**REQUEST FOR PROPOSAL**

**FOR FUND MANAGER(S)**

**Rural Venture Capital Fund**

**on behalf of the**

**THE VENTURE CAPITAL AUTHORITY (VCA)**

**c/o Colorado Office of Economic Development and International Trade (OEDIT)**

**TABLE OF CONTENTS**

Table of Contents

[I. RFP OVERVIEW 2](#_Toc105624464)

[II. BACKGROUND, DEFINITIONS, REPORTING REQUIREMENTS 4](#_Toc105624465)

[III. TIMELINE 8](#_Toc105624466)

[IV. METHOD OF SELECTION 9](#_Toc105624467)

[V. APPLICATION INSTRUCTIONS 11](#_Toc105624468)

[VI. APPLICATION 14](#_Toc105624469)

[A. EXECUTIVE SUMMARY 14](#_Toc105624470)

[B. PFM INFORMATION 14](#_Toc105624471)

[C. FUND MANAGER INFORMATION 15](#_Toc105624472)

[D. CAPITAL AND TERMS 17](#_Toc105624473)

[E. FUND STRATEGY 19](#_Toc105624474)

[VII. AUTHORIZATION FORMS TO BE SIGNED 21](#_Toc105624475)

## 

# RFP OVERVIEW

The Colorado Venture Capital Authority (VCA) is requesting proposals from qualified firms and Fund Managers for consideration and selection of Prospective Fund Managers (PFMs) as described herein. The purpose of this RFP is to furnish information to PFMs for their use in preparing a competitive response. The RFP is not intended to define the proposed contractual relationship between the VCA and the successful PFMs. The VCA reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received and to accept any portion of a proposal.

The VCA fills a gap in the venture capital arena when private capital is lacking; by its nature, it is focused on providing capital to underserved startups and democratizing venture capital across geographies and to diverse founders. The VCA partners with professional venture capital fund managers to invest in seed and early stage rounds in businesses headquartered and with principal business operations in Colorado.

The VCA board considers the economic development needs in the state and works to form funds where private capital is lacking. The VCA board collaborates with the Colorado Office of Economic Development and International Trade (OEDIT), as directed by the Governor and State Legislature, for alignment and strengthening Colorado’s economy, developing business and employment opportunities and supporting the advanced industries: advanced manufacturing, aerospace, bioscience, electronics, energy and natural resources (including cleantech), infrastructure engineering, and technology and information.

In this solicitation, the VCA is seeking to address specific gaps in access to equity capital and will be investing approximately **$10 million** in one or more venture capital funds.

The VCA is working to expand capital access to startups in rural Colorado by partnering with fund managers knowledgeable of and engaged with rural startup communities. In alignment with the U.S. Department of Treasury State Small Business Credit Initiative (SSBCI 2.0), the VCA aims to provide access to capital for small businesses in low-and-moderate income, minority, rural, and other underserved communities, including women and minority-owned small businesses (collectively, referred to as “underserved communities”).

The VCA would like to address the gap in venture capital access for rural, women, minority, veteran, and other underfunded demographics, though it will not limit funding to any demographic and will not discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity). Fund Managers must sign and comply with the SSBCI [Assurances of Compliance with Civil Rights Requirements](https://www2.ed.gov/about/offices/list/ocr/letters/boy-scouts-assurance-form.pdf).

Primarily, the VCA seeks to invest in businesses located in [rural enterprise zones](https://oedit.colorado.gov/enterprise-zone-program) and requests proposals from PFMs to manage VCA and other private capital funds. Ideally, PFMs will have knowledge of and relationships in rural enterprise zone communities so that they can partner with entrepreneurs and opportunities to grow businesses that will bring economic benefits to community residents. Enterprise Zones have lower per capita income and higher unemployment rates as compared to the statewide average. The VCA has a mission to invest throughout the state and for this RFP expects PFMs to present a strategy for investing in rural enterprise zones.

The VCA is not limited to investing in any particular industry sector, though there are specifications for qualified businesses and investments outlined later in this document. RFP responses should explain how the fund’s industry sector focus and investment strategy aligns with the market gaps targeted by this solicitation.

***Process.*** The VCA selects professional fund managers to establish and manage venture capital funds through an open competitive process with published deadlines. As a special purpose authority by state law, the VCA is not subject to the state procurement code (Title 24 articles 101 to 112 of Colorado Revised Statutes). Thus, the VCA’s RFP will be published in cooperation with OEDIT but outside of official state procurement channels.

***Post-Award Structure.***The VCA will enter a limited partnership agreement with the selected fund manager(s).

The VCA may be flexible in its ownership position within a fund. As the VCA will invest SSBCI 2.0 funds through this solicitation, the VCA will only take a minority position - the VCA will take a limited partner position and its commitment must be less than 50% of the total committed to a fund. The VCA may also partner in a side-car to a PFM’s primary fund to allow the fund manager opportunities for investments that are not aligned with the VCA’s requirements. For example, a fund manager may wish to invest in businesses outside of Rural Enterprise Zones, or Rural Colorado, or make an investment outside of the VCA’s seed and early-stage requirements. In any case, the VCA partner Fund must comply with the statutory and contractual requirements of the VCA and SSBCI 2.0.

# BACKGROUND, DEFINITIONS, REPORTING REQUIREMENTS

**A. Colorado Venture Capital Authority (VCA)**

The [Colorado Venture Capital Authority (VCA)](https://oedit.colorado.gov/venture-capital-authority), under Colorado state law (C.R.S. 24-46-201 to 207), is an enterprise and a special purpose authority which is an instrumentality of the State of Colorado and is governed by an independent nine person board of directors. VCA Board Members as of the date of publication of the RFP are: Eric Drummond, Thea Chase, Dave Saunders, Mark Soane, Nikhil Mankekar, Lena Giacomini, Michal Tesfamariam, and Dan Chilton.

The VCA was authorized in 2004 and was initially funded from the sale of Colorado insurance premium tax credits which provided Certified Capital to the VCA of approximately $45 million. The certified capital was invested and returned to an Enterprise Fund. State statutes direct the VCA to obtain a return of the principal and to realize profits to power future investment through an evergreen fund. The VCA works to address market gaps, catalyze private investment, foster Colorado’s innovative economy, and to grow quality jobs throughout the state.

The VCA, per statute, invests **only in Colorado seed and early stage companies**.

