

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

Rules Amending Title 15
Hawaii Administrative Rules

<Date>

1. Chapter 32 of Title 15, Hawaii Administrative Rules, entitled “Hawaii Small Business Innovation Research and Small Business Technology Transfer Grant Program” is amended and compiled to read as follows:

“HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

SUBTITLE 6

HIGH TECHNOLOGY DEVELOPMENT CORPORATION

CHAPTER 32

HAWAII SMALL BUSINESS INNOVATION RESEARCH AND SMALL
BUSINESS TECHNOLOGY TRANSFER GRANT PROGRAM

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SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§15-32-1 Purpose. The purpose of this chapter is to provide rules governing implementation of the Hawaii small business innovation research and small business technology transfer grant program authorized by chapter 206M, HRS. [Eff 12/21/89; am and comp 12/13/12; comp] (Auth: HRS §206M-15) (Imp: HRS §206M-15)

§15-32-2 Definitions. As used in this chapter, unless a different meaning clearly appears in context:

"Board" means the board of directors of the development corporation.

"Development corporation" means the high technology development corporation established by chapter 206M, HRS.

"Grant" means financial assistance provided to SBIR and STTR [~~phase I~~] awardees and applicants under the terms and conditions provided in this chapter.

"Hawaii Small Business Innovation Research and Small Business Technology Transfer Grant Program" means the programs administered by the development corporation to encourage participation by Hawaii companies in the federal SBIR and STTR programs.

"HRS" means the Hawaii Revised Statutes.

"Recipient" means any business receiving a grant under this chapter.

"SBIR" means Small Business Innovation Research.

"SBIR phase I award" means an award or contract granted by an agency of the federal government for preliminary investigation under the Small Business Innovation Research Program.

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"SBIR phase II award" means an award or contract granted by an agency of the federal government for further investigation of selected SBIR phase I projects.

"SBIR phase III award" means an award or contract granted by an agency of the federal government for the small business to pursue commercialization objectives resulting from SBIR phase I or phase II research and development activities.

"State" means the State of Hawaii.

"STTR" means Small Business Technology Transfer.

"STTR phase I award" means an award or contract granted by an agency of the federal government for preliminary investigation under the Small Business Technology Transfer Program.

"STTR phase II award" means an award or contract granted by an agency of the federal government for further investigation of selected STTR phase I projects.

"STTR phase III award" means an award or contract granted by an agency of the federal government for the small business to pursue commercialization objectives resulting from STTR phase I or phase II research and development activities. [Eff 12/21/89; am and comp 12/13/12; am and comp]
(Auth: HRS §206M-15) (Imp: HRS §206M-15)

§15-32-3 Purpose of program. The purpose of the Hawaii small business innovation research and small business technology transfer grant program is to provide funds to complement federal SBIR and STTR [~~phase I~~] awards to increase the competitiveness of small businesses in Hawaii and to enhance their prospects for bringing subsequent SBIR and STTR [~~phase II~~] awards of federal funds into the State[-], including awards that assist the businesses in surpassing the research and development level and transforming their research into innovative and commercial products and services.
[Eff 12/21/89; am and comp 12/13/12; am and comp]
(Auth: HRS §206M-15) (Imp: HRS §206M-15)

§15-32-4 Grants; purpose; use of. (a) The development corporation may provide grants in accordance with [~~Section~~] section 206M-15, HRS.

