

— PENNSYLVANIA. BUILT TO ADVANCE. —

Innovate in PA Venture Investment Program

Program Guidelines

June 2015

ARCHIVED

Commonwealth of Pennsylvania
Tom Wolf, Governor

Department of Community & Economic Development



newPA.com

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.	Initial Application Requirements	2
B.	Approval Process	2
C.	Post Approval Process	3
D.	Reporting Requirements	4
E.	Sample Fund Term Sheet	5
Appendices		
Appendix A	Fund Questionnaire A	
Appendix B	Fund Questionnaire B	
Appendix C	Litigation Questionnaire	
Appendix D1	Semi-Annual Progress Report	
Appendix D2	Semi-Annual Progress Report Individual PA Portfolio Company Information	
Appendix D3	Semi-Annual Progress Report SRI* Portfolio Company Information	

Section I – General

A. Introduction

The following parameters outline the nature and focus of the *Innovate in PA Venture Investment Program* (“VIP”), as well as the applicable process and procedure. The VIP 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 such companies. The Program operates pursuant to the statutory authority of the Ben Franklin Technology Development Authority (“BFTDA”).

The goal of the VIP is to assist in 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 VIP activities will permit additional investments to be made as well as providing for administrative expenses associated with the Program.

B. Program Structure

1. VIP money is available in the form of loans. Applicants should note that, as such, the BFTDA will not participate as a traditional limited partner. A sample BFTDA loan term sheet which outlines requirements for the BFTDA’s manner of participation is included in Section E herein.
2. For purposes of this program, the BFTDA seeks to lend primarily to 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. Venture Funds are encouraged to apply for this program. Angel funds and similar initiatives that are suitably capitalized may apply as well.
3. Applicants should demonstrate the following:
 - a. Have the resources, expertise and intent to invest in companies that are primarily located (or companies that maintain a majority of their business) in PA.
 - b. Target investment sectors that are technology related or high growth oriented.
 - c. Focus the majority of the investments in start-ups that are in seed stage or early stage of development.

C. Program Requirements

1. BFTDA capital may not represent more than 20% of overall committed capital to any Venture Fund under consideration.
2. BFTDA funding is conditioned upon the applicant’s meeting certain fundraising goals established at the time of approval. Only Venture Funds that evidence the ability to close on aggregate commitments of \$10M or more will be considered.
3. An additional goal of the BFTDA is to achieve a competitive rate of return on its total investment. As such prospective Venture Funds must be prepared to demonstrate satisfactory prior returns.
4. VIP loan recipients should be prepared to pay a 1% origination fee to the BFTDA on the total loan amount awarded.
5. The entity receiving BFTDA funding will comply with all reporting requirements described in Section II, D.

Section II – The Application Process

A. Initial Application Requirements

1. Applications may be filed at any time during the fiscal year with approval subject to availability of funding and BFTDA board approval. Initial applications must include the following:
 - a. Private Placement Memorandum (PPM) pursuant to Reg. D+, Reg. s of the Securities Act of 1933 (if available).
 - b. Written responses to **Appendix A** of the Fund Questionnaire A.
 - c. In some cases, a pre-packaged “due diligence binder” that the Venture Fund provides may be accepted in lieu of **Appendix A**. Requests for this option should be addressed to the program manager.
2. **Submissions may be sent via email to: dcedventureinvest@pa.gov**

If email is unavailable, hard copies may be delivered to:

PA Department of Community and Economic Development
Innovate in PA Venture Investment Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

(717) 787-4147

B. Approval Process

1. Staff will assist the applicant in the review process and will analyze all submitted documentation. Staff may involve employees of the DCED, consultants, analysts, and other professionals under contract to the DCED.
2. Staff will issue an Invitation to Apply and the applicant will be requested to 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 box mechanism.
 - 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.
2. If DCED chooses to move forward, the applicant will be required to complete **Appendix B** of the Fund Questionnaire B.
4. Applicants will be required to attach completed versions of **Appendix A, B and C** to the Single Application site.
5. If successfully vetted by staff, the application will be submitted to the BFTDA Board for review and approval. The BFTDA Board meets four times annually.

5. Applications may be **rejected** or **deferred** for any of the following reasons:
 - a. The applicant's failure or refusal to provide pertinent information regarding the Venture Fund deemed essential by the Board to adequately perform a due diligence review;
 - b. The case for financial return is not convincing;
 - c. The anticipated economic development benefit 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.

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, 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 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 Fund, and shall ensure adequate control over the records of all 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.

D. Reporting Requirements

1. Venture Funds must 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 **Appendix D (1-3)**. 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. These requested reports shall be furnished simultaneously with customary partnership reporting.

ARCHIVED

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 _____.
Origination Fee	1% of loan amount
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 lesser of (i) [x]% per annum or (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 a limited partnership interest in the Partnership.*
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 \$10M.
Repayment	The loan may not be pre-paid such that prepayment would exceed the amount that would have been distributed to the Lender if, on a hypothetical basis, the loan amount had been a limited partnership interest in the Partnership. Nevertheless, the loan will be immediately repayable upon liquidation or sale of all or substantially all of the assets of the Borrower or the Partnership.

***Example: the Borrower raises total commitments of \$10M which includes a commitment of \$1M facilitated with the BFTDA's loan at 8% interest.**

Scenario 1

a) If the fund were to distribute \$500,000 in year 1:

\$50K would be credited to the BFTDA and the entire amount would be characterized as interest.

b) If the fund were to distribute \$800,000 in year 1:

\$80K would be credited to the BFTDA and the entire amount would be characterized as interest.

c) If the fund were to distribute \$1,000,000 in year 1:

\$100K would be credited to the BFTDA of which \$80,000 would be characterized as interest and the remaining amount would be categorized as principal repayment.

Scenario 2

a) If the fund were to distribute nothing in year 1 and \$500,000 in year 2:

The cash flow waterfall would be the same as Scenario 1-a (as stated above).

b) If the fund were to distribute nothing in year 1 and \$800,000 in year 2:

The cash flow waterfall would be the same as Scenario 1-b (as stated above).

c) If the fund were to distribute nothing in year 1 and \$1,000,000 in year 2:

\$100K would be credited to the BFTDA of which \$80,000 would be characterized as interest due for year 1 and \$20,000 would be interest due for year 2.