

Ben Franklin Technology Development Authority Venture Investment Program

Program Guidelines | January 2008

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Section I – General

A. Introduction

The following parameters outline the nature and focus of the Ben Franklin Technology Development Authority Venture Investment Program ("BFVIP") as well as the application process and procedure. The BFTDA is a Commonwealth of Pennsylvania initiative intended to address the financing needs of technology-oriented businesses by increasing the amount of risk capital available to technology businesses. The fund operates pursuant to the statutory authority of the Ben Franklin Technology Development Authority ("BFTDA").

The BFTDA holds the promise of more firmly establishing a technology-based economy within Pennsylvania, allowing Pennsylvania to compete in the global marketplace. Along with the prospect of new technology-based jobs, financial returns resulting from the BFTDA activities will permit additional investments to be made as well as providing for administrative expenses associated with the program.

B. Program Eligibility

1. BFTDA funds are available to venture capital funds in the form of loans. A sample term sheet is included in Appendix A. A "venture capital fund" is defined as a pooled investment, limited partnership that primarily invests the financial capital of third-party investors in private enterprises. A venture capital fund ("Fund") applying for this program will be most competitive when its primary investment targets are companies in the seed or early stage of development and/or sectors of strategic interest to the BFTDA.
2. The BFTDA will also consider loans to regionally-developed or state-wide risk capital pools such as "angel funds" or similar initiatives demonstrating only the following characteristics:
 - a. The target investment sectors are technology related.
 - b. The majority of the investments will go to companies in the seed or early stage of development.
 - c. The angel fund or similar initiative has suitable private match (more fully described below) and there is a suitable projected return to the BFTDA.

C. Program Requirements

1. The entity receiving BFTDA funding must invest a total of 4 times the funding amount into Pennsylvania-related companies (ex: a \$2 million BFTDA loan will require a total \$8 million of investment into Pennsylvania-related companies). A "Pennsylvania-related company" is defined as a private enterprise having a majority of its workforce located within the Commonwealth of Pennsylvania.
2. The BFTDA's funding is often conditioned upon the applicant's meeting certain fundraising goals, established at the time of approval. In order to comply with requirement #1, the minimum fundraising match is 3:1 or a total committed fund size of 4 times the BFTDA's funding.
3. There must be a return mechanism to the BFTDA. The rate of return should be equal to the return profile of the other private investors involved. The goal of the BFTDA is to achieve a rate of return on its total investment portfolio adequate to continue making future investments and to provide for the administrative operations of the BFTDA.
4. The entity receiving BFTDA funding will comply with all reporting requirements described in Section II, E.

Section II – The Application Process

A. General

1. Funds applying for financing or entities applying for financing on behalf of the Fund must complete the DCED Single Application.
 - a. The Single Application can be printed and/or completed online by accessing www.newPA.com by typing “Single Application” into the search mechanism.
 - b. Copies of the Single Application kit may be obtained by contacting the DCED Customer Service Center at 1-800-379-7448 or 717-787-3405 or e-mailing: ra-dcedcs@state.pa.us.
 - c. Applications may be filed at any time during the fiscal year, with approval subject to available funding and BFTDA board approval.
 - d. Applications should be submitted to:

PA Department of Community and Economic Development
Customer Service Center
400 North Street, 4th Floor
Commonwealth Keystone Building
Harrisburg, PA 17120-0225
(800) 379-7448
 - e. Correspondence should be sent to:

PA Department of Community and Economic Development
Technology Investment Office
400 North Street, 4th Floor
Commonwealth Keystone Building
Harrisburg, PA 17120-0225
(717) 787-4147

B. Fund Investment Application

1. Application for financing made by or on behalf of an investment fund must include the following supplemental information:
 - a. Private Placement Memorandum (PPM) pursuant to Reg. D+, Reg. S of the Securities Act of 1933 (if applicable).
 - b. Written responses to Appendix B – Fund Questionnaire. To the extent a Fund’s PPM addresses the requested information, reference to the PPM and appropriate page(s) is acceptable.
 - c. In some cases, a pre-packaged “due diligence binder” that the Fund provides to its prospective Limited Partners may be accepted in lieu of Appendix B. Requests for this option should be addressed to the program manager.
 - d. Any other information requested by DCED staff.

C. Approval Process

1. Staff will assist the applicant in the application process and will review and analyze all submitted documentation. Staff may include employees of DCED, consultants, analysts, and other professionals under contract to DCED.
2. If approved by staff, the application will be submitted to the BFTDA Board for review and consideration. The BFTDA Board meets four times annually.
3. Applications may be rejected or deferred for any of the following reasons:
 - a. Applicant's failure or refusal to provide pertinent information regarding the Fund deemed essential by the Board to adequately perform a due diligence review;
 - b. The proposed financial return is non-existent or negligible, or a return cannot be readily defined and/or calculated;
 - c. The anticipated economic development return to the region or the Commonwealth is non-existent or negligible, or the level of proposed return is not commensurate with the amount of BFTDA financing requested;
 - d. The Fund does not maintain a substantive presence within Pennsylvania;
 - e. Sufficient resources are not available to the BFTDA to make an investment in the Fund;
 - f. Non-compliance with any requirements adopted by the BFTDA Board.

