

# NMCARS ANNEX 13 - SMALL BUSINESS INNOVATION RESEARCH (SBIR) PHASE III JUSTIFICATION & APPROVAL FOR USE OF OTHER THAN FULL AND OPEN COMPETITION

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### 1. Agency and Contracting Activity.

Department of the Navy, \_\_\_[insert name of Contracting Activity]\_\_\_

### 2. Nature/Description of Action(s) Being Approved.

This is a justification to award a Small Business Innovation Research (SBIR) (or Small Business Technology Transfer (STTR)) Phase III contract to \_\_\_[insert name of contractor]\_\_\_.

***NOTE (delete after reading): The statement below may need to be tailored to accurately communicate the sequence of events. If the recipient of Phase I and Phase III are not the same, then please explain.***

\_\_\_[insert name of contractor]\_\_\_ was awarded SBIR (or STTR) Phase I [contract number] on \_\_\_[insert effective date of award]\_\_\_, resulting from Solicitation \_\_\_[insert solicitation number]\_\_\_, [Topic/Topic number]. \_\_\_[insert name of contractor]\_\_\_ was subsequently awarded SBIR (or STTR) Phase II [contract number] on \_\_\_[insert effective date of award]\_\_\_.

### 3. Description of Supplies/Services.

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**[Briefly describe the supplies/services required to meet the agency's needs. State the estimated value, inclusive of all options.]**

***NOTE (delete after reading): This action must clearly demonstrate that the Phase III work derives from, extends, or completes efforts performed under Phase I and Phase II.***

### 4. Identification of Statutory Authority.

10 U.S.C. 2304(c)(5), as implemented by FAR 6.302-5: Authorized or Required by Statute.

15 U.S.C. 638(r)(1) states:

“In the case of a small business concern that is awarded a funding agreement for Phase II of an SBIR or STTR program, a Federal agency may enter into a Phase III agreement with that business concern for additional work to be performed during or after the Phase II period. “

Furthermore, 15 U.S.C. 638(r)(4) states:

“To the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards relating to technology, including sole source awards, to the SBIR and STTR award recipients that developed the technology.”

5. Demonstration that Proposed Contractor’s Unique Qualifications or Nature of Acquisition Requires Use of Authority Cited.

The nature of the acquisition requires the use of the authority cited. The SBIR/STTR Programs are structured in three phases. Phase I (project feasibility) determines the scientific, technical and commercial merit and feasibility of the ideas submitted. Phase II (project development to prototype) is the major research and development effort, funding the prototyping and demonstration of the most promising Phase I projects. Phase III (commercialization) is the ultimate goal of the SBIR/STTR Programs. Because the Phase III work derives from, extends, or completes efforts performed under Phase I and Phase II, use of the authority cited is required.

6. Description of Efforts Made to Ensure Offerors Were Solicited from as Many Potential Sources as Practicable/ Public Notification through Government Point of Entry (GPE).

As described above, only \_\_\_[insert name of contractor]\_\_\_ is being considered for Phase III award due to the nature of the acquisition. In accordance with FAR 5.202(a)(7), this proposed contract action does not require public notification to the GPE.

7. Determination of Fair and Reasonable Cost.

The Contracting Officer will determine prior to award that the negotiated price of the contract executed under this justification is fair and reasonable pursuant to FAR Subpart 15.4. This determination will be documented in \_\_\_[list applicable location of the determination, e.g. **Business Clearance Memorandum**]\_\_\_, which will be included in the contract file.

8. Description of Market Research or Statement of the Reason Market Research was not Conducted.

FAR 10.001(a)(2) indicates that market research appropriate to the circumstances must be conducted. SBIR Phase III procurements are such that traditional market research to identify alternative sources is generally unnecessary. As described above, the Phase III work derives from, extends, or completes efforts performed under Phase I and Phase II.

***NOTE (delete after reading): Notwithstanding the statement above, market research may be performed if appropriate. If any market research was performed, describe in this section.***

9. Any Other Supporting Facts.

Not applicable.

10. Listing of Interested Sources.

Not applicable.

11. Actions Taken to Remove Barriers to Future Competition.

The Contracting Officer anticipates that competitors will enter the market once the product is commercialized. It is likely that future acquisitions will be competed using full and open competition and commercial item acquisition procedures. The Contracting Officer is not aware of any specific actions that would further remove barriers to competition.

12. Period of Performance.

Base: \_\_[insert length of base period of performance]\_\_

Option(s): \_\_[insert the length of any option periods of performance (if any)]\_\_.

13. Total Estimated Dollar Value of the Acquisition Covered by this J&A, with Funding Specified by Year and Appropriation.

The total estimated value of this acquisition is \_\_[insert total estimated value]\_\_. \_\_[insert type of funding, e.g. "RDT&E"]\_\_ funding is anticipated to be allocated as follows:

\_\_[insert anticipated allocation of funding by year and appropriation]\_\_.

14. Actions Attempted to Make Immediate Acquisition Competitive and Cost/Benefit Analysis

No actions were attempted to make the immediate acquisition competitive; no cost/benefit analysis was performed. As described above, only \_\_[insert name of contractor]\_\_ is being considered for Phase III award due to the nature of the acquisition.

***NOTE (delete after reading): The following section may need to be revised. This template assumes that the total anticipated value of the action (base plus all options) is within the thresholds described in FAR 6.304(a)(2). The appropriate approval authorities for your action may be different than this template. See FAR 6.304, DFARS 206.304, NMCARS 5206.304, and local procedures for further guidance.***

TECHNICAL AND REQUIREMENTS CERTIFICATION REQUIRED BY FAR 6.303-2(c):

I certify that the facts and representations under my cognizance which are included in this Justification and its supporting acquisition planning documents, except as noted herein are complete and accurate to the best of my knowledge and belief.

TECHNICAL COGNIZANCE:

NAME Code Phone Date

TITLE

REQUIREMENTS COGNIZANCE:

NAME Code Phone Date

TITLE

LEGAL SUFFICIENCY REVIEW:

I have determined that this Justification is legally sufficient.

NAME Code Phone Date

TITLE

CONTRACTING OFFICER'S CERTIFICATION REQUIRED BY FAR 6.303-2(b)(12):

I certify that this Justification is accurate and complete to the best of my knowledge and belief.

NAME Code Phone Date

TITLE

COMPETITION ADVOCATE APPROVAL REQUIRED BY FAR 6.304(a)(2):

Upon the basis of the following justification, I hereby approve, as Procuring Activity Competition Advocate for \_\_ **[insert name of Contracting Activity]** \_\_, the use of other than full and open competition for the proposed procurement described herein, pursuant to the authority of 10 U.S.C. 2304(c)(5).

NAME Code Phone Date

TITLE

All questions regarding this justification are to be referred to \_\_ **[insert name of Contracts Specialist]** \_\_, \_\_ **[insert Command and Code]** \_\_, \_\_ **[insert telephone number]** \_\_, \_\_\_\_\_ **[insert email address]**.