



ONE NC SMALL BUSINESS PROGRAM

Helping small businesses commercialize technology

BOARD OF
SCIENCE & TECHNOLOGY



SBIR/STTR Incentive and Matching Funds Program

ONE NC SMALL BUSINESS PROGRAM

Helping small businesses commercialize technology

Small Business Innovative Research (SBIR)
Small Business Technology Transfer (STTR)
2008-2009 **Matching Funds** Program Solicitation

Submission Dates: July 1, 2008, through June 30, 2009

Closing Date: 5:00 PM, June 30, 2009

Funding Opportunity Number: NCBST-FY0809M

North Carolina Board of Science and Technology

North Carolina Department of Commerce

301 North Wilmington Street

1326 Mail Service Center

Raleigh, NC 27699-1326

919-733-6500

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



**Notice of Availability of Funds and FY 2008 – 2009 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: NCBST–FY0809M, Rev. 0701

Statute and Guidelines: This Solicitation is issued pursuant to the Match 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 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.ncscitech.com>.

Solicitation Period: July 1, 2008 – June 30, 2009 inclusive.

Key Dates: The Closing Date for receipt of applications under this announcement is June 30, 2009. 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 Phase I award by the Federal SBIR/STTR agency. ****PLEASE NOTE: Applicants must have received official notification of Phase I awards by a Federal SBIR/STTR agency during the Solicitation Period to be eligible.**

Maximum Grant Amount: **100% of the Federal SBIR/STTR Program award, not to exceed \$75,000.**

Funding Available Under This Solicitation The maximum amount of funding available for all grants awarded under this Solicitation is \$3,800,000.

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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 firms 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 do not exceed \$100,000); and **Phase II** - to expand and develop Phase I results and develop commercially viable innovations (typically Phase II awards do not exceed \$750,000). 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 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 published on the Board’s website at: <http://www.ncscitech.com>, and 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 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) Match Award during the period covered by this Solicitation, and no more than a total of five (5) Match Awards over its lifetime.

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 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 up on proof of Phase I award, as described in the Guidelines.
 - b. **Stage 2** - 25% of the total Match Award will be disbursed upon submission and acceptance of the Phase I report by the Federal SBIR/STTR Program agency described in the Application and acknowledgement of receipt by the agency of the Phase II proposal corresponding to the Phase I effort, as described in the Guidelines.
3. So long as funds remain available, for each approved Application, Match Awards will be made in the amount of:

100% of the Federal SBIR/STTR Program award amount, not to exceed \$75,000.
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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 accessible through its website at: <http://www.ncscitech.com>. **Stage 1** or **Stage 2** Applications that do not include ALL required responses, documents, and information will be considered 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 grant agreement covering the Match Award have been met by the Recipient. Unsolicited Stage 2 disbursement Applications are not permitted under this Solicitation.

In addition to completing all required sections of the online Match Program Application, each Applicant 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.

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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 Authority* for the Applicant issued within 90 days of the date of Application by the North Carolina Secretary of State (<http://www.secretary.state.nc.us/corporations/security.aspx>) pursuant to G.S. 55-1-28, and 57C-1-28.
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.
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. **One** of the Following:

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

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

-or-

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

- a. A copy of the SBIR Phase I award or executed contract;
- b. A copy of the SBIR Phase I final report;
- c. Verification of the final payment to the Applicant under the Federal SBIR Phase I contract. In the event that final payment is pending, a certified letter from the relevant Federal agency documenting the firm's successful completion of the Federal SBIR Phase I contract, including a statement of eligibility for final payment, may be substituted.
- d. Proof that the Federal SBIR Phase II proposal has been submitted to and received by the participating Federal agency within the required eligibility period. Examples of such 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.

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.*

8. **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 and II efforts will be performed in North Carolina.

-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 Phase II proposal; and
- b. In the event the firm 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, if awarded, will be performed in North Carolina.