D. Post Approval Process

1. After BFTDA Board approval, staff will work with the applicant to close and disburse the investment in accordance with the approved terms.
2. Prior to closing, the applicant must certify that it will not discriminate against any employee or against any applicant for employment because of race, religion, color, handicap, national origin, age or sex; and 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, BFTDA staff will monitor the activities of the applicant to ensure that the conditions of the BFTDA investment are being met. Staff will advise the BFTDA Board of any substantive failure to perform by the applicant. The BFTDA Board will have full authority to 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 Fund, and shall ensure adequate control over the records of related parties in the 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 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.

E. Reporting Requirements Fund Investments

1. All funded applicants will provide the information requested in Appendix C. This semi-annual report is to be returned to the Technology Investment Office within 10 (ten) business days after June 30th and December 31st of each year the BFTDA's investment is active.
2. Funds must provide the Technology Investment Office, all reports and communications which are distributed to the Fund's limited partners (ex: quarterly updates and financials, audited annual financial reports, etc).

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Appendix A – Sample Fund Term Sheet

[_____]

Term Sheet

This term sheet summarizes the principal terms with respect to a potential loan to _____ by the Ben Franklin Technology Development Authority. 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	Ben Franklin Technology Development Authority (“BFTDA”)
Borrower	_____, a _____ (“Borrower”)
Principal Amount	[\$x] aggregate principal amount, anticipated to be funded during the _____ quarter of _____
Maturity	Approximately 10 years, or such later date as the Borrower may be liquidated.
Interest	The lesser of (i) 8%, compounded annually or (ii) available cash flow.
Certain Covenants	The agreement governing the loan will contain covenants that, among other things, will: <ul style="list-style-type: none">• Require use of proceeds by Borrower to invest in _____ (“Partnership”), which will have received capital commitments of at least \$_____.• Require \$[4x] million investment in PA-based businesses by the Partnership.• [Require the Partnership to obtain prior to closing, and thereafter maintain, status as a licensed SBIC.]
Mandatory Prepayment	The loan will be immediately repayable upon a liquidation or sale of all or substantially all of the assets of Borrower or the Partnership.
Contingent Interest	An amount equal to the amount that would have been distributed to Lender if, on a hypothetical basis, the loan amount had been a limited partnership interest in the Partnership.

Appendix B – Fund Questionnaire

I. Proposed Fund

- A. Briefly describe the fund that you are proposing. Include a description of the fund’s purpose, investment focus, geographic focus, and any limitations imposed on the investment process, i.e., SBIC limitations.
- B. Describe the investment philosophy and strategy you plan to employ. Has this changed from your previous funds?
- C. State the size, life and active investment period of the fund you are proposing. How does this differ from your previous funds?
- D. Describe the management fee, offsets of other compensation against management fees, proposed allocation and distribution structure, co-investment opportunities, the structure and role of the Advisory Board in developing policies; and any other important terms and conditions related to this fund. Your answer should include, but not be limited to, any proposed provisions for:
 - 1. No-fault divorce
 - 2. Any clawback
 - 3. Joint and several liability
 - 4. Conflicts of interest
 - 5. Restrictions on raising multiple funds
- E. List any special advisors, consultants, business brokers, etc., you plan to use for this fund.
- F. Break out intended stage of investment and industry focus by percentage for Pennsylvania investments.

II. Previous/Current Funds

- A. Describe your previous and current fund experience using the format provided below:

Funds	Fund	Fund	Fund
Final Closing			
Total committed capital			
Total invested at cost			
Realized Proceeds			
Cash-on-cash multiple			
Performance ending most recent quarter stated as net IRR to LPs			
Total Number of companies financed (including write-offs)			
Average size of investment			
Number of investment professionals			
IRR on PA Portfolio			

B. Please provide a portfolio company detail spreadsheet for each fund, as outlined below:

- Company Name:
- Industry:
- Lead General Partner:
- Location:
- Date of Initial Investment:
- Initial Investment Cost:
- Total Investment Cost:
- Net Realized Proceeds:
- Value in Portfolio:
- Return Multiple (NAV+Dist/paid-in):
- IRR:
- Initial Percentage Owned:
- Current Percentage Owned:
- Number of Financing Rounds:
- Initial Financing Stage:
- GP Role (Lead, Co-lead, Follow):
- Board Seats:
- Lead Investor:
- Co-Investors:
- Deal Source:
- Date of Exit:
- Exit Method:
- Ticker Symbol (if public):

C. Please list all office locations current and planned.

III. Management

- A. List personnel responsible for private equity investment activity including the day-to-day operations of the partnership. Include backgrounds and prior expertise in venture capital/alternative investments. Please provide total number of current and planned employees.
- B. Describe how carried interest is apportioned among the general partners using the format provided below. List previous funds in addition to your proposed fund.

