

FINDINGS, DETERMINATION, AND AUTHORIZATION FOR ADVANCE PAYMENTS FOR A CLASS OF CONTRACTS (SBIR Phase II)

This Determination and Findings is not an approval of a program or of specific procurements. It authorizes advance payments for a class of contracts described herein only if, in accordance with established agency regulations and procedure, the procurement has been authorized and funds have been made available for the purpose.

Upon the basis of the following findings and determination, the making of advance payments, without interest, under the proposed class of contracts described below is in the public interest.

FINDINGS

The undersigned hereby finds that:

1. The NIH proposes to award negotiated fixed-price or cost-reimbursement Research/Research and Development (R/R&D) contracts with an estimated amount of \$1,000,000, including fee, for each contract under Phase II of the Small Business Innovation Research (SBIR) Program reauthorized by the enactment of the National Defense Authorization Act (Public Law 112-81), Division E – SBIR and STTR Reauthorization. The contracts, which cover a wide number of different topic areas, will normally be for a period of two years.
2. The objectives of Phase II SBIR contracts are to continue the R/R&D efforts completed under Phase I.
3. The National Defense Authorization Act (Public Law 112-81), requires the NIH, among other agencies, to establish an SBIR Program by reserving a statutory percentage of its Extramural R/R&D budget to be awarded to small business concerns for R/R&D projects of interest to the NIH, with potential for commercial applications. Major purposes of P.L. 112-81 are to (1) stimulate technological innovation, (2) use small business to meet Federal R/R&D needs, (3) foster and encourage participation by socially and economically disadvantaged small business concerns in technological innovation, and (4) increase private sector commercialization of innovations derived from Federal R/R&D. The best way to facilitate innovation to meet these requirements with uniformity and consistency is to provide advance payments to each contractor.
4. It is anticipated that many, if not all, of the small business concerns responding to the solicitation will require financial assistance in some form. A single advance payment equal to three months estimated disbursements will provide sufficient operating capital for the contractor to perform the contract until the contractor begins to receive reimbursements under normal billing procedures.

5. A single advance payment, which may not exceed three months estimated expenditure, is required by the contractor in order to perform the contract.
6. The advance payments are necessary for prompt and efficient performance of the contract, which will benefit the Government.
7. The "Advance Payments" clause contains appropriate provisions for the protection of the Government's interest. This includes provisions that the Government will have a lien, paramount to all other liens, upon (i) the supplies contracted for, and (ii) any material or property acquired for the performance of the contract. Such security is deemed to be adequate.

DETERMINATION

Upon the basis of the foregoing findings and pursuant to the authority under HHSAR 332.402(e), the undersigned hereby determines that the making of the proposed advance payment, without interest, is in the public interest.

AUTHORIZATION

Advance payments for a class of contracts in a total amount not to exceed three months estimated expenditures is hereby authorized for each Phase II contract awarded under NIH's SBIR Program for Fiscal Year 2013 pursuant to the National Defense Authorization Act (Public Law 112-81), Division E – SBIR and STTR Reauthorization, and upon the terms and conditions as contained in the Advance Payments clause of the contract.

5/7/13
Date

for Todd C Cole
Diane J. Frasier
Head of the Contracting Activity and
Director, Office of Acquisition Management
and Policy, OA