

BFTDA COVID-19 VENTURE LOAN PROGRAM

Program Guidelines | August 2020



Table of Contents

Section I – General	1
A. Introduction	1
B. Program Structure	1
C. Program Requirements	1
Section II – The Application Process	2
A. Application Requirements	2
B. Approval Process	3
C. Post Approval Process	3
D. Reporting Requirements	4
E. Sample Fund Term Sheet	5

Appendix A – Litigation Questionnaire

Appendix B – COVID-19 Loan Biannual Metrics Report

Section I – General

A. Introduction

The following parameters outline the nature and focus of the BFTDA COVID-19 Venture Loan Program (“BCVL” or “Program”), as well as the applicable process and procedure. The BCVL is a Commonwealth of Pennsylvania initiative intended to rapidly address the financing needs of Pennsylvania-based technology-oriented businesses by increasing the amount of risk capital available to such companies. The Program operates pursuant to the statutory authority of the Ben Franklin Technology Development Authority (“BFTDA”).

The goal of the BCVL is to immediately offer, in aggregate, \$4.2 million to authorized managers of venture capital firms in order to assist venture portfolio companies located in Pennsylvania, allowing these companies to continue to operate despite challenges related to COVID-19. Along with the prospect of sustaining technology-based jobs, financial returns resulting from the BCVL activities will permit additional investments to be made and provide for administrative expenses associated with the Program.

B. Program Structure

1. BCVL money is available in the form of loans. Applicants should note that, as such, the BFTDA will not participate as a traditional limited partner or venture investor. A sample BFTDA loan term sheet which outlines requirements for the BFTDA’s manner of participation is included in Section II herein.
2. For purposes of this program, the BFTDA seeks to lend primarily to venture managers operating venture capital funds. A “venture capital fund” (“Venture Fund”) is defined as a pooled investment (typically taking the form of a limited partnership) that mainly invests in private enterprises on behalf of third-party investors.
3. Applicants should meet the following prerequisites:
 - a. Be the General Partner of a venture capital fund that received BFTDA venture loan funding during or after calendar year 2015. Also, the bank account, that was established in relation to original BFTDA funding, must currently be available.
 - b. The manager shall have submitted a PA Activity Report to DCED Staff, dated as of December 31, 2019.
 - c. The financial resources to match the BFTDA’s loan commitment on a 1:1 basis utilizing non-BFTDA capital.

C. Program Requirements

1. Eligible managers may apply for funds pertaining to active companies listed on their PA Activity report as of December 31, 2019. To a lesser extent, plans to fund new companies will also be considered.
2. Each manager is entitled to apply for a portion of the BCVL pool. The dollar amount for which each manager is eligible to apply will equate to 10% of that manager’s PA invested amount, as listed on the manager’s PA Activity report, dated December 31, 2019, and this maximum amount will pertain only to the manager’s relevant fund(s) that was sponsored by the BFTDA during or after calendar year 2015. The PA invested amount will be reduced by the equivalent invested cost of any company named on the report that has been exited. Total loans granted to each manager will range between \$200,000 and \$1.5 million, inclusive.

3. There is no limit to the number of companies on whose behalf a manager may apply. However, the dollar amount awarded to each manager will be limited as specified in paragraph 2 of this section. It is permissible for a manager to propose funding a company housed in a separate fund, provided that the BFTDA is also a lender to that fund. New companies not yet sponsored by the fund manager but intended for an existing fund that the BFTDA sponsors may also be considered.
4. Ultimate investment amounts per company will be at the manager's discretion.
5. A uniform loan document will be shared with each manager. The agreement terms are non-negotiable.
6. In keeping with BFTDA historic practice, the loan will be made available to the manager. Funds will be transmitted to existing bank accounts that are presently being maintained for the benefit of the BFTDA Venture Investment Program.
7. BCVL loan recipients must identify applicable companies prior to funding and must demonstrate that BCVL funding, in conjunction with the required match, will allow the company to continue to operate for a minimum of nine months from funding.
8. BCVL funds will not be subject to fund management fees or carry.
9. Loan money must be applied to pre-approved companies within four months of BCVL funding.
10. The entity receiving BFTDA funding will comply with all reporting requirements described in Section II, D.