- (b) Grants may be used by any recipient for any of the following purposes:
- (1) To purchase equipment or services, augment staff to add expertise required to expedite or enhance the quality of the SBIR or STTR [~~phase I~~] program work, prepare an SBIR or STTR [~~phase I or H~~] program proposal, or prepare for subsequent SBIR or STTR [~~phase H~~] program activities[-];
 - (2) To establish financial responsibility and to undertake the approved SBIR or STTR [~~phase I~~] program work while awaiting funding from the federal agency granting the SBIR or STTR [~~phase I~~] award[-]; or
 - (3) To serve as a "bridge" to permit the recipient to continue its operations during the time period between the completion of the SBIR or STTR [~~phase I~~] award submission and receipt of subsequent SBIR or STTR [~~phase H~~] award funds.
- (c) Grants shall not be used by any recipient for any of the following purposes:
- (1) Where the direct or indirect purpose or result of the grant would be to:
 - (A) Repay a creditor or creditors of the recipient for any reason; or
 - (B) Provide funds directly or indirectly as a loan to owners, partners, or shareholders of the recipient;
 - (2) Effect a change in ownership of the recipient;
 - (3) Provide or free up funds for [~~speculation in~~] acquisition of any kind of real property[-, real or personal, tangible or intangible; or];
 - (4) Entertainment or lobbying activities[-]; or
 - (5) Payment for goods or services for which moneys were granted under the manufacturing development program pursuant to section 206M-___, HRS, or the alternative energy research and development program pursuant to Act 159, Session Laws of Hawaii 2015.

[Eff 12/21/89; am and comp 12/13/12; am and comp HRS §206M-15) (Imp: HRS §206M-15)] (Auth:

SUBCHAPTER 2

ELIGIBILITY AND SELECTION PROCESS

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§15-32-5 Eligibility requirements. Any business applying for a grant shall meet all of the following qualifications:

- (1) Either:
 - (A) Receive an SBIR or STTR phase I, phase II, or phase III award and furnish appropriate documentation as determined by the development corporation that the award has been made; or
 - (B) Apply for an SBIR or STTR federal grant and furnish appropriate documentation as determined by the development corporation that the application has been made;
- (2) Conduct the SBIR or STTR phase I program activities and any related SBIR or STTR phase II program activities in the State. The SBIR or STTR [~~phase I~~] program activities must be in progress at some time during the calendar year in which the grant is awarded;
- (3) Agree that if selected for an SBIR or STTR Phase II award, it will continue to perform the program activities in the State, and that if selected for an SBIR or STTR Phase III award, it will maintain its principal place of business and conduct a substantial portion of its operations in the State;
- (4) Either be incorporated under the laws of the State, or be registered to do business in the State;
- (5) Has bylaws or policies that describe the manner in which the activities or services for which the grant is awarded shall be conducted or provided;
- (6) Be licensed or accredited, in accordance with federal, state, or county statutes, rules, or ordinances, to conduct the activities or provide the services for which the grant is awarded;
- (7) Comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability; and
- (8) Allow the development corporation, legislative committees and their staff, and the auditor full access to its records, reports, files, and other related documents and information for purposes of monitoring, measuring the effectiveness, and ensuring the proper expenditures of the grant. [Eff 12/21/89; am and comp 12/13/12;

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am and comp] (Auth: HRS §206M-15)
(Imp: HRS §206M-15)

§15-32-6 Application procedure. Any business applying for a grant shall, as applicable, either:

- (1) Upon receipt of notification by the awarding federal agency that an SBIR or STTR phase I, phase II, or phase III award has been approved and funded, forward a copy of the accepted proposal and a copy of the notification of award to the chief executive officer of the development corporation as part of the application; or
- (2) Forward a copy of its application for an SBIR or STTR federal award and a copy of the federal agency's [~~acknowledgement~~] acknowledgment of receipt of a completed application to the chief executive officer of the development corporation as part of the application. [Eff 12/21/89; am and comp 12/13/12; am and comp] (Auth: HRS §206M-15) (Imp: HRS §206M-15)

§15-32-7 Consideration and review of applications. (a) [~~As soon as practicable following receipt of the application, the chief executive officer of the~~] The development corporation shall cause the review of the application and resolution of any questions relating to the application through contact with the grant applicant.

(b) [~~As soon as practicable following~~] Following such review and resolution, the board shall [~~fully review and evaluate the application.~~] consider and make a decision on qualified applications.