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 7 above. *The Board may find 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 5:00 PM local time, on June 30, 2009. No Applications or supplemental materials received in response to this Solicitation shall be accepted after the earlier of: 5:00 PM local time, June 30, 2009, 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 materials that must be transmitted in hard copy form. The Board is not responsible for Applications or materials lost in transmission. Applicants not able to obtain Internet access or for whom the electronic filing requirement causes an undue

hardship may request a waiver from the electronic filing requirement 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 Matching Funds Program, FY0809 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.

VI. APPLICATION REVIEW 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 5PM 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 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 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. In addition, 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 tax debts owed by the Recipient; and,
4. A Request for Electronic Payment.

After the execution and return of the grant agreement and submission of the required addition all information, the State of North Carolina will issue Match Program grant payments to Recipients electronically. Payments will be deposited into the checking or savings account of the Recipient's choice. Notification of the deposit will be made

either by fax or by e-mail.

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. All Recipients must submit electronically via *sciGrants*:

1. **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 firm receives the Federal Phase II award or notification that the Federal award will not be granted; a
2. **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
301 N. Wilmington Street
1326 Mail Service Center
Raleigh, NC 27699-1326
ATTN: Information Request - NC SBIR/STTR Matching Funds Program FY2008-2009

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

<http://www.ncscitech.com>. Current Federal SBIR solicitations and program information is available on-line at:

<http://www.sbirworld.com>.

Workshops

The Board will conduct workshops on Application preparation during the 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 Board SBIR program in general, please visit the Board website at <http://www.ncscitech.com>, the North Carolina Small Business Technology Development Centers at:

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<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 – Status Report Requirements

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

All required Status Reports must be submitted via *sciGrants* using the tools and forms provided therein for this purpose. As part of a 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 status at the time of the report in terms of:

1. Research progress;
2. The adequacy of NCBST 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 Match Award until the Recipient a Federal Phase II award for the program for which a Match Award was given or 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 questions:

1. If your firm 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 firm'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 firm.
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 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 \$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 purposes of the required reports, 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 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 G.S. 143-6.2 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

These reports must be submitted via *sciGrants* using the tools provided therein and by the State Auditor's Office for this purpose. Links to the tools developed by the Office of the State Auditor are provided within *sciGrants*.

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 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.

§ 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 Matching 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.
- (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 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 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 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. 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 North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I Matching Funds Program Guidelines

- A. **PROGRAM SUMMARY.** The North Carolina SBIR/STTR Phase I Matching Funds Program (the “Match Program”) is designed to award matching funds to North Carolina firms who have been awarded a Small Business Innovation Research Program or Small Business Technology Transfer Program (the “Federal SBIR/STTR Program”) Phase I award.

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 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; and **Phase II** - to expand and develop Phase I results and develop commercially viable innovations. The Federal SBIR/STTR Program also includes **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 Match Program in the manner set forth in these Guidelines for the One North Carolina Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Phase I Matching Funds Program (the “Guidelines”).

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

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

Under the Match Program, the Board will review Applications, on a rolling, first-come, first-serve basis, through the end of a Match Solicitation Period, or until the funds available for the Match Program have been exhausted. Awards will be made for up to 100% of a firm's Federal SBIR/STTR Program award, up to the maximum amount of \$100,000 (as set by the relevant Match Solicitation), through the end of a Match Solicitation Period, or until the funds available for the Match Program have been exhausted.

Applicants who receive Match Awards will receive 75% of the award amount upon receipt of an SBIR/STTR Phase I award, and will receive the additional 25% of the award, if and only if, the Phase I report is accepted by the funding agency *and* the Applicant submits the related Phase II application to the funding agency. Federal "Fast Track" SBIR/STTR Phase I Program Awards are also eligible under this 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 to be used for the SBIR/STTR Incentive and Matching Funds Program established pursuant to §143B-437.71(c) of the North Carolina General Statutes. The Match Program is established pursuant to N.C. Gen. Stat. § 143B-437.81. These Guidelines may be amended from time to time, using the same procedures set forth in N.C. Gen. Stat. §143B-437.82.
- C. PROGRAM PURPOSE.** The purpose of the Match Program is to foster job creation and economic development in North Carolina by increasing the competitive position of North Carolina small businesses in attracting SBIR and STTR grant funding, and provide an incentive for Phase I award-winning firms to participate in the more substantial Phase II program. The goals of the Match Program are to:
1. Increase the amount of Federal research dollars received by North Carolina small businesses;
 2. Help North Carolina companies bridge the funding gap period between the final Phase I payment and the first Phase II payment in the Federal SBIR/STTR Program;
 3. Increase the intensity of the research conducted under Phase I, making North Carolina small businesses more competitive in the competition for Phase II funds; and
 4. Encourage the establishment and growth of high-quality, advanced technology firms in the State of North Carolina.