Individual	Fund X-III	Fund X-II	Fund X-I

C. Describe the vesting schedule for General partner interests in the proposed fund in addition to your previous funds as outlined in III-B above.

D. List the portfolio involvement of your investment professionals as below.

Partner/Associate	Capital Managed	# of Investments	# of Board Seats

E. Please provide GP investment in past, current and proposed fund.

F. What controls do you have in place to ensure that funding to portfolio companies are properly routed and effectively utilized?

G. Describe the ownership of the firm.

H. Information Regarding Other Business Interests

(This form must be completed by each principal of the general partner, and should list all material business endeavors or investments that could impact the amount of time available for the fund being proposed.)

1. Please list all business endeavors or investments in which you are actively involved, including percentage of time dedicated to each endeavor.

2. Please list all corporate or non-profit directorships that you currently hold.

I. Litigation Questionnaire

(This form must be completed by each principal of the general partner. All "Yes" answers must be accompanied by a detailed explanation of the situation or circumstances causing the "Yes" answer.)

Note: Please provide details of any "Yes" answers on a separate sheet.

1. Are you now, or have you ever been, a named defendant in any criminal proceeding or in any civil legal action involving a claim of greater than \$250,000?

Yes No

2. Has any organization of which you have been a member of senior management, or in which you have had a meaningful ownership interest (greater than 5%), ever been a named defendant in any criminal proceeding or in any civil legal action involving a claim of greater than \$500,000?

Yes No

3. Have you or any organization in which you have had a meaningful ownership interest (greater than 5%), or of which you are, or were, a member of senior management, ever filed voluntarily, or had filed against you involuntarily, a bankruptcy petition?

Yes No

4. Has any licensor, franchisor, or master distributor ever initiated proceedings to terminate a business relationship with you or any organization of which you have ever been a member of senior management?

Yes No

5. Has any business partner, joint venture, or subcontractor ever sought injunctive relief or arbitration or otherwise commenced legal proceedings to terminate any business or contractual relationship?

Yes No

6. Have you or any organization in which you have had a meaningful ownership interest (greater than 5%), or of which you are, or were, a member of senior management, (i) been the subject of any federal, state, or other regulatory investigation or disciplinary hearing or proceeding, (ii) agreed to any consent order or decree in connection with any alleged violation of federal or state laws or regulations, or (iii) pleaded no contest in any legal or administrative proceeding?

Yes No

IV. Performance

- A. What performance benchmarks would you use to evaluate your prior fund performance and what would this evaluation indicate as of the most recent Quarter?
- B. List all investments which have been liquidated to date. Please discuss exit strategies which you have employed in past investments and indicate if these strategies are still valid.
- C. Have any of your partnership interests traded as secondary interests? If so, please explain.
- D. What is the company valuation methodology that you have employed in past funds? If this is different from your proposed fund, please elaborate.
- E. What lessons do you feel that you have learned, both good and bad, as a result of your experiences with prior funds?

V. Decision Process

- A. Describe your firm's decision process as it relates to new company investments and follow-on financings.
- B. What investment criteria do you employ?
- C. Who has the authority to terminate/approve investments? Please explain. How are failing companies dealt with? How is a decision reached to shut down a company? Give examples with prior failed or difficult investments.
- D. What controls are utilized to ensure that all investment decisions are consistent with firm/fund guidelines?
- E. How do you determine/deal with conflict of interests in the management of (a) funds and (b) portfolio companies?

VI. Dealflow

- A. Describe your current and planned deal flow sources. Specifically, list economic development entities, universities and venture capital firms and provide a description of the relationship.
- B. Provide number of deals reviewed versus invested in the prior year. Split out Pennsylvania based deals.
- C. Number of PA based companies in the current pipeline.
- D. Please describe any partnership agreements with VC's or corporations.
- E. Please provide a copy of your most recent deal log for the most recent quarter.

VII. Reporting

- A. What type of reports do you prepare for limited partners? Do financial statements follow GAAP accounting standards?
- B. Who are your auditors? How are your auditors selected and how often do you change auditing firms? Have your auditors requested changes to any of your company valuations? Please explain.

VIII. Limited Partner Relationships

- A. Provide a list of current LP's and indicate whether they are public or private.
- B. In the proposed fund how many of the current LP's are re-investing?

