to prevent further use of State grant funds already disbursed, and to recover State 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.
- (h) **(Effective July 1, 2005)** Audit Oversight. – The State Auditor has audit oversight, with respect to State 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 State 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 State 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 State grant funds.
- (i) **(Effective July 1, 2005)** 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 during the prior fiscal year, including the amount of State funds that were disbursed to each of those grantees or subgrantees during that fiscal year and the amount of State funds that were withheld.
- (j) **(Effective July 1, 2005)** Grantor State agencies shall submit a list to the State Auditor, in the format prescribed by the State Auditor, by October 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year, the amount disbursed, the amount disbursed to each grantee, and other such information as required by the State Auditor to comply with the requirements set forth in this section.
- (k) **(Effective July 1, 2005)** 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. (2004-196, s. 2.)

SECTION 6.9.(b) G.S. 143-34 reads as rewritten:

"§ 143-34. Penalties and punishment for violations.

(a) Except as provided by subsection (b) of this section, a refusal to perform any of the requirements of this Article, and the refusal to perform any rule or requirement or request of the Director of the Budget made pursuant to, or under authority of, the Executive Budget Act, shall subject the offender to penalty of two hundred fifty dollars (\$250.00), to be recovered in an action instituted either in Wake County Superior Court, or any other county, by the Attorney General for the use of the State of North Carolina, and shall also constitute a Class 1 misdemeanor. If such the offender be is not an officer elected by vote of the people, such the offense shall be sufficient cause for removal from office or dismissal from employment by the Governor upon 30 days' notice in writing to such the offender.

(b) A false statement made in violation of G.S. 143-6.2(b2) is a Class A1 misdemeanor offense."

SECTION 6.9.(c) This section shall apply to all State grant funds appropriated or awarded on or after July 1, 2005. Grants awarded prior to July 1, 2005, shall be subject to the reporting requirements in effect at the time the grant was made.

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

Exhibit C to the One NC Small Business Innovation Research (SBIR/STTR) Phase I Incentive 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 the notice of final assessment was mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement.
- (2) Tax debt. – The total amount of tax, penalty, and interest due for which a notice of final assessment has been mailed to a taxpayer after the taxpayer no longer has the right to contest the debt.

(b) **(Effective until October 1, 2005)** Outsourcing. – The Secretary may contract for the collection of tax debts. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed.

(b) **(Effective October 1, 2005)** Outsourcing. – The Secretary may contract for the collection of tax debts owed by nonresidents and foreign entities. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed.

(c) Secrecy. – A contract for the collection of tax debts is conditioned on compliance with G.S. 105-259. If a contractor violates G.S. 105-259, the contract is terminated, and the Secretary must notify the contractor of the termination. A contractor whose contract is terminated for violation of G.S. 105-259 is not eligible for an award of another contract under this section for a period of five years from the termination. These sanctions are in addition to the criminal penalties set out in G.S. 105-259.

(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 notice of final assessment for the tax debt was mailed to the taxpayer. 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.

(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee for the purposes listed in this subsection. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts. The Department may apply the fee proceeds for the following purposes:

- (1) To pay contractors for collecting overdue tax debts under subsection (b) of this section.
- (2) To pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina.
- (3) To pay for taxpayer locator services, not to exceed one hundred thousand dollars (\$100,000) a year.

(f) Reports. – The Department must report semiannually to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to collect tax debts. Each report must include a breakdown of the amount and age of tax debts collected by collection agencies on contract, the amount and age of tax debts collected by the Department through warning letters, and the amount and age of tax debts otherwise collected by Department personnel. The report must itemize collections by type of tax. Each report must also include a long-term collection plan, a timeline for implementing each step of the plan, a summary of steps taken since the last report and their results, and any other data requested by the Commission or the Committee. (2001-380, ss. 2, 8; 2002-126, s. 22.2; 2003-349, s. 3; 2004-124, ss. 23.2(a), 23.3(c); 2004-170, s. 22.5.)

