



Certification Page Regular and Emergency Rules

Revised June 2020

Emergency Rules (Complete Sections 1-3 and 5-6)

Regular Rules

1. General Information

a. Agency/Board Name* Wyoming Business Council			
b. Agency/Board Address 214 W 15th St		c. City Cheyenne	d. Zip Code 82001
e. Name of Agency Liaison Taylor Vignaroli		f. Agency Liaison Telephone Number 307-214-0485	
g. Agency Liaison Email Address taylor.vignaroli@wyo.gov		h. Adoption Date 5/3/2023	
i. Program Small Business Innovation Research Matching Program			

Amended Program Name (if applicable):

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular (non-emergency) rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these non-emergency or regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. **Yes.** If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):

3. Rule Type and Information

For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.

a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.

Chapter Number: 1	Chapter Name: Small Business Innovation Research Matching Program	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed
Amended Chapter Name (if applicable):		

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. No. Yes. N/A

b. A public hearing was held on the proposed rules. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:

5. Checklist

a. For regular rules, the Statement of Principal Reasons is attached to this Certification and, in compliance with Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule

b. For emergency rules, the Memorandum to the Governor documenting the emergency, which requires promulgation of these rules without providing notice or an opportunity for a public hearing, is attached to this Certification.

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct. By electronically submitting the emergency or regular rules into the Wyoming Administrative Rules System, the undersigned acknowledges that the Registrar of Rules will review the rules as to form and, if approved, the electronic filing system will electronically notify the Governor's Office, Attorney General's Office, and Legislative Service Office of the approval and electronically provide them with a copy of the complete rule packet on the date approved by the Registrar of Rules. The complete rules packet includes this signed certification page; the Statement of Principal Reasons or, if emergency rules, the Memorandum to the Governor documenting the emergency; and a strike and underscore copy and clean copy of each chapter of rules.

Signature of Authorized Individual	<u>Taylor Vignaroli</u> <small>Taylor Vignaroli (May 9, 2023 10:13 MDT)</small>
Printed Name of Signatory	<u>Taylor Vignaroli</u> <small>Taylor Vignaroli (May 9, 2023 10:13 MDT)</small>
Signatory Title	Entrepreneur Development Manager
Date of Signature	May 9, 2023

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	
Date of Signature	

Statement of Principle Reasons

Wyoming Business Council

Small Business Innovation Research (SBIR) Matching Program

Adoption of Updated Regular Rules: Chapter 1

The Business Council is proposing to update regular rules that fulfill its statutory obligation for the “small business innovation research matching program” Program under W.S. § 9-12-105(d). The proposed rule updates are intended to accomplish the following:

- Clarify language
- Simplify definitions
- Improve the application and reporting process
- Refine eligibility criteria

The proposed updates will improve the application process, making it more transparent, efficient, and aligned with the state of Wyoming’s economic development strategy. Wyoming Business Council is statutorily exempt from the Wyoming Administrative Procedure Act under W.S. § 9-12-102(g)(iii).

Chapter 1

Small Business Innovation Research Matching Program

Section 1. Authority. The Wyoming Business Council, pursuant to Wyoming Statute § 9-12-105(d), is required to promulgate such rules as are necessary to administer a Small Business Innovation Research (SBIR) program to match federal funds approved for Wyoming companies conducting research and development activity in the State.

Section 2. Purpose. These rules are promulgated for the purpose of establishing a regulatory framework for providing matching funding to small businesses headquartered in and organized under the laws of Wyoming that have received federal funds for the purpose of research and development.

Section 3. Definitions.

- (a) As used in this chapter:
 - (i) “Council” means the Wyoming Business Council Board of Directors.
 - (ii) “Council Staff” means the staff of the Wyoming Business Council assigned to administer the SBIR program.
 - (iii) “Applicant” means a Wyoming based company that applies for funding under the SBIR program.
 - (iv) “Awardee” means a business entity or individual who has been awarded funds under the SBIR program.
 - (v) “Phase I award” is as specified by the federal granting agency.
 - (vi) “Phase II award” is as specified by the federal granting agency, including variations or related programs of Phase II federal programs.

Section 4. Application requirements and program eligibility.

