

# Economic Development Department of New Mexico- Avivar Capital

## New Mexico SSBCI Program Program Guidelines

This overview of the SSBCI Program Guidelines is not comprehensive of all requirements. You can find the official program guidelines [here](#).

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### Program General Conditions

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**Eligible programs:** SSBCI provides funding for state small business lending and investment programs. There are two state program categories: Capital Access Programs (CAPs) and Other Credit Support Programs (OCSPs). OCSPs include collateral support programs, loan participation programs, state-sponsored venture capital programs (EDD selected this category), loan guarantee programs, and other similar programs.

**Tranching and Development:** each state that is approved for participation in the SSBCI will receive its allocation of main capital funds in three disbursements as follows: 33 percent, 33 percent, and 34 percent. As a precondition to receipt of the second and third disbursements, the state must, among other things, certify to Treasury that the state has expended, transferred, or obligated 80 percent or more of the prior disbursement of allocated funds to or for the account of one or more approved state programs that have delivered loans or investments to eligible businesses (i.e., it has deployed such funds). Each tranche has three allocations: main capital, SEDI-owned business, and Very Small Businesses (VSBs).

- Each state's SEDI and VSBs allocation will be transferred in three approximately equal tranches, with 33 percent for the first and second tranche and 34 percent for the third tranche. A state's SEDI and VSBs allocation must be expended only for that purpose. A state is not required to establish a separate program for SEDI-owned businesses but must maintain records of the total amount of its SSBCI funds that are expended for SEDI-owned businesses.

**SEDI Definition:**

- Business enterprises that certify that they are owned and controlled by individuals who have had their access to credit on reasonable terms diminished as compared to others in comparable economic circumstances, due to their (1) membership of a group that has been subjected to racial or ethnic prejudice or cultural bias within American society; (2) gender; (3) veteran status; (4) limited English proficiency; (5) physical handicap; (6) long-term residence in an environment isolated from the mainstream of American society; (7) membership of a federally or state-recognized Indian Tribe; (8) long-term residence in a rural community; (9) residence in a U.S. territory; (10) residence in a community undergoing economic transitions (including communities impacted by the shift towards a net-zero economy or deindustrialization); or (11) membership of another "underserved community" as defined in Executive Order 13985.
- Business enterprises that certify that they are owned and controlled by individuals whose residences are in CDFI Investment Areas, as defined in 12 C.F.R. § 1805.201(b)(3)(ii).
- Business enterprises that certify that they will operate a location in a CDFI Investment Area, as defined in 12 C.F.R. § 1805.201(b)(3)(ii)
- Business enterprises that are located in CDFI Investment Areas, as defined in 12 C.F.R. § 1805.201(b)(3)(ii).



**Very Small Businesses (VSBs) Definition:** a business with fewer than 10 employees at the time of the loan, investment, or other credit/equity support and includes independent contractors and sole proprietors.

**Financing 1:1 ratio requirement:** Each OCSP must demonstrate that \$1 of SSBCI funds will cause and result in at least \$1 of new private financing (1:1 financing ratio at the individual OCSP level).

**SSBCI capital accounting requirement:** When a state provides SSBCI capital to private investment funds, the state's capital must be either (1) held in a separate fund and separately accounted for, or (2) held in a fund with other investors' funds, with each investor's investment accounted for separately. State-sponsored venture capital programs must be able to trace and report on each investment in a fund's portfolio that was funded partially or entirely by the SSBCI contribution to the fund.

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## Investments

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**Underlying Investee Requirements:** OCSPs are required to:

- Target an average investee size of 500 employees or less.
- Not to invest in companies that have more than 750 employees.
- Target investments with an average amount of \$5 million or less.
- Not to provide investment if a given transaction exceeds \$20 million.

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## Certifications and Legal Requirements

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- State/Investor must get assurance from the investee that the proceeds will be used for: Business purposes including, but not limited to, start-up costs; working capital; franchise fees; and acquisition of equipment, inventory, or services used in the production, manufacturing, or delivery of a business's goods or services, or in the purchase, construction, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes
- State/Investor must get assurance from the investee that the proceeds will NOT be used for: i) Passive real estate investments, ii) repay delinquent federal or state income, iii) reimburse funds owed to any owner, iv) purchase any portion of the ownership interest of any owner of the business, except for the purchase of an interest in an employee stock ownership plan, v) a business engaged in speculative activities that profit from fluctuations in price, vi) a business that earns more than half of its annual net revenue from lending activities, except a CDFI or Tribal enterprise, vii) a business engaged in activities that are prohibited by federal law or, if permitted by federal law, applicable law in the jurisdiction where the business is located or conducted, including marijuana-related businesses. viii) a business deriving more than one-third of gross annual revenue from legal gambling activities unless is a Tribal SSBCI participant.
- Certification Relating to Sex Offenses: Certification related to sex offenders must state that no principal of the investor or the investee has been convicted of a sex offense against a minor.
- Compliance with Civil Rights: 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.



- **Conflict of Interest:** Funds from an SSBCI venture capital program must not be used to make an investment in a business in which an SSBCI insider, or a family member or business partner of an SSBCI inside has a personal financial interest. States with venture capital programs should adopt conflict-of-interest policies consistent with the standards described in the guidelines

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## **Fund Managers Requirements**

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**Capital at risk:** OCSPs must mandate that investors—through which OCSPs provide investments or equity support—have “a meaningful amount of their own capital resources at risk.” Treasury has determined that “meaningful amount” differs for various types of lenders and investors, as some will bear risk at the transaction level while others bear pooled risk.

**Portfolio Companies Services:** Venture capital funds offer a variety of services to their portfolio companies (i.e., the potential SSBCI investees). ecosystem. As these services to portfolio companies are a type of equity support, SSBCI funds, out of the federal contribution, may be used to pay for such support up to an annual average of 1.71 percent of the federal contribution to a venture capital fund over the life of the state’s venture capital program. In the contractual agreement between a state and a venture capital fund, the fund must be required to identify the services to be provided to portfolio companies and annually certify that these services were provided.

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## **Reporting**

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### **Reporting requirements:**

- **Quarterly Reports** (30 days after the quarter ends, starting on January 30, 2022): describing the use of SSBCI funds for each approved state program on both a quarterly and a cumulative basis, including the total amount of SSBCI funds used for direct and indirect administrative costs, the total amount of SSBCI funds used, the amount of program income generated, and the amount of charge-offs against the federal contributions to the reserve funds set aside for any approved capital program.
- **Annual Reports** (Due March 31 of each year for the prior calendar year ending December 31): This annual report will be required to contain transaction-level data for each loan or investment, including small business characteristics, made with SSBCI funds for that year, and information on subsequent private financing for OCSP loans and investments made in prior years when required by the SSBCI Allocation Agreement.
- **SF-425 Federal Financial Reports:** F-425 Federal Financial Reports are to be submitted on an annual basis.

Full program reporting guidelines can be found [here](#).