Exhibit D – Policy Addressing Conflicts of Interest

Prior to the release of Award funds, all Recipients must certify that they have a formal 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. (N.C.G.S. 143-6.2(b1)(2005))

Sample Policy Addressing Conflicts of Interest:

A conflict of interest is defined as an actual or perceived interest by a (Staff member/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 an Employee/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 staff 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 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 One North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I Incentive Funding Program Guidelines

- A. **PROGRAM SUMMARY.** The North Carolina SBIR/STTR Phase I Incentive Program (the “Incentive Program”) reimburses qualified North Carolina firms for a portion of the costs incurred in preparing and submitting Phase I proposals for the U.S. Government’s Small Business Innovation Research Program and Small Business Technology Transfer Program (the “Federal SBIR/STTR Program”).

The Federal SBIR/STTR Program is administered by 11 Federal agencies for the purpose of providing research and development funding to small companies. Companies compete for funding 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; and **Phase II** - to expand and develop Phase I results and develop commercially viable innovations. The Federal Program also includes a **Phase III** provision that provides commercialization support for the product or process developed in Phase II. More information about the Federal SBIR/STTR Program may be found at: www.sbirworld.com.

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

Under the Incentive Program, the Board will reimburse qualified applicants for a portion of the costs incurred in preparing a Federal SBIR/STTR Program Phase I proposal on a first-come, first-served basis, up to the following amount: **the lesser of 50% of the approved proposal preparation costs or \$3,000**, subject to the availability of funds.

Companies apply for funding under the Incentive Program by submitting an Application in response to a solicitation (an “Incentive Solicitation”) developed and issued by the Board. Under the Incentive Program, a qualified business may receive one (1) SBIR/STTR Phase I Incentive Award (either an SBIR

or an STTR Phase I award, an “Incentive Award”) during an Incentive Solicitation period. The Board, based upon the availability of funds, sets the available Incentive Award amounts and the dates during which proposals may be submitted.

- 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 to be used for the SBIR/STTR Incentive and Matching Funds Programs, established pursuant to §143B-437.71(c) of the North Carolina General Statutes. The Incentives Program is established pursuant to N.C. Gen. Stat. §143B-437.80. 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 Incentive Program is to foster job creation and economic development in North Carolina by encouraging North Carolina small businesses to compete for Federal SBIR and STTR awards. The goal of the Incentive Program is to increase the number of North Carolina applications for Federal SBIR and STTR Phase I awards.
- D. DEFINITIONS.**
1. *Applicant* - a Small Business that submits an application for an Incentive Award.
 2. *Application* - the required form(s) to be completed and any supporting materials submitted by an Applicant in response to an Incentive Solicitation.
 3. *Board* – Defined in Section A.
 4. *DoD* – Department of Defense.
 5. *Federal SBIR/STTR Program* – Defined in Section A.
 6. *Guidelines* – Defined in Section A.
 7. *Incentive Award* - Defined in Section A.
 8. *Incentive Program* – Defined in Section A.
 9. *Incentive Solicitation* – Defined in Section A.
 10. *Incentive Solicitation Period* – Defined in Section G.
 11. *NSF* – National Science Foundation.
 12. *Recipient* - an Applicant who has been approved to receive an Incentive Award.
 13. *Small Business* - A small business concern as defined under the Federal SBIR/STTR Program guidelines that govern the proposal for which the Applicant is applying.
- E. ELIGIBILITY.** An Applicant must satisfy the following conditions in order to be eligible to submit an Application:
1. Applicant must be a for-profit Small Business with its principal place of business in North Carolina.

2. Applicant must have submitted a qualified SBIR or STTR Phase I proposal to a participating Federal agency in response to a specific Federal solicitation.
 3. Applicant must meet all Federal SBIR/STTR Program eligibility requirements that are applicable to the relevant Federal solicitation.
 4. Applicant may not receive concurrent funding support from other sources that duplicates the purpose of the Incentive Award.
 5. Applicant must conduct at least 51% of the activities described in the Federal SBIR or STTR proposal in North Carolina, and must maintain significant North Carolina operations during the entire corresponding Federal SBIR or STTR Phase I project, if awarded Federal funding.
 6. Proposals resubmitted to a Federal agency, for which the Applicant has already received an Incentive Award, are not eligible for an additional Incentive Award.
 7. 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.
 8. Applicant must satisfy any other eligibility requirements established by the Board and published in the Incentive Solicitation.
 9. For STTR Incentive Awards, substantial cooperative research collaboration between the Small Business and a single research institution must be proposed. For SBIR Incentive Awards, collaboration between the Small Business and other organizations, including research institutions, may be proposed.
- F. **LIMITATIONS ON INCENTIVE AWARDS.** An Applicant may receive no more than one (1) Incentive Award during the period covered by an Incentive Solicitation, and no more than a total of ten (10) Incentive Awards over its lifetime.