**B. State Small Business Credit Initiative (SSBCI 2.0)**

As part of the [American Rescue Plan Act (ARPA)](https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf) signed into law by President Biden in 2021, Congress allocated $10 billion to increase small businesses’ access to equity and debt capital through the State Small Business Credit Initiative (SSBCI 2.0) program.[[1]](#footnote-1) Administered by the U.S. Department of Treasury, the funds are distributed to each state, territory, and tribal jurisdiction. The [Colorado Economic Development Commission](https://oedit.colorado.gov/about/colorado-economic-development-commission) (EDC) with staff support from OEDIT is administering [Colorado’s SSBCI 2.0 allocation](https://oedit.colorado.gov/colorado-state-small-business-credit-initiative).

Colorado has prioritized expanding access to early stage equity capital and has allocated a portion of its funds to the VCA. The VCA will invest funds in compliance with [Public Law No. 117-2](https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf).[[2]](#footnote-2)

**C. Definitions**

**Management Fee**

The VCA Statute limits the fund management fee and expenses

payable by the VCA to a maximum of 2.5% of the funds committed. Expenses deemed extraordinary by the VCA board may be allowed in excess of the 2.5% annual limit.

**Principal Business Owner**

A principal business owner is an individual who directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the business.

**Prospective Fund Manager (PFM)**

* For-profit PFMs and non-profit PFMs are eligible to submit a proposal. [Per SSBCI requirements](https://home.treasury.gov/system/files/256/SSBCI-Capital-Program-Policy-Guidelines-November-2021.pdf), the PFM may be any private venture capital, seed-stage or angel fund, but can not be an individual investor or a special purpose vehicle or entity.
* PFMs, utilizing a fund of funds investment concept, are not eligible to submit a response to this RFP.

**Qualified Business**

Qualified business is a small business whose headquarters and principal business operations are in Colorado and commits to maintain its business in Colorado for at least five years from the date of the initial investment. The business must have fewer than 500 employees.

The business cannot be predominantly engaged in: professional services provided by accountants, doctors, or lawyers; banking; lending; real estate development; insurance; oil and gas exploration; direct gambling activities, which do not include ancillary gambling businesses such as manufacturers of gaming equipment; or making loans to or investing in a fund manager or affiliates of a fund manager.

**Qualified Investment**

Qualified investment in a qualified business may be equity or a hybrid security, including a debt instrument or security that has the characteristics of debt but provides for conversion into equity or equity participation instruments, including, but not limited to, options or warrants. The VCA statutes do allow for debt investments in certain situations - see the statutes for details.

The Fund’s initial investment in a qualified business must be the first investment from a professional venture capital firm to a qualified seed or early-stage business.

A qualified business cannot receive an investment from the Fund that exceeds fifteen percent of the venture capital fund's aggregate total of certified capital, nor an investment in excess of $20M.

The average investment size across the fund may not exceed $5M.

**Small Business**

For the purposes of this Program, a “small business” is defined by the standards listed in PL-117-2 and [State Small Business Credit Initiative (SSBCI) Capital Program Policy Guidelines](https://home.treasury.gov/system/files/256/SSBCI-Capital-Program-Policy-Guidelines-November-2021.pdf) dated November 10, 2021 and [13 CFR 121.101-108 and 121.201](https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-part121.xml#seqnum121.101) which identifies Small Business Administration size standards which are established for types of economic activity, or industry, generally under the North American Industry Classification System (NAICS).

**Socially and Economically Disadvantaged Individuals (SEDI)**

The SSBCI 2.0 program includes requirements to invest in businesses owned by [socially and economically disadvantaged individuals (SEDI)](https://www.regulations.gov/document/TREAS-DO-2021-0009-0001). The Treasury further clarified that the point-in-time used to determine the ownership and control of the business is immediately before the consummation of the investment transaction.[[3]](#footnote-3)

*“SEDI business means a business that:*

* *If privately owned, 51 percent is owned by one or more socially and economically-disadvantaged individuals;*
* *if publicly owned, 51 percent of the stock is owned by one or more socially and economically-disadvantaged individuals; and in the case of a mutual institution, a majority of the Board of Directors, account holders, and the community which the institution services is predominantly comprised of socially and economically disadvantaged individuals.*

*Socially and economically disadvantaged individuals (SEDI) is defined by reference to* [*section 8 of the Small Business Act (15 U.S.C. 637)*](https://www.sba.gov/sites/default/files/Small%20Business%20Act_0.pdf) *and the regulations thereunder. This definition includes the following:*

* *Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.*
* *Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.”*

Rural

Businesses which are located in the following 54 counties within the state of Colorado currently are considered rural per VCA policy and statutes (assuming all other statute requirements are met): Alamosa, Archuleta, Baca, Bent, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Dolores, Eagle, Elbert, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Kiowa, Kit Carson, Lake, La Plata, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington and Yuma.

**Rural Enterprise Zones**

For this RFP, the VCA is interested in Funds focused in rural Colorado and specifically in rural enterprise zones, though fund managers may propose to invest in businesses statewide. The VCA wishes to invest at least 75% of its capital, or approximately $7,500,000, in rural enterprise zone businesses. Enterprise zones (EZ) have lower per capita income and higher unemployment rates as compared to the statewide average. Fund managers will not be limited to investing VCA funds in rural enterprise zones, but RFP respondents should describe their plan and strategy for investing in these areas. EZs are subject to change at any time; if a business is located in an EZ at the time of the initial investment, follow-on investments will be considered to support an EZ business. PFMs should stay abreast of enterprise zone designations throughout the term of the Fund and should review the VCA Statute for additional restrictions.

**D. Reporting Requirements**

Fund managers will submit quarterly reports including capital account statements documenting the Fund investments, VCA’s balance of committed capital, and Fund distributions and company exits, as well as company employment figures. Annual reports will document syndicated and follow-on investments to portfolio companies. Funds must submit audited financial statements annually.

The VCA’s investment will be partially or fully funded by monies awarded to the State via SSBCI 2.0, and therefore, the VCA and Fund Manager(s) will need to report data as required by the US Treasury. At a minimum, for each portfolio business, the Fund Manager must report the fund’s investment amount; other investments in the syndicated round; all other funds received by a portfolio company through exit; business location (in particular CDFI Investment Areas, Urban Enterprise Zones, Rural Census Tracts); and demographic data on business owners.

The Fund Manager(s) must request the demographic information described, and report such information as certified by authorized representatives of Qualified Businesses to OEDIT on an annual basis per [SSBCI Rules and Regulations published on March 10, 2022](https://www.govinfo.gov/content/pkg/FR-2022-03-10/pdf/2022-04843.pdf) and reporting requirements not yet published.