- (a) In addition to the statutory requirements under W.S. § 9-12-105(d), to be eligible, an applicant must:
 - (i) Have received an SBIR or Small Business Technology Transfer (STTR) Phase I or II award from a federal agency targeted at the development of qualified research or technologies on or after July 1, 2018;
 - (ii) Be a for-profit partnership, limited liability company, limited liability partnership, or corporation registered with the Wyoming Secretary of State;

(iii) Agree to provide a report, as described in Section 5(e), describing in detail its efforts to and success in commercializing the service, product, concept, design or other marketable asset to be developed with the assistance of State funds;

(iv) Produce or propose to produce a service, product, concept, design or any other marketable asset that aligns with the State of Wyoming's Economic Development Strategy;

(v) Certify that, to the extent practical, all of the research described in any proposal for Phase I or Phase II funding will be conducted in Wyoming; and

(vi) Commit to seeking additional investment funding investment funding, whether from federal or private sources.

(vii) Additional eligibility requirements may be outlined in the SBIR matching grant program guidelines.

(b) Awardees are limited to one (1) award per phase under this chapter per fiscal year (July 1 through June 30), for a maximum of two (2) SBIR awards per year, and four (4) SBIR awards over the life of the company.

Section 5. Application process.

(a) Application.

(i) Council shall provide an SBIR application online that includes a requirement to provide information relevant for funding decisions, including but not limited to information that establishes the applicant's eligibility for SBIR funding.

(ii) Each applicant shall file its application for SBIR funds with Council Staff online at a website provided by Council Staff.

(b) Application process, procedure and approval. Applications are received on a quarterly basis and reviewed in the following manner:

(i) Council Staff reviews to ensure accuracy, eligibility and completeness, and provides a recommendation based upon these rules and W.S. § 9-12-105(d).

(ii) The Council or Council Staff has the sole discretion to make award decisions based upon these rules and W.S. § 9-12-105(d). The Council or Council Staff may consult with subject matter experts for assistance and advice in making funding decisions.

(c) Award amounts, disbursement schedules, and annual allocations.

(i) Number of awards.

(A) Council Staff, in their sole discretion, may make up to twenty (20) Phase I awards per fiscal year.

(B) Council Staff, in their sole discretion, may make up to twenty (20) Phase II awards per fiscal year.

(C) Council Staff, in their sole discretion, may award up to five million dollars (\$5,000,000.00) in total SBIR awards per fiscal year.

(ii) Disbursement schedules and annual allocations to this program are detailed in the startup: Wyoming Subaccount Allocation Plan and Procedures adopted by the Council.

(d) Reporting.

(i) Upon project completion, awardees shall provide a report on or before July 1 of each year for three (3) years prior to commercialization, and for three (3) years after commercialization, or a maximum of five (5) years, highlighting the elements required under Wyoming Statute § 9-12-105(d)(i)(E).

(ii) In addition to the elements required under Wyoming Statute § 9-12-105(d)(i)(E), the required annual report to the Council must address the awardee's:

(A) Development of the proposed service, product, concept, design or other marketable asset in sufficient detail to allow Council Staff to review the awardee's progress towards commercialization;

(B) Progress toward seeking and receiving additional funding, whether from State, federal or private sources;

(C) Plans for growth, market, commercialization and capitalization for the upcoming year;

(D) Proof of proper use of funds in the form of receipts or invoices;

(E) Maintenance of nexus in Wyoming that is substantial and continuous. To prove nexus, awardee must provide documentary evidence showing the majority of the awardee's employees work in Wyoming.

(iii) An awardee must provide material to the Council or Council Staff as requested for purposes of promoting Wyoming's entrepreneurial ecosystem and lifestyle.

(iv) Additional reporting requirements may be outlined in the SBIR matching grant program guidelines.

(e) Allowable use of funds; consequence for misuse of funds and repayment.

(i) Funds may be spent on materials or activities that facilitate development or commercialization of a company's service, product, concept, design or any other marketable asset. Any other use of State-provided SBIR funds is prohibited.

(ii) In addition to the repayment requirement under W.S. § 9-12-105(d)(iv), the Council may seek return of the disbursed funds if it at any time determines that an awardee has failed to submit any part of the required annual report, including disclosure of its efforts to seek additional nonstate investment funding; has made a prohibited use of the funds; or has breached the agreement between itself and the Council. In that instance, the grant recipient shall repay all funds provided under this chapter plus interest at the rate of four percent (4%) per annum compounded annually from the date the funds were granted. This provision is in addition to, and does not replace, any other potential cause of action the Council may have against the awardee based on its conduct.