Specific Limitations on STTR Incentive Awards. Federal STTR awards are granted to a cooperative research collaboration between a Small Business and a single research institution. *The Board will consider for reimbursement under the Incentive Program only the expenses directly incurred by the Small Business Applicant in the collaboration, up to the limits established in the Incentive Solicitation. The research institution component of the collaboration is ineligible for funds under the Incentive Program and the expenses incurred by it are specifically excluded from consideration in establishing the amount of any Incentive Award made to a Small Business.*

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

No Applications or supplemental materials submitted in response to an Incentive Solicitation will be accepted after its closing date, or after funds available for Incentive Awards have been exhausted.

H. APPLICATION REQUIREMENTS. Applicants must use the required forms provided in the Incentive Solicitation and must fully comply with all requirements of these Guidelines and the Incentive Solicitation within the time period specified, in order to be eligible for an Incentive Award.

Applications that do not include ALL of the documents specified in the Incentive Solicitation, or that contain documents that have not been fully completed, will be considered incomplete and will be returned to the Applicant without further review. At its discretion, the Board may request supplemental materials from the 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.

Proprietary or classified material included in a proposal for Federal funding, but not directly related to the Applicant’s eligibility under the Incentive 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.

Reimbursable costs under the Incentive Program are:

- a. Proposal preparation consulting fees paid to others,
- b. Typing/word processing services,
- c. Project-related supplies and postage,
- d. Database search fees for project-related literature searches,
- e. Rental of space and/or equipment directly related to the preparation of the Federal proposal, and
- f. Salaries of individuals who were directly involved in preparation of the Phase I proposal.

Non-reimbursable costs under the Incentive Program include but are not limited to:

- a. Travel,
- b. Equipment purchases over \$300,
- c. Facility improvement, and
- d. Legal fees or patent preparation costs.

I. APPLICATION REVIEW AND APPROVAL. Applications will be reviewed to ascertain compliance with the requirements in an Incentive Solicitation on a rolling, first-come, first-served basis through the end of the Incentive Solicitation Period or until the funds available for the Incentive Program have been exhausted. Date and time of receipt of the complete Application (including 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 Incentive Solicitation.

J. 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.

K. GRANT AGREEMENT. The terms under which an Incentive Award is made will be reflected in a grant agreement between the State of North Carolina and the Recipient (incorporated in the “Grant Application and Agreement:”). Terms of performance in the 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 Incentive Solicitation,
2. The Recipient shall respond to the Board’s annual Incentive Program survey for a period of up to three years following receipt of the Incentive Award,
3. The Recipient shall maintain records and accounts verifying the application of all Incentive Award funds received for a minimum of three years and shall make such records available to the Board, upon request,
4. The Recipient shall prepare and submit to the Board a final report as outlined in Appendix B of the Incentive Solicitation within 30 days of notification of the Federal Phase I contract award or denial.

5. The Recipient shall affirm that Recipient has not and will not solicit funds from other sources that duplicate the purpose of the Incentive Award.
6. The Recipient or designated agent shall comply with the audit policy of the State of North Carolina with respect to the disposition of Incentive Award funds and shall comply with the certifications made by the Recipient as a condition of its Incentive Award. The Recipient shall also provide the Board with timely copies of reports on any audits that review use of Incentive Award funds.

L. GENERAL TERMS.

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

M. 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 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.

N. PUBLICATION OF INCENTIVE SOLICITATIONS AND GUIDELINES. The Board will publish the Guidelines and all Incentive Solicitations on the Board website at <http://www.ncscienceandtechnology.com>, accessible from a direct link on the North Carolina Department of Commerce website at <http://www.nccommerce.com>.