Demographic reporting is **self-certified** by each Principal Business Owner (25% or greater). For each Qualified Business that receives a Qualified Investment, the reported data must be based on the ownership and control of the business immediately before the consummation of such investment. Demographic characteristics requested include: race, ethnicity, gender, sexual orientation, Middle Eastern or North African ancestry, and veteran status. Specific identifiers and the options for no response will be set by the US Treasury and the VCA.

# TIMELINE

The current proposed RFP timeline for selecting a Fund Manager(s) is as follows:

RFP Release Date June 9, 2022

Bidder’s Conference Between June 13 and 22

RFP Response Deadline July 1, 2022

Notification of Finalists July 29, 2022

Finalist(s) Oral Presentation Week of August 1st

Fund Manager(s) Selection by VCA August 9, 2022

Note: The time-line is subject to modification at the VCA’s discretion. All times listed are in Mountain Daylight Time or Mountain Standard Time, as appropriate.

# METHOD OF SELECTION

Depending on the number of proposals submitted by PFMs, either an evaluation committee with members designated by the VCA or the VCA Board will evaluate written proposals. PFM finalists will be selected based upon an evaluation of written responses to the RFP. Finalists will be required to interview with, or make an oral presentation to, the VCA. These interviews will allow finalists to elaborate on information contained in the materials submitted with their written proposal; interviews are expected to take approximately 45 minutes. Finalists will be given 20 minutes to present key points of their proposal, and 25 minutes will be reserved for questions from the VCA. A specific time will be scheduled by the VCA.

Presentations by finalists must be conducted only by the PFM’s general partners, managers, principal officers, and key employees who will be directly responsible for ensuring performance on the VCA’s contract.

Applicants will be selected for further consideration based on the following factors:

1. Team’s Experience and Historic Performance of Funds Managed

General Partners (GPs) experience in managing venture capital funds, seed and early-stage investments, and past performance of funds managed.

Experience with the business community and connections to the targeted geographic locations (Colorado, rural communities, rural enterprise zones) is a consideration. Applicant certifications, reference checks, and background investigations of the GPs of the PFM are factors for selection.

1. Fund Strategy

The PFM will be evaluated on their approach for investing in rural communities, technologies, and business models that draw on typical strengths of rural entrepreneurs and address the issues and opportunities of rural economies. The VCA is interested in proposals focused on rural enterprise zone business development. The VCA looks for proposals with a considerate approach to engaging underrepresented founders. The VCA will consider how the due diligence process, investment and mentoring approach, and capital deployment timeline support seed and early-stage businesses. The VCA will consider how an industry sector focus aligns with their investment objectives.

1. Strength of Investment Pipeline

The VCA will evaluate the GPs strategy to develop or tap into an investable pipeline and put the capital to work in line with the specifics of this RFP. The VCA will evaluate the GP’s partnerships with incubators, accelerators, and other business support organizations or technical assistance providers that create a pipeline of investible startup businesses. The PFM’s commitment to diversity, equity, and inclusion within their organization and in their engagement with the entrepreneurial ecosystem will be evaluated. The VCA is interested in the GP’s connections with the targeted business and founder communities.

1. Ability to Attract Limited Partners

The VCA is interested in the ability of the PFM to attract other private capital to the fund. It is a requirement of the SSBCI program that the Fund be able to obtain commitments from other limited partners that will be equal to or greater than the commitment from the VCA. The VCA looks for its capital to catalyze other investors.

1. Colorado Presence and Time Commitment

GPs located in Colorado and with existing relationships in Colorado may be better positioned to invest in Colorado startups. Additionally, the GPs time commitment to management of the Fund is a consideration.

1. Fund Structure and Size

The VCA is interested in the structure as it represents how the GP’s interests are aligned with the VCA’s. The VCA considers the economics of the fund - fund size, operating costs and management fees, and carried interest are indicators. The VCA looks for a favorable return structure.