(f) Conflict with federal rules

(i) To the extent these rules are inconsistent with or otherwise conflict with rules for the federal grant program under which the Applicant has received federal funds, the contrary rules and requirements of the federal program shall control. This provision shall not apply if the conflict results from a statutory provision.

Section 6. Program administration. The Council may designate Council Staff to approve applications and make award decisions. If the Council chooses to designate Council Staff with this responsibility, Council Staff shall make a quarterly report to the Council on the number of applications approved, the status of the approved applications, and the amount of funds distributed to awardees.

Chapter 1

Small Business Innovation Research Matching Program

Section 1. Authority. The Wyoming Business Council, pursuant to Wyoming Statute § 9-12-105(d), is required to promulgate such rules as are necessary to administer a Small Business Innovation Research (SBIR) program to match federal funds approved for Wyoming companies conducting research and development activity in the State.

Section 2. Purpose. These rules are promulgated for the purpose of establishing a regulatory framework for providing matching funding to small businesses headquartered in and organized under the laws of Wyoming that have received federal funds for the purpose of research and development.

Section 3. Definitions.

- (a) As used in this chapter:
- (i) “Council” means the Wyoming Business Council Board of Directors.
 - (ii) “Council Staff” means the staff of the Wyoming Business Council assigned to administer the SBIR program.
 - (iii) “Applicant” means a Wyoming based company that applies for funding under the SBIR program.
 - (iv) “Awardee” means a business entity or individual who has been awarded funds under the SBIR program.
 - (v) “Phase I award” ~~means an award where the federal government has made a grant under 15 U.S.C. § 638(e)(4)(A).~~ is as specified by the federal granting agency.
 - (vi) “Phase II award” ~~means an award where the federal government has made a grant under 15 U.S.C. § 638(e)(4)(B)(i)–(iv).~~ is as specified by the federal granting agency, including variations or related programs of Phase II federal programs.

Section 4. Application requirements and program eligibility.

- (a) In addition to the statutory requirements under W.S. § 9-12-105(d), to be eligible, an applicant must:
- (i) Have received an SBIR or Small Business Technology Transfer (STTR) Phase I or II award from a federal agency targeted at the development of qualified research or technologies on or after July 1, 2018;
 - (ii) Be a for-profit ~~sole proprietorship,~~ partnership, limited liability company, limited liability partnership, or corporation registered with the Wyoming Secretary of State;

(iii) Agree to provide a report, as described in Section 5(e), describing in detail its efforts to and success in commercializing the service, product, concept, design or other marketable asset to be developed with the assistance of State funds;

(iv) Produce or propose to produce a service, product, concept, design or any other marketable asset that aligns with the State of Wyoming's Economic Development Strategy ~~relates to or fulfills one of the five Next Generation Engines identified in the ENDOW 20 Year Economic Diversification Strategy;~~

(v) ~~Provide a good faith declaration of intent to remain in Wyoming for three (3) years after commercialization of service, product, concept, design or other marketable asset to be developed with the assistance of State funds;~~

(vi) Certify that, to the extent practical, all of the research described in any proposal for Phase I or Phase II funding will be conducted in Wyoming; and

(vii) Commit to seeking additional ~~nonstate~~ investment funding investment funding, whether from federal or private sources.

(viii) Additional eligibility requirements may be outlined in the SBIR matching grant program guidelines.

(b) Awardees are limited to one (1) award per phase under this chapter per fiscal year (July 1 through June 30), for a maximum of two (2) SBIR awards per year, and four (4) SBIR awards over the life of the company.

Section 5. Application process.

(a) Application.

(i) ~~The Council Staff~~ shall provide an SBIR application online that includes a requirement to provide information relevant for funding decisions, including but not limited to information that establishes the applicant's eligibility for SBIR funding.

(ii) Each applicant shall file its application for SBIR funds with ~~the Council Staff~~ online at a website provided by ~~the Council Staff~~.

(b) Application process, procedure and approval. Applications are received on a rolling quarterly basis and ~~will be reviewed in the month following the month of application submission~~ in the following manner:

(i) Council Staff reviews to ensure accuracy, eligibility and completeness, and provides a recommendation based upon these rules and W.S. § 9-12-105(d).

(ii) The Council, or Council Staff as ~~designated by the Council~~, has the sole discretion to make award decisions based upon these rules and W.S. § 9-12-105(d). The Council, or Council Staff as ~~designated by the Council~~, may consult with subject matter experts for assistance and advice in making funding decisions.