D. DEFINITIONS.

1. *Applicant* - a Small Business that submits an application for a Match Award.
2. *Application* - the required form(s) to be completed and any supporting materials submitted by an Applicant in response to a Match Solicitation.
3. *Board* – Defined in Section A.
4. *Federal SBIR/STTR Programs* – Defined in Section A.
5. *Fast Track* - Federal program designed to provide interim Federal funding between the completion of a Federal SBIR or STTR Phase I grant and the beginning of the corresponding Federal SBIR or STTR Phase II grant. The Federal SBIR/STTR Fast Track program only applies to those Federal agencies that have elected to participate in the Federal Fast Track initiative.
6. *Guidelines* – Defined in Section A.
7. *Match Award* - Defined in Section A.
8. *Match Program* - Defined in Section A.
9. *Match Solicitation* – Defined in Section A.
10. *Match Solicitation Period* – Defined in Section G.
11. *Recipient* - an Applicant who has been approved to receive a Match Award.
12. *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. Award disbursements under this Program are made in 2 stages (denoted **Stage 1** and **Stage 2** as defined in Section H of these Guidelines), each of which require an application process.

1. Applicant must be a for-profit Small Business with its principal place of business in North Carolina.
2. Applicant must meet all Federal SBIR/STTR Programs eligibility requirements that are applicable to the relevant Federal solicitation.
3. Applicant must have received official notification of Phase I award by the federal SBIR/STTR agency during the Solicitation Period.
4. To receive a **Stage 1** grant, Applicant must have received an official notification of Federal SBIR/STTR Program Phase I SBIR or STTR award.
5. To receive a **Stage 2** grant, Applicant must have:
 - (a) Received a Stage 1 NC SBIR/STTR Matching Funds Program Award for the appropriate Federal SBIR/STTR Program Phase I SBIR or STTR award;

- (b) Successfully completed the Phase I effort corresponding to the Federal award and submitted a final Phase I report to the granting Federal SBIR/STTR Program agency;
 - (c) Received notification of the successful completion of the Phase I effort from the participating Federal SBIR/STTR Program agency;
 - (d) Demonstrated that the participating Federal SBIR/STTR Program agency has an interest in the related Phase II proposal, which may take the form of a formal request for a Phase II proposal from the agency;
 - (e) Submitted a Phase II proposal in response to the Federal SBIR/STTR Program agency's Phase II proposal request.
6. Applications for **Stage 1** funding under this program must be received no later than 45 days from the date of notification of Phase I award by the federal SBIR/STTR agency.
 7. Applications for **Stage 2** funding under this program must be received no later than 90 days from the date of submission of the Phase I report to the federal SBIR/STTR agency.
 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 NC SBIR/STTR Matching Funds Program Award for which the Applicant has already received a NC SBIR/STTR Matching Funds Program Award.
 10. Any Applicant that, in the judgment of the Board, has failed to correct a material breach of a grant agreement or award under any program administered by the Board is ineligible to submit an Application.
 11. Applicant must satisfy any other eligibility requirements established by the Board and published in this Solicitation.
- F. **LIMITATIONS ON MATCH AWARDS.** An Applicant may receive no more than one (1) Match Award during the period covered by a Match Solicitation, and no more than a total of five (5) Match Awards over its lifetime.