# 

# APPLICATION INSTRUCTIONS

1. PFMs should carefully review the VCA Statute (C.R.S. Section 24-46-201 et. seq.) and [SSBCI guidelines, rules and guidance](https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci). All submittals should be responsive to the requirements of the SSBCI 2.0 regulations, VCA Statute and to this Request for Proposal (RFP). Please note that all requirements of the VCA Statute and SSBCI may not be included in this RFP.
2. All questions concerning the RFP should be submitted to Sonya Guram by emailing [sonya.guram@state.co.us](mailto:sonya.guram@state.co.us) with “RFP Questions” in the subject line. An Frequently Asked Questions (FAQ) document will be created to document the questions and responses so that they are available to all applicants. Questions must be submitted prior to June 24, 2022.
3. PFMs must notify staff of their intent to apply by emailing [sonya.guram@state.co.us](mailto:sonya.guram@state.co.us) with the subject line “VCA RFP”.
   1. Staff will provide instructions for securely transmitting application materials.
   2. Applications are due on or before 5:00 PM Mountain Time on July 1, 2022. Late proposals may be rejected (or accepted) for consideration by the VCA solely at its discretion.
4. Each proposal from a PFM must include complete responses to all of the questions in the following sections. Application submission should include the numbering contained in Section VI, the question as it’s written, and the applicant's response. It is preferred that respondents use a font size of 12 and the “Arial” style. Clear cross references are permitted and encouraged to avoid duplicative responses. Attachments, schedules, and other supporting documentation should be compiled into another separate PDF document for submission.
5. All responses to the RFP shall become the property of the VCA and will be used solely for the selection process. The VCA shall maintain the confidentiality of documents submitted to it to the extent requested by the PFM in writing, provided that such request complies with the Colorado Public Records Act (C.R.S. Section 24-72-201, et. seq.). The PFM must state in writing specifically what elements of the proposal are to be considered confidential/proprietary under the Colorado Public Records Act (CPRA) and that confidentiality for such information is appropriate under the CPRA. If the VCA receives an Open Records Request for the documents marked confidential by a PFM, the PFM may need to show that the information requested to be kept confidential are “trade secrets” or “confidential financial data.” The PFM should carefully review the CPRA and consult with its own legal and other advisors in order to determine whether such information will be deemed to be confidential under the CPRA or is deemed to be confidential by some other federal or state law or regulation.
   1. THE PFM HEREBY AGREES TO INDEMNIFY THE VCA AND OEDIT AND THEIR AFFILIATES (INCLUDING, BUT NOT LIMITED TO, THE STATE OF COLORADO AND ALL OF ITS AGENCIES, DEPARTMENTS AND POLITICAL SUBDIVISIONS) FOR ALL OUT-OF-POCKET FEES, EXPENSES, LOSSES, DAMAGES AND COSTS THAT THEY OR THEIR AFFILIATES INCUR IN CONNECTION WITH A PFM’S REQUEST FOR CONFIDENTIALITY, INCLUDING BUT NOT LIMITED TO THOSE AMOUNTS UNDER C.R.S. SECTIONS 24-72-204(5) AND (6) AND OTHERWISE UNDER THE CPRA.
   2. Confidential/proprietary information in the proposal must be clearly marked as “CONFIDENTIAL” by indicating on each page at the bottom of the page in 18 point font “CONFIDENTIAL.”
6. For-profit PFMs and non-profit PFMs are eligible to submit a proposal. [Per SSBCI 2.0 requirements](https://home.treasury.gov/system/files/256/SSBCI-Capital-Program-Policy-Guidelines-November-2021.pdf), the PFM may be any private venture capital, seed-stage, or angel fund, but cannot be an individual investor or a special purpose vehicle or entity.
7. Managers utilizing a fund of funds investment concept, are not eligible to submit a response to this RFP per VCA statutes.
8. The PFM shall comply with all requirements of the RFP, SSBCI 2.0 requirements, and the VCA Statute and must make a commitment to that effect. If the PFM is unable to comply with the requirements of the RFP, SSBCI 2.0 requirements, and the VCA Statute, the PFM must so indicate in its submittal and provide a complete explanation. The VCA may request additional information, accept the reasons stated as being satisfactory, or decline to consider the proposal further at its discretion.
9. The selected PFM(s) will assume responsibility for the performance of all required services, whether or not subcontractors are involved. The VCA will consider the PFM(s) to be the sole point of contact with regard to all matters, although the VCA (in its sole discretion) may contact any PFM subcontractor(s).
   1. The response to the RFP and any contract entered into with a PFM will need to specify any subcontractor(s) the PFM(s) intends to use and what their function(s) will be if the subcontractor(s)’ role is material to the PFM’s ability to perform under this Program. The VCA will retain the right to inspect any phase of the PFM’s and its material subcontractor(s)’ efforts in fulfillment of the contract or VCA Statute, either on a continuing or an ad hoc basis.
   2. The term of a PFM’s contract, if selected, with the VCA shall cover the period of time necessary for the PFM to meet the statutory investment requirements, monitor all investments until the investments have been completely liquidated (or divested or distributed with the VCA’s approval) and complete all other requirements of the VCA’s contract.
   3. The VCA’s contract will contain a number of additional terms and conditions, including: a requirement for the Fund Manager(s) to meet with the VCA periodically; quarterly and annual written reports to be submitted by the Fund Manager(s) to the VCA; audited financial statements to be submitted to the VCA; a requirement for the Fund Manager to provide testimony and information to state auditors, legislative committees and legislature as requested by the VCA if reasonable notice has been provided; and expectations if the Fund Manager(s) forms another fund while managing the VCA’s funds. The Fund must provide the VCA with the right to share aggregate Fund performance data with the State and the public.
10. The VCA reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received and to accept any portion of a proposal or all items proposed at its discretion. The VCA reserves the right to 1) negotiate with all finalists before the actual Fund Manager(s) is selected; 2) select a Fund Manager(s) which in the VCA’s judgment will best meet the VCA’s needs, regardless of any differences in estimated cost between the selected respondent and all others; 3) cancel, delay or re-open this solicitation; and 4) reject any or all proposals or award the contract to the next most qualified Fund Manager(s) if the Fund Manager(s) receiving the award does not execute a contract acceptable to the VCA and its outside counsel within 45 days after being selected.
11. The Fund Manager(s) shall not assign any material interest in this Program upon the VCA’s selection or upon the execution of a contract with the VCA and shall not subcontract or otherwise transfer any interest in the same without the prior written consent of the VCA.
12. Please note that all Colorado and Federal statutory requirements may not be included in this RFP, and that a careful review of the VCA Statute and [SSBCI 2.0 Program Requirements](https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci) by PFMs is necessary.
13. PFMs are asked to limit their written proposal to no more than 20 pages. Appendices or attachments are in addition to the 20 page narrative.

# 

# APPLICATION

# EXECUTIVE SUMMARY

Provide a 2 page Executive Summary of the key points of this section VI.

# PFM INFORMATION

Provide the **PFM’s Name** (including any “assumed or doing business as” names), address, phone number, website address, email address and any other pertinent contact information.

|  |  |  |  |
| --- | --- | --- | --- |
| PFM Name |  | Email |  |
| Address |  | Phone |  |
|  |  |  |
| Website |  | Other |  |

Provide the **name, title and complete contact information of the authorized representative(s) for the PFM**. Such representative(s) is the person who is authorized to execute documents on behalf of the PFM.

|  |  |  |  |
| --- | --- | --- | --- |
| AR Name |  | Email |  |
| Title |  | Phone |  |
| Address |  |  |  |
|  | Other |  |

If available, *attach* signature authorization documentation from the PFM that authorizes the representative to submit the RFP on behalf of the PFM and legally makes representations on behalf of the PFM.

# FUND MANAGER INFORMATION

* + 1. Describe the legal structure or proposed legal structure for the Potential Fund Manager (PFM) and the PFM’s Fund. The VCA Statute requires a partnership, corporation, trust, or limited liability company. Generally, a partnership or LLC structure is preferred due to its favorable tax structure unless the PFM can substantiate the tax benefits related to an alternative legal structure.
* If available, *attach* the complete legal structure documentation (such as filed Articles of Organization) for the PFM and the PFM’s Fund.
  + 1. Provide an organizational chart for the PFM.
    2. Identify the PFM’s principal officers (such as Managers, Managing Partners, Managing Directors, CEOs, Presidents, Vice-Presidents, and so forth for the PFM’s legal structure). Additionally, list licenses held by the principal officers within the last ten years including the current status of the license(s).
* *Attach* resumes (no more than 2 pages) for each individual listed.
  + 1. Identify investment managers for the PFM.
* *Attach* resumes (no more than 2 pages each).
  + 1. List all owners with five percent or more of the equity interests in the PFM and, if the PFM is a subsidiary, all owners of five percent of the equity interests in the ultimate parent entity(ies) to include a specific breakdown of the entity’s ownership structure (including percentages, dollars invested, date(s) of investment(s), voting status, restrictions on transferring ownership interests)
* *Attach* resumes (no more than 2 pages) for each individual owner of five percent or more.
  + 1. Identify the PFM’s Board of Directors (or other governing body).
* *Attach* resumes (no more than 2 pages) for each individual listed.
  + 1. Provide a brief history of the PFM.
    2. Identify subcontractors to be used by the PFM, if the subcontractor’s role is material to the PFM’s duties, obligations and performance under the VCA’s contract.
    3. Describe how the PFM meets the following statutory requirement - a Fund Manager shall have at least two years of money management experience in the venture capital industry or the equivalent as determined by the VCA. PFMs with limited venture capital management experience should describe the support that they will receive from advisors with more extensive fund management experience.
    4. Describe the total amount of capital that has been managed or currently is under management by the PFM.