IV. References (please provide telephone numbers)

- A. Provide a reference listing of CEOs of all portfolio investment companies in your prior funds.
- B. Provide a reference listing of all mezzanine/subordinated lenders who have provided capital in your previous fund investments.
- C. Provide a reference listing of all senior debt lenders who have provided capital in your previous fund investments.
- D. Provide a reference listing of all venture capitalists/private equity investors who have provided capital in your previous fund investments.
- E. Provide a reference listing of individuals who have an understanding of your firm's investment expertise.
- F. Provide a reference listing of one CEO who was turned down, one CEO who has left a company, and one CEO whom you recruited for a portfolio company.
- G. Please list the firm's partner departures within the last five years, citing reasons for each departure and contacts for departed partners.
- H. Provide a description of any litigation pending against any general partner.
- I. Are you registered with the SEC?

Appendix C – Semi-Annual Progress Report BFTDA Venture Investment Program

SAMPLE
Semi-Annual Progress Report
BTFDA Venture Investment Program

Instructions: Please provide the information as requested below. This information provides us with an update of the progress of our partners in the BFTDA VENTURE INVESTMENT Program.

General Information:

Date of this report: _____

Fund Name: _____

Total Fund size: _____

Amount (\$) of BFTDA Investment: _____

Current Carrying Value (\$) of BFTDA Investment: _____

Current IRR (%) on BFTDA Investment: _____

To date, Total capital invested: _____

Previous report: _____

To date, Total capital called: _____

Previous report: _____

To date, Total number of investments: _____

Previous report: _____

To date, Total number of PA investments: _____

Previous report: _____

Total \$ amount of PA investments: _____

Previous report: _____

To date, Total number of PA employees at your PA portfolio companies: _____

Previous report: _____

PA Company Information:

(Fill this information out for each PA portfolio company you have that is still operating)

Company Name and Web address: _____

PA Address: _____

Woman or Minority Owned? _____

Disposition of the company: (“portfolio company”, “sold to...”, “IPO” etc – give a brief summary) _____

Amount your fund has invested to date: _____

Was this a new PA investment? (excluding follow-on funding) _____

Did this company move to Pennsylvania as a result of your investment? _____

Amount of additional financing (equity or debt) the company has attracted both as part of the financing round you were involved in and after (if available, provide co-investors names): _____

To date, Number of PA employees at the company: _____

Previous report: _____

At time of your first investment: _____

Median Wage of PA employees: _____

Company CEO: _____

Company Contact *(if different from CEO):* _____

Telephone: _____

E-mail: _____

Enhanced Metrics Supplement for Portfolio Companies
(For Pennsylvania portfolio investments only)

1. Tracking New Company Formation:

A. Did your Pennsylvania-based company receive an Employee Identification Number (Tax Identification Number) within the last three years?

Yes

No

B. If you answered “Yes”, would your company have been established had it not received financial and/or non-financial services from [Fund Name]?

Yes

No

C. Is your company an industry or university spin-off?

Yes (Industry University)

No

Relevant Definition: An industry or university spin-off is a newly formed company that is expected to derive a significant portion of its commercial activities from the use of technology and/or know-how developed at another company or university at the time of its establishment.

2. Tracking Increased Employment and Employee Compensation:

A. As a result of financial and/or non-financial services provided by [Fund Name] did your company have an increase in the number of employees in Pennsylvania during [specify report period]?

Yes If yes, how many? _____

No

Relevant Definition: Employees are full-time and part-time employees on your company’s payroll (Form W-2) and contractors (Form 1099-MISC) paid directly by your company calculated as full-time equivalents based on a 40-hour work week. NOTE: An employee reported as a new job created in a prior year’s report cannot be counted again as a new job or retained job in a future year’s report.

B. As a result of financial and/or non-financial services provided by [Fund Name], please indicate the number of job positions that your company did not eliminate (i.e. retained) in Pennsylvania during [specify report period]? _____

Relevant Definitions: Job positions are the paid, full-time, part-time and temporary positions (or slots) your company has available calculated on a full-time equivalent based on a 40-hour work week. A position reflects the specific set of tasks that an employee is expected to perform. NOTE: An employee reported as a retained job in a prior year’s report cannot be counted again as a retained job in a future year’s report.

3. Tracking Leverage of Additional Funding:

- A. As a result of financial and/or non-financial services provided by [Fund Name] please indicate the amount of additional funding obtained by your company during [specify report period]? \$ _____

Relevant Definition: Funding is cash provided to your company by the federal government (including federal funding that flows through state agencies), local government, philanthropic foundations, angel investors, strategic investors, institutional venture capital, industry, commercial banks, and/or other financial institutions. Funding excludes in-kind contributions provided by your company and/or third-parties as well as any source of state funding.

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