Specific Limitations on STTR Match Awards. Federal STTR awards are granted to a cooperative research collaboration between a Small Business and a single research institution. *The Board will consider for funding under the Match Program only the fraction of the total of a Federal STTR grant amount made to the Small Business Applicant in the collaboration, up to the limits established in the Match Solicitation. The research institution component of the collaboration is ineligible for funds*

under the Match Program and the portion of the Federal STTR award made to it will not be considered in establishing the amount of any Match Award made to the Small Business.

- G. MATCH SOLICITATION, PERIOD, AND SUBMISSION.** For each funding cycle of the Match Program, the Board will issue a request for funding proposals in the form of a Match Solicitation. These Guidelines are incorporated into all Match Solicitations, which shall also include but not be limited to: opening and closing dates for the solicitation (the “Match Solicitation Period”), the award amount available, reporting and proposal preparation guidance, and any required Application forms. To qualify for an award under a Match Solicitation, an Applicant must have been notified that it is the recipient of a Federal SBIR/STTR Program Phase I award within the Match Solicitation Period. No applications or supplemental materials submitted in response to a Match Solicitation will be accepted after its closing date, or after funds have been exhausted.

H. FUNDING TERMS, MILESTONES.

1. Completed Applications will be considered, and funds awarded, on a rolling, first-come, first-serve basis, through the end of a Match Solicitation Period, or until the funds available for the Match Program have been exhausted.
2. So long as funds remain available, for each approved Application, funds will be awarded in an amount up to 100% of the Federal SBIR/STTR Program award, 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, Match Awards will be made available in **two Stages**:
 - a. **Stage 1** - 75% of the total Match Award will be paid upon proof of Phase I award,
 - b. **Stage 2** - 25% of the total Match Award will be paid upon submission and acceptance of the Phase I report by the Federal SBIR/STTR Program agency described in the Application, and submission to and acknowledgement of receipt by the 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 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.

Stage 2 disbursements **will not be made automatically** to 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.

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 a rolling, first-come, first-serve basis, through the end of a Match Solicitation Period, or until the funds available for the Match 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 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 of North Carolina and the Recipient. Terms of performance in the grant agreement will include but will not be limited to the following:

1. The Recipient shall comply with all requirements described in these Guidelines and the Match Solicitation,
2. The Recipient shall agree to prepare and submit regular status reports to the Board as outlined in the Match Solicitation.

3. The Recipient shall agree to prepare and submit a final report as described in the Match Solicitation, to the Board within thirty (30) days of notification of the Federal Phase II contract award or denial.
4. The Recipient shall agree to complete and submit to the Board its annual Matching Funds Program Survey for a period of up to five (5) years following receipt of the Match Award.
5. The Recipient, or designated agent, shall maintain records and accounts that properly document and account for the application of all Match Program funds for a minimum of five (5) years after the date of award. All such records and accounts shall be made available on demand by authorized representatives of the Board 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 audit policy of the State of North Carolina 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.

M. FAST TRACK PROVISION

1. Fast Track Applicant Eligibility. In order to be eligible to be considered for an award under the Fast Track provisions of the Match Program, the Applicant must comply with all provisions set forth in these Guidelines and **in addition** must:
 - a. Have applied for a Federal Phase II SBIR or STTR 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 SBIR or STTR Phase I contract with a *confirmed* budget.

2. **Fast Track Funding Terms.** Funding for approved Fast Track Matching Awards will be disbursed to a Recipient only when the Board has received all documentation required by this program, and the firm's Phase I final report. The Phase I final report must be submitted to the Board within 12 months of the Match Award start date.
3. **Fast Track Application Requirements.** Applicants must submit evidence that the SBIR or STTR Fast Track application and SBIR or STTR Phase II application were submitted in accordance with the requirements outlined by the Federal agency solicitation. 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.

O. GENERAL TERMS.

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

P. **RELEASE OF INFORMATION.** All documents submitted to the Board, including Applications, are public records governed by Chapter 132 of the 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.

Q. **PUBLICATION OF MATCH SOLICITATIONS AND GUIDELINES.** The Board will publish the Guidelines and all Match 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>.