For this response, identify which key principals or partners managed the capital. Provide the name of the fund or the source of investment as appropriate; including investor (fund or investment vehicle) names; the total size of the fund; the years in which investments were made; the number of investments made; the average investment size; the high and the low investment amounts; the industry in which the investments were made; the location of investments made by county and state; the investment stage (seed, early stage and other using the same definitions provided for in the VCA Statute for this Program so that comparisons may be made); the level of technical assistance/management expertise provided to the businesses in which investments were made; the amount of funds invested by the general partner as both a general partner and a limited partner. Provide annual and cumulative fund performance metrics including internal rates of return (IRR), and explain the specific methodology for calculating the annual and cumulative metrics, the actual numbers used to calculate the annual and cumulative metrics, and the effective date of the annual and cumulative metrics. *Please note that the annual and cumulative metrics numbers must represent the return provided to the limited partners after netting out all fees, expenses, carried interest, and the like.*

For capital managed or currently under management and the investments described above, describe fully the specific roles and responsibilities that the PFM or the stated individuals associated with the PFM had for these historical investments in addition to specifying any board positions/roles.

* If available, *attach* audited financial statements for each fund or source of investment with notes and assumptions; and the most recent interim financial statement.
  + 1. Explain other activities in which the PFM will engage. Identify any other private equity funds or other investment or professional activities that the PFM’s principal officers and investment managers will engage in during the term of the VCA Fund.

Please address all relevant matters, including but not limited to conflicts of interest, avoidance of “cherry-picking,” proposed allocations of capital in investments if more than one fund or investment vehicle will be managed, whether you will be investing outside of Colorado, how much time you intend to spend on investments outside of Colorado (compared to other States and foreign countries) and investments that do not meet the definition of “Qualified Investments.”

* + 1. **Colorado presence.** State whether you currently have or will have an office in Colorado and how it will be staffed (including allocation of time to be spent in Colorado).

# CAPITAL AND TERMS

*Per the VCA Statute, the VCA shall use its funds as a “revolving, evergreen fund to provide continued seed and early-stage investment capital to Qualified Businesses and Qualified Rural Businesses, and for this purpose the [VCA] shall transfer revenues in the Fund to one or more venture capital funds for the purpose of enabling a Fund Manager to make Qualified Investments.”* Under this solicitation, the VCA desires and expects to enter into contracts with Fund Managers whereby the VCA will commit at least $10 million in aggregate. At least $7.5 million will be targeted to investments in Rural Enterprise Zones.

* + 1. What is the **anticipated total fund size**?

* + 1. **VCA Investment.** Clearly state (i) the total amount of requested capital from the VCA that the PFM seeks to invest statewide and in rural Colorado, and (ii) the amount targeted for investing in rural enterprise zones. Describe the maximum and minimum total funding requested.

Rural enterprise zones are found within these counties, and specific sub-county areas or census tracts may be designated as enterprise zones: Alamosa, Archuleta, Baca, Bent, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Dolores, Elbert, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Kiowa, Kit Carson, Lake, La Plata, Las Animas, Lincoln, Logan, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Teller, Washington and Yuma and may be explored on the Enterprise Zone Program website (<https://oedit.colorado.gov/enterprise-zone-program>).

* + 1. **Limited Partners**. The VCA, in line with SSBCI requirements, expects PFMs to attract private capital. List possible limited partners and their current commitment status.

The capital commitment requested of the VCA should be less than 50% of the proposed fund. The ability of the PFM to attract private capital to the Fund is a primary consideration in the VCA’s selection process. The VCA may consider funds from a variety of sources as leveraged or matching funds as long as the funds are under the management of the PFM. Funds from state sponsored programs or the SSBCI program are not considered leverage.

* + 1. Provide details of the proposed **Fund Structure** including: a single or side-car model, the anticipated legal structure, administration, and the PFM’s policies regarding making investments with potentially competitive funds under its management.
    2. **Fund deployment**. Identify the term of the proposed Fund, and an estimate or forecast of the timing and amounts of capital calls.

The VCA anticipates that a Fund will have

(a) an initial investment “commitment period” of three to five years, and after the end of such period, the Fund Manager will not make investments in new portfolio companies, although the Fund Manager is permitted to use capital for follow-on investments in existing portfolio companies and permitted management fees and expenses; and

(b) a term of approximately 10 years to allow time for investments in Qualified Businesses and subsequent liquidation of those investments.

State statutory investment requirements are as follows:

* + 1. Within the period ending three years after an allocation date, the Fund shall have made Qualified Investments cumulatively equal to at least 30% of the capital committed;
    2. Within the period ending five years after an allocation date, the Fund shall have made Qualified Investments cumulatively equal to at least 50% of the capital committed; and
    3. Within the period ending ten years after an allocation date, a Fund shall have made Qualified Investments cumulatively equal to at least 100% of the certified capital committed.
    4. Provide the proposed allocation of (i) capital gains and losses, (ii) ordinary income and (iii) ordinary losses.
    5. **Fees.** Identify the amount of annual management fees and operating expenses of the PFM and throughout the life of the Fund. Include the expected starting date for such fees and expenses and the anticipated timing of the cash calls needed to pay such fees and expenses. Specify if the requested management fee is based on a percentage of capital allocated to the Fund Manager, a percentage of funds invested in Qualified Businesses or some other approach. The VCA encourages competitive and innovative proposals related to management fees and operating expenses.