[~~(c) The application shall be considered by the board for decision at a meeting after its review of the application.~~] [Eff 12/21/89; am and comp 12/13/12; am and comp] (Auth: HRS §206M-15) (Imp: HRS §206M-15)

§15-32-8 Preferences and priorities in making grants. (a) [~~In the event~~

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~~that insufficient~~ If available funds are ~~[available]~~ insufficient to ~~[fund]~~ award all qualified ~~[SBIR and STTR phase I awardees,]~~ applicants, preference shall be given to ~~[all qualified]~~:

- (1) Qualified businesses that have received their first federal SBIR or STTR award;
- (2) Qualified businesses receiving their first award from the development corporation in the current fiscal year over multiple award grantees[-]; and
- (3) Qualified businesses that have completed an I-Corps or SBIR Commercialization Assistance Program.

(b) The development corporation shall not grant more than one Phase II or Phase III award to any business in a fiscal year unless funding remains available in the last quarter of the fiscal year.

~~[(b)](c) [In the event that insufficient funds are available to fund all qualified grant applicants, the]~~ The development corporation shall be guided by the nature and economic significance of the innovation and research activity of each grant application, the importance of the grant to the activity's success, and the potential economic advantage or job creation prospects offered to the State in determining the distribution of funds. [Eff 12/21/89; am and comp 12/13/12; am and comp] (Auth: HRS §206M-15) (Imp: HRS §206M-15)

§15-32-9 Maximum grant amount; disbursement. (a) Maximum grant amounts shall be in accordance with section 206M-15, HRS[-], and shall not exceed \$500,000 per award.

(b) ~~[The]~~ For awards greater than \$150,000 the grant amount [may] shall be disbursed as [a lump sum upon approval by the development corporation.] payments based on milestones approved by the chief executive officer of the development corporation. [Eff 12/21/89; am and comp 12/13/12; am and comp] (Auth: HRS §206M-15) (Imp: HRS §206M-15)

SUBCHAPTER 3

INSPECTION AND COMPLETION

§15-32-10 Inspection of premises and records. The development corporation shall have the right to inspect at reasonable hours, the plant, physical facilities, equipment, premises, books, and records of any grant applicant either in the processing of the grant application or in the administration of the grant to the recipient. [Eff 12/21/89; am and comp 12/13/12; comp] (Auth: HRS §206M-15) (Imp: HRS §206M-15)

§15-32-11 Completion of research activities. (a) Upon completion of the SBIR or STTR [~~phase-I~~] program activities, recipients shall forward to the development corporation a copy of the transmittal letter that forwarded the completed report to the federal agency.

(b) Recipients shall complete surveys from the development corporation designed to measure the economic impact of the SBIR or STTR program and to assist the National Institute of Standards and Technology's Manufacturing Extension Partnership program. Recipients shall complete the surveys annually during the term of their SBIR or STTR program activities and for five years following the completion of their program activities.

(c) The development corporation [~~shall seek~~] may request recipients to provide information regarding [~~problems~~] issues encountered with the [~~SBIR or STTR phase-I~~] Hawaii small business innovation research and small business technology transfer grant program and recommendations for its improvement [by encouraging recipients to provide information on their experiences with the SBIR or STTR phase I program at their discretion]. [Eff 12/21/89; am and comp 12/13/12; am and comp] (Auth: HRS §206M-15) (Imp: HRS §206M-15)

§15-32-12 Acknowledgment. (a) Recipients shall acknowledge the development corporation in a proper and appropriate manner as a funder in all promotional publications, press releases, and other informational materials relating to the recipient's SBIR and STTR awards for a period of two years following award. Recipients shall provide such materials to the development corporation prior to their release to the public." [Eff and comp] (Auth: HRS §206M-15) (Imp: HRS §206M-15)

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2. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 15-32, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

LUIS P. SALAVERIA
Director
Department of Business, Economic
Development, and Tourism

APPROVED AS TO FORM:

Deputy Attorney General