~~(iii) — Following the Council’s decision, or the decision of Council Staff if so designated by the Council, requests for funding will be routed through the Governor or the Governor’s designee for approval. The Council will thereafter submit the invoice for payment to the State Auditor’s Office. Payments shall be made to awardees within forty five (45) days after submission of the invoice per W.S. § 16-6-602 and shall follow the disbursement schedule provided in the startup: Wyoming Subaccount Allocation Plan and Supplemental Procedures adopted by the Council.~~

~~(c) — Agreement template. In consultation with the Attorney General’s Office, the Council shall prepare a template for all agreements between itself and potential awardees of SBIR funds and shall submit the template to the Attorney General’s Office for approval. Following approval by the Attorney General’s Office, the Council shall use this template for all such agreements, and shall not deviate from the template without approval from the Attorney General’s Office. The Council shall, on an annual basis, resubmit the template to the Attorney General’s Office for updates and approval.~~

(d) Award amounts, disbursement schedules, and annual allocations.

(i) Number of awards.

(A) The Council Staff, in its their sole discretion, may make up to twenty (20) Phase I awards per fiscal year.

(B) The Council Staff, in its their sole discretion, may make up to twenty (20) Phase II awards per fiscal year.

(C) The Council Staff, in its their sole discretion, may award up to five million dollars (\$5,000,000.00) in total SBIR awards per fiscal year.

(ii) Disbursement schedules and annual allocations to this program are detailed in the startup: Wyoming Subaccount Allocation Plan and Procedures adopted by the Council.

(e) Reporting.

(i) Upon project completion, awardees ~~Awardees~~ shall provide a report on or before July 1 of each year for ~~two (2)~~ three (3) years ~~after an award is granted~~ prior to commercialization, and for three (3) years after commercialization, ~~for or~~ a maximum of five (5) years, highlighting the elements required under Wyoming Statute § 9-12-105(d)(i)(E)

(ii) In addition to the elements required under Wyoming Statute § 9-12-105(d)(i)(E), the required annual report to the Council must address the awardee's:

(A) Development of the proposed service, product, concept, design or other marketable asset in sufficient detail to allow Council Staff to review the awardee's progress towards commercialization;

(B) Progress toward seeking and receiving additional funding, whether from State, federal or private sources;

(C) Plans for growth, market, commercialization and capitalization for the upcoming year;

(D) Proof of proper use of funds in the form of receipts or invoices;

(E) ~~Suggestions for continuous improvement to State programs for startups; and~~

(F) Maintenance of nexus in Wyoming that is substantial and continuous. To prove nexus, awardee must provide ~~the following:~~

(I) ~~Documentary~~ documentary evidence showing the majority of the awardee's employees work in Wyoming; ~~and,~~

(II) ~~A multimedia narrative of the Wyoming lifestyle of its employees leveraging social media resources.~~

(iii) An awardee must provide material to the Council, or Council Staff as ~~designated by the Council,~~ as requested for purposes of promoting Wyoming's entrepreneurial ecosystem and lifestyle.

Additional reporting requirements may be outlined in the SBIR matching grant program guidelines.

(f) Allowable use of funds; consequence for misuse of funds and repayment.

(i) Funds may be spent on materials or activities that facilitate development or commercialization of a company's service, product, concept, design or any other marketable asset. Any other use of State-provided SBIR funds is prohibited.

(ii) In addition to the repayment requirement under W.S. § 9-12-105(d)(iv), the Council may seek return of the disbursed funds if it at any time determines that an awardee has failed to submit any part of the required annual report, including disclosure of its efforts to seek additional nonstate investment funding; has made a prohibited use of the funds; or has breached the agreement between itself and the Council. In that instance, the grant recipient shall repay all funds provided under this chapter plus interest at the rate of four percent (4%) per

annum compounded annually from the date the funds were granted. This provision is in addition to, and does not replace, any other potential cause of action the Council may have against the awardee based on its conduct.

(g) Conflict with federal rules

(i) To the extent these rules are inconsistent with or otherwise conflict with rules for the federal grant program under which the Applicant has received federal funds, the contrary rules and requirements of the federal program shall control. This provision shall not apply if the conflict results from a statutory provision.

Section 6. Program administration. The Council may designate Council Staff to approve applications and make award decisions. If the Council chooses to designate Council Staff with this responsibility, Council Staff shall make a quarterly report to the Council on the number of applications approved, the status of the approved applications, and the amount of funds distributed to awardees.