Note that the VCA statutes contain the following limitations: “*Qualified Distributions shall not exceed 2.5% annually of the total amount of certified capital allocated to each venture capital fund unless authorized by the [VCA] after a review of extraordinary items.”*

* + 1. **Carried Interest.** Provide the PFM’s requested carried interest, the timing of receipt of such carried interest and the method of calculating such carried interest on a percentage basis. Set forth below are summaries of certain relevant parts of the VCA Statute that you should consider (although you should carefully review the entire VCA Statute):

*Distributions of an amount equal to one hundred percent of certified capital shall be made to the VCA prior to the distribution of any remaining proceeds. The distribution of all remaining proceeds shall be in accordance with the VCA’s contract with a Fund Manager(s).*

*Proceeds means any revenues arising from the use of certified capital, including, but not limited to, income generated from qualified investments and income generated from all certified capital not currently invested in qualified investments.*

*The VCA’s contract with a Fund Manager(s) shall state the terms governing the distribution, other than a qualified distribution, of certified capital and proceeds. Unless authorized by its contract with the VCA and until it has made the “one hundred percent of certified capital distribution” to the VCA, a Fund Manager(s) shall not make any distributions from certified capital (other than qualified distributions) or from proceeds.*

* If available, *attach* a term sheet and any fund solicitations (including Private Placement Memorandums) for the Fund.

# FUND STRATEGY

Proposals should be responsive to the objective of incorporating diversity, equity, and inclusion to improve capital access to underserved communities including businesses led by women, minorities, and veterans and those located in economically disadvantaged areas (i.e. rural enterprise zones).

Note: fund managers will not be limited to investing VCA funds in rural enterprise zones, but RFP respondents will be asked to describe their plan and strategy for investing a majority of the fund in such areas.

* + 1. **Deal Flow.** Describe the marketing and communications plan for the Fund, addressing the PFM’s anticipated sources of deal flow. Include a description of additional efforts that will be taken to address the needs of the designated geographical markets (rural and rural enterprise zones). Elaborate on relevant success stories of the management team. Describe the strategy and plan for engaging underserved communities. Describe any cultural competencies the PFM brings to a strategic demographic including community connections. Identify any ecosystem partners of the PFM that provide technical assistance to support the development of entrepreneurs and small businesses in rural areas of the state. Identify any that specifically operate in underserved communities and support SEDI-owned businesses.

Also, identify key technical assistance organizations that need strengthening or are missing, and that would support a more robust ecosystem and strengthen the proposed Fund. Identify resources and funding available to such organizations, as well as gaps or needed support (which could be financial). This will inform OEDIT and may be considered for economic development partnership or funding opportunities.

* + 1. **Sector.** Identify the industry focus for the Fund (if any). An industry sector strategy should align with geographic focus and engaging underserved communities and SEDI founders.
    2. Define the PFM’s investment philosophy, including the minimum and maximum size of investments anticipated, the PFM’s due diligence process, the PFM’s criteria for selecting businesses in which to invest, how and by whom investment decisions will be made, the manner in which the PFM will add value to its investments and the generally accepted valuation methodology used to determine the fair market value of portfolio companies/investments that are yet to be sold or do not have their securities publicly traded in an active market, and the process used to liquidate an investment in a business.
    3. **Investment Partners**. The leverage of other private capital for portfolio businesses is an important evaluation factor for the VCA’s selection of a Fund manager. Provide a comprehensive description of contacts and relationships with other venture capital funds (including a description of the PFM’s ability to attract co-investors and follow-on investors to the PFM’s investments or other significant investors). Estimate the Fund’s participation in a standard funding round for a portfolio business.
    4. Identify the PFMs Equity, Diversity and Inclusion policies and practices within the organization.
    5. Identify the PFMs cultural competency for both rural-based entrepreneurs, and the PFMs Equity, Diversity and Inclusion policies and practices for engaging entrepreneurs and potential portfolio businesses.
    6. **Job creation.** Describe how the investment strategy will result in the creation of jobs in Colorado.
    7. **Projected performance.** What is the PFM’s projected annual and cumulative rate of return for the Fund, including the method used to calculate such returns.
* *Attach* sample quarterly and annual written reports and a description of other information that you would anticipate providing to the VCA for compliance, oversight, and evaluation purposes.

# 

# 

# 

# AUTHORIZATION FORMS TO BE SIGNED

Complete and *attach* forms

**Form 1: AUTHORIZATION TO INVESTIGATE THE PFM**

To be completed by the Authorized Representative(s) of the PFM,

I understand that the Venture Capital Authority (VCA), the Office of Economic Development and International Trade (OEDIT) or any designees may conduct investigations and obtain verifications regarding the PFM’s business background, credit, experience, and other related matters in conjunction with the Fund Manager(s) selection process being conducted by the VCA. I understand that the VCA, OEDIT, or either one of its designees may seek additional information and references in addition to investigating/verifying information contained in the PFM’s submittal.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of PFM

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Authorized Representative for PFM

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name and Title of Authorized Representative for PFM

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**Form 2: AUTHORIZATION TO INVESTIGATE THE PFM’S GENERAL PARTNERS, PRINCIPAL OFFICERS, OWNERS, AND INVESTMENT MANAGERS**

To be completed by each of the PFM’s General Partners, Principal Officers, Owners, and Investment Managers,

I understand that the Venture Capital Authority (VCA), the Office of Economic Development and International Trade (OEDIT) or any designees may conduct investigations and obtain verifications regarding my personal background, credit, experience, resumes, references and other related matters in conjunction with the Fund Manager(s) selection process being conducted by the VCA.

In order to conduct such investigations and obtain such verifications, I understand that the VCA, OEDIT or any designees will need to obtain the additional information stated below. I understand that the disclosure of my social security number will be held confidential. I voluntarily give the VCA, OEDIT or any designee access to this information, the information submitted on resumes and other information submitted by the PFM. I understand that the VCA, OEDIT, or any designees may seek additional information and references in addition to investigating/verifying information contained in the PFM’s submittal.

I certify that the following information is true and correct.

|  |  |
| --- | --- |
| Name |  |
| Current Residential Address |  |
| Previous Residential Address(es) for last 10 years |  |
| Social Security Number (SSN) |  |
| Date of Birth (mm/dd/yyyy) |  |
| Signature |  |
| Date (mm/dd/yyyy) |  |

# 

**Form 3: BANKRUPTCY, CRIMINAL PROCEEDINGS, AND JUDGEMENTS**

To be completed by the PFM’s General Partners, Principal officers, Owners and Investment Managers,

If any of the following events have occurred during the last five years, describe the circumstances of the event, including the date on which a judgment was entered, and explain any mitigating circumstances:

**Certain Events**

For purposes of computing the five-year period in these Questions, the date of the event is the date on which the final order, judgment or decree was entered, or the date on which any right of appeal from preliminary orders, judgments or decrees have lapsed. For bankruptcy petitions, the computation date is the date of filing for uncontested petitions or the date upon which approval of a contested petition becomes final. Italicized terms are defined in the section entitled “Definitions” at the end of this Questionnaire.