Section II – The Application Process

A. Application Requirements

1. Applications must be filed on or before Friday, September 4, 2020 and must include the following:
 - a. A specific dollar amount request consistent with the parameters of this Program as outlined in Section I C-2.
 - b. A plan that describes loan utilization, including a summary for each company relevant to BCVL funding as follows:
 - i. Name
 - ii. Location
 - iii. Chief Executive Officer
 - iv. Business description
 - v. An excerpt from the most recent venture fund investment report outlining details of the company and any pertinent updates along with financial summary data
 - vi. Justification for the BCVL financing that describes:
 - Company leadership credibility
 - Evidence that the requested BCVL funding, in combination with matching funds, will provide, at minimum, nine months of financial support to the company

Submissions may be sent via email to: Diane Sterthous at dsterthous@pa.gov

B. Approval Process

1. Staff will analyze all submitted documentation. Staff may involve the BFTDA Venture Committee in this process.
2. The applicant will be requested to complete the DCED Single Application.
 - a. The Single Application can be printed and/or completed online by accessing: dced.pa.gov/singleapp.
 - b. Copies of the Single Application kit may also be obtained by contacting the DCED Customer Service Center at 1-800-379-7448 or 717-787-3405 or e-mailing: dcedventureinvest@pa.gov.
3. Applicants will be required to attach completed application materials to the Single Application site.
4. If the application is successfully vetted by staff, pending successful loan agreement execution, funds will be made available to qualifying managers by not later than **December 31, 2020**.
5. Applications may be rejected or deferred for any of the following reasons:
 - a. The applicant's failure or refusal to provide pertinent information deemed essential by DCED Staff to adequately perform a due diligence review;
 - b. The case for company survivability is not convincing;
 - c. Doubt concerning the company's Pennsylvania domicile;
 - d. The Venture Fund does not meet the prerequisites listed in Section I, B-3;
 - e. Sufficient resources are not available to the BFTDA to make a BCVL loan to the Venture Fund;
 - f. Non-compliance with any requirements adopted by the BFTDA Board.

C. Post Approval Process

1. After BFTDA Board approval, staff will work with the applicant to close and disburse the investment in accordance with approved terms.
2. Prior to closing, the applicant must certify that it shall not discriminate against any employee or against any applicant for employment because of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws. In addition, the applicant and its principals must be current in payment of all state and local taxes unless they have entered into a workout agreement satisfactory to the respective taxing authority and are in full compliance with the terms thereof.
3. Following disbursement of funds, staff will monitor the activities of the applicant to ensure that the conditions of the BFTDA investment are being observed and met. Staff will advise the BFTDA Board of any substantive failure to perform by the applicant. The BFTDA Board will have full authority to take all actions necessary to protect and preserve its investment, including but not limited to appropriate legal action when required.

4. The applicant shall maintain full and accurate records with respect to the Venture Fund and shall ensure adequate control over the records of all related parties in the Venture Fund. Staff shall have access to such records and be able to inspect all relevant records at reasonable times and places. Upon request, the applicant must furnish all data, reports, contracts, documents and other information relevant to the Venture Fund, as may be requested in the investment documents.
5. If, subsequent to funding, it is determined that the application contained material misrepresentations, or funds were used for ineligible activities or activities not permitted under the terms of the approved financing, the applicant will be in default and the BFTDA Board may demand immediate repayment of any and all funds advanced in connection with the investment. In addition, the matter may be referred to the appropriate authorities for criminal investigation.

D. Reporting Requirements

1. Venture Funds must continue to provide the Office of Technology & Innovation all reports and communication which are distributed to the Fund's Limited Partners (ex: quarterly updates and financials, audited annual financial reports, etc.) as prescribed in the Limited Partnership agreement.
2. In addition, all funded applicants will provide the information requested in the Appendix for each underlying company receiving BCVL funding. This semi-annual report is to be returned to the Office of Technology & Innovation as of June 30th and December 31st of each year that the BFTDA's investment remains active. This requested report shall be furnished simultaneously with customary partnership reporting.

E. Sample Fund Term Sheet

FUND TERM SHEET

This term sheet summarizes the principal terms with respect to a potential loan to _____ by the BFTDA. The term sheet is intended solely as a basis for further discussion and is not intended to be and does not constitute a legally binding obligation. No legally binding obligation will be created until a final document is executed and delivered by both parties.

Lender BFTDA

Borrower _____, a _____
("Borrower")

Principal Amount \$[x] aggregate principal amount, anticipated to be Funded during the _____ quarter of _____.

Recourse The Loan will be non-recourse to the members of the Borrower with limited exceptions.

Maturity Approximately 10 years, or such later date as the Borrower may be liquidated.

Interest The sum of (i) [x (market rate)]% per annum plus (ii) available cash flow, i.e., an amount equal to the amount that would have been distributed to Lender if, on a hypothetical basis, the loan amount had been used to purchase a limited partnership interest or other similar equity investment in the Partnership. Market rate interest charges to be forgiven upon payment of participating interest, it being understood that the sum total of all interest charges shall be no less (or more) than the amount paid to fund limited partners investing the same amount as the loan.

Certain Covenants The agreement governing the loan will contain covenants that, among other things, will:

- Require use of proceeds by Borrower to invest in _____ ("a PA company sponsored by the Borrower"), which will have received matching funding of the authorized BCVL loan principal amount.

Repayment The loan may not be pre-paid. Nevertheless, the loan will be immediately repayable upon liquidation or sale of all PA Company sponsored by the Borrower.