**Definitions**

An “**affiliate**” of, or a *person* “**affiliated**” with, another *person* is a *person* that directly or indirectly, through one or more intermediaries, *controls*, or is *controlled by*, or is *under common control* with, such *person*.

A *person* “**associated**” with you means (a) any corporation or organization (other than the Company) of which you are an officeror partner or are, directly or indirectly, the *beneficial owner* of 10% or more of any class of equity securities, or (b) any trust or estate in which you have a substantial beneficial interest or as to which you serve as trustee or in a similar capacity, or (c) any relative or spouse, or relative of your spouse, who is living in your home or who is a director or officer of the Company.

A “**beneficial owner**” of stock includes any *person* who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares (i) voting power (which includes the power to vote, or to direct the voting of, such stock) and/or (ii) investment power (which includes the power to dispose, or to direct the disposition of, such stock).

“**Control**” (including the terms “**controlled by**” and “**under common control with**”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a *person* or entity, whether through the ownership of voting securities, by contract or otherwise.

“**Executive officer**” means a company’s president, any vice president in charge of a principal business unit, division or function, any other officer who performs a policy making function or any other person who performs similar policy making functions for a company. *Executive officers* of subsidiaries may be deemed *executive officers* of a company if they perform such policy making functions for the company.

“**Person or persons**” means any individual, corporation, partnership, association, joint stock company, trust, unincorporated organization, or government or political subdivision thereof.

1. A bankruptcy or insolvency petition was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for: (i) you, (ii) your business or property, (iii) the business or property of any partnership of which you were a general partner at or within two years before the time of such filing, or (iv) the business or property of any corporation or business association of which you were an *executive officer* at or within two years before the time of such filing.

***Answer:***

1. A criminal proceeding (other than a traffic violation or other minor offense) resulted in a conviction against you, or you are the subject of a pending criminal proceeding (other than a traffic violation or other minor offense).

***Answer:***

1. You have been the subject of any order, judgment or decree that permanently or temporarily enjoined or otherwise limited your participation or right to engage in, or continue any conduct or practice in connection with, any of the following activities, or to be *associated* with any *person* who engages in such activities:
   1. acting as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, floor broker, leverage transaction merchant, or any other *person* regulated by the Commodity Futures Trading Commission (“**CFTC**”), or as an investment adviser, underwriter, broker or dealer in securities, or as an *affiliated* *person*, director or employee of any investment company, bank, savings and loan association or insurance company or engaging in or continuing any conduct or practice in connection with such activity;
   2. engaging in any type of business practice; or
   3. engaging in any activity in connection with the purchase or sale of any security or commodity or in connection with any violation of federal or state securities or federal commodities laws.

***Answer:***

1. A court, the SEC, or the CFTC has found that you have violated a federal or state securities or federal commodities law and such finding has not been subsequently reversed, suspended or vacated.

***Answer:***

1. You were the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, of any federal or state authority barring, suspending or otherwise limiting for more than 60 days your right to engage in any activity described in subpart (iii)(A) of this section, or to be associated with persons engaged in such activity.

***Answer:***

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title and Name of Legal Entity or Signature in Individual Capacity

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**Form 4: GENERAL CERTIFICATIONS**

To be completed by the PFM’s General Partners, Principal Officers, Owners, and Investment Managers,

I certify:

1. That the submitted proposal, except for entities clearly identified as part of the proposal, has been arrived at independently without consultation, communication, or agreement with any other PFM or competing entities.
2. That unless otherwise required by law, the competitive proposal submitted has not been knowingly disclosed directly or indirectly to any other competing entity, nor will it be disclosed prior to the VCA’s notification of Fund Manager(s) selection.
3. That no attempt has been or will be made to induce any other person or entity to submit or to withhold a proposal for the purpose of restricting competition for this RFP.
4. That the VCA, its employees and agents, shall be indemnified, saved and held harmless, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the PFM, or its employees, agents, subcontractors, or assignees pursuant to this RFP.
5. That The PFM shall have no authorization, express or implied, to bind the VCA to any agreements, liability, or understanding except as expressly set forth herein. The PFM shall provide and keep in force worker’s compensation (and provide proof of such insurance when requested by the VCA) and unemployment compensation insurance in the amounts required by law, and shall be solely responsible for the acts of the PFM, its employees and agents.
6. That the PFM shall comply with the letter and the spirit of all applicable state and federal laws respecting discrimination and unfair employment practices.
7. That, to my knowledge, no employee of the VCA or the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein within this RFP.
8. That neither the PFM nor any of its present employees have been involved in a transaction in which the PFM or any present employees have been the subject of a proceeding of any nature (with or without formal hearings) by the Securities and Exchange Commission, any governmental agency of the United States (or other country), any state agency, any national securities association, any self-regulatory organization, any professional organization or any judicial or quasi-judicial body.
9. That if offering materials are used, they shall include the following statement, “The State of Colorado does not endorse the quality of management or the potential for earnings of such Fund and is not liable for damages or losses to any investor in the Fund or any other entity. Selection by the Colorado Venture Capital Authority to participate in this Program does not constitute a recommendation or endorsement of the Fund or its investments by the Colorado Venture Capital Authority.”
10. Provide details if the PFM, the PFM’s general partners, the PFM’s principal officers, the PFM’s owners and/or the PFM’s investment managers have had a contract with the state of Colorado in the last five years.
11. Provide information as to the PFM’s status as a Registered Investment Advisor (“RIA”) and how the PFM plans to comply with, or demonstrate its legitimate exemption from, state and federal laws and regulations regarding RIA’s.
12. I hereby certify that I have read and understand C.R.S. Sections 24-46-201 to 207, SSBCI 2.0 regulations and publications and this RFP document and that the information that has been submitted to the VCA and OEDIT for review is true and accurate.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PFM Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name and Title of the Authorized Representative (Printed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of the Authorized Representative of the PFM

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**Form 5: CONFLICT OF INTEREST CERTIFICATION**

To be completed by the PFM’s General Partners, Principal Officers, Owners, and Investment Managers,

I certify:

\_\_ That the PFM and its employees, owners and affiliates have not had a business relationship with any member of the VCA Board of Directors in the previous three years and will not have any such relationship for at least three years following a partnership with the VCA as is required by CRS 24-46-202 (1)(b)(I).

\_\_ That funds will not be used to invest in a business in which an SSBCI insider has a personal financial interest per the SSBCI Conflict of Interest standards for venture capital programs.

SSBCI Conflict-of-Interest Standards for Venture Capital Programs

Funds from an SSBCI venture capital program must not be used to make an investment in a business in which an SSBCI insider has a personal financial interest.

1. An “SSBCI insider” of an SSBCI venture capital program is a person who, in the 12- month period preceding the date on which SSBCI support for a specific investment in a venture capital fund or company is closed or completed was:
   1. a manager or staff member, whether by employment or contract, in the state’s SSBCI venture capital program;
   2. a government official with direct oversight or jurisdiction over an SSBCI venture capital program, or such an official’s immediate supervisor;
   3. a member of the board of directors or similar body for a state-sponsored non-profit entity who, through such membership, has authority to vote on decisions to invest SSBCI funds or has authority over the employment or compensation of staff managing processes related to the investment of SSBCI funds;
   4. a member of the board of directors or similar body for an independent nonprofit or for-profit entity that operates an SSBCI venture capital program; or
   5. an employee, volunteer, or contractor on an investment committee or similar body that recommends or approves SSBCI investments under the SSBCI venture capital program; or
   6. Exercised a controlling influence on state decisions regarding:
      1. The allocation of SSBCI funds among approved state venture capital programs;
      2. Eligibility criteria for the state’s SSBCI venture capital programs; or
      3. The processes for approving investments of SSBCI funds under the state’s SSBCI venture capital program.
2. A “business partner” of an SSBCI insider is a person who owns 10 percent or more of any class of equity interest, on a fully diluted basis, in any private entity in which an SSBCI insider also owns 10 percent or more of any class of equity interest on a fully diluted basis.
3. A “family member” of an SSBCI insider means:
   1. Such person’s spouse, domestic partner, parents, grandparents, children, grandchildren, brothers, sisters, stepbrothers, and stepsisters; and
   2. Any other relatives who live in the same household as the SSBCI insider.
4. An “independent non-profit entity” means any non-profit entity that is not state sponsored.
5. A “personal financial interest” means any financial interest derived from ownership or right to ownership of, or lending to or other investment in, a private, for-profit entity that may receive an SSBCI investment (including any financial interest derived from ownership or right to ownership of, or investment in, a venture capital fund).
6. A “state-sponsored non-profit entity” is a non-profit entity created by state legislation to pursue policies of the state government and over which state officials exercise a controlling influence through budgetary decisions or other legislative action or direction.

Subject to the exceptions described below, SSBCI funds may not be used by SSBCI venture capital programs to make or support investments in a company or venture capital fund if an SSBCI insider, or a family member or business partner of an SSBCI insider, has a personal financial interest in the company or venture capital fund. A prohibited conflict of interest is deemed to exist even if the conflict is disclosed or the relevant individuals recuse themselves from participating in the investment. Further, accepting a role as an SSBCI insider does not require a person to divest financial interests in a company or venture capital fund resulting from previous employment or personal investment activity. However, if a person is an SSBCI insider, any company or venture capital fund in which the insider has a personal financial interest is prohibited from receiving investments or financial support from SSBCI funds. Exceptions to the general prohibition are as follows:

1. A governmental entity or a state-sponsored non-profit entity may use SSBCI funds for follow-on investments in companies or venture capital funds if the entity has an existing ownership or voting interest resulting from a prior investment of SSBCI funds or non-SSBCI funds. Furthermore, in this circumstance, the entity may authorize investments if an SSBCI insider serves on the board of directors of the company or venture capital fund, if an SSBCI insider does not have a personal financial interest in the company or venture capital fund and the entity’s prior financial interest is in compliance with all applicable state laws and rules.
2. An independent non-profit or for-profit entity managing or investing SSBCI funds for an SSBCI venture capital program is not precluded from authorizing follow-on investments using SSBCI funds in a company or venture capital fund in which the entity previously invested SSBCI funds or the entity has previously appointed a representative to serve on the board of directors in stewardship of the investment. However, such independent nonprofit or for-profit entity may not authorize (or seek approval from the participating state for) an investment of SSBCI funds in a company or venture capital fund in which the entity holds any type of financial interest resulting from an investment made with nonSSBCI funds.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PFM Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name and Title of the Authorized Representative (Printed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of the Authorized Representative of the PFM

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**Form 6: CERTIFICATION RELATING TO SEX OFFENSES**

No principal of the PFM has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. § 16911)).

For the purposes of this certification, “principal” is defined as if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds 50 percent or more ownership interest of any class of the partnership interests; if a corporation, limited liability company, association, development company, or other entity, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 50 percent or more of any class of equity interest in the entity; and if a partnership where the managing partner is a corporation, limited liability company, association, development company, or other entity, each director and each of the five most highly compensated executives or officers of the entity.

NOTE: A Fund Manager must obtain such a certification for any business/investee that is to receive the benefit of SSBCI funds through a venture capital program.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PFM Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name and Title of the Authorized Representative (Printed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of the Authorized Representative of the PFM

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

**Form 7: CIVIL RIGHTS COMPLIANCE CERTIFICATION**

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the “Recipient”) provides the assurances stated herein.

The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient’s beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient’s program(s) and activity(ies), so long as any portion of the Recipient’s program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with legal requirements related to nondiscrimination and nondiscriminatory use of federal funds. These requirements include ensuring that entities receiving federal financial assistance from Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with, but not limited to, the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 C.F.R. part 22, and other pertinent executive orders such as Executive Order 13166; Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 C.F.R. part 28; Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and the Department’s implementing regulations at 31 C.F.R. part 23.
2. Recipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient’s programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient’s successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above. With regard to Title VI, Recipient agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient’s sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

*The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.*

1. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
2. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
3. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
4. Recipient must provide documentation of an administrative agency’s or court’s findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient’s obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PFM Name

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name and Title of the Authorized Representative (Printed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of the Authorized Representative of the PFM

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

1. SSBCI 1.0 was launched in 2010. The 2021 program, SSBCI 2.0, has updated program guidelines and requirements. [↑](#footnote-ref-1)
2. Treasury continues to post additional program details and FAQs on the SSBCI program website: <https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/ssbci-2021> [↑](#footnote-ref-2)
3. This was included in the March 2, 2022 FAQ update: https://home.treasury.gov/system/files/136/SSBCI-FAQs-as-of-3-2-2022.pdf [↑](#footnote-ref-3)