

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY  
("NJEDA" or "Authority")**

**NOTICE OF INVESTMENT OPPORTUNITY  
For**

**New Jersey State Small Business Credit Initiative ("SSBCI") Socially &  
Economically Disadvantaged Individuals ("SEDI") Seed Fund**

**Deadlines, Q&A, Confidentiality**

**SUBMISSION REQUIREMENTS AND TIMELINE**

Respondents to this Notice of Investment Opportunity are required to submit detailed responses to the questions covered in Appendix A of this document and to provide the documents listed in Appendix B, in addition to other information as may be required to sufficiently evaluate responses. Additional compliance requirements are described in Appendix C.

**NOTICE PROJECTED MILESTONE DATES:**

**Notice of Investment Opportunity Available on NJEDA Website:** Thursday, February 9, 2023, 5:00 PM

**Responses to Notice Due:** Thursday, March 16, 2023, 5:00pm ET (35 days after notice available) via electronic format only to [SSBCISediFund@njeda.com](mailto:SSBCISediFund@njeda.com).

**Review and Consideration of Investment by Authority Board:** Wednesday, May 10, 2023\* (55 days after responses due)

**Documentation and Contract Executed:** Monday, July 10, 2023\*

\* The above dates are provided to interested fund managers for planning purposes only. These are estimated timeline dates and do not represent firm commitment dates by the Authority.\*

**IMPORTANT:**

**PLEASE NOTE THAT NEW JERSEY DEPARTMENT OF THE TREASURY HAS NOT YET EXECUTED AN ALLOCATION AGREEMENT FOR FUNDING FROM THE U.S. TREASURY'S STATE SMALL BUSINESS CREDIT INITIATIVE (SSBCI) PROGRAM. ANY SELECTION OF A FUND MANAGER AND EXECUTION OF CONTRACT IS SUBJECT TO THE U.S. TREASURY'S APPROVAL OF THE SSBCI FUNDS AND THE AUTHORITY'S EXECUTION OF THE ALLOCATION AGREEMENT WITH THE U.S. TREASURY. ADDITIONALLY, ANY INVESTMENT AND PAYMENT BY THE AUTHORITY IS SUBJECT TO THE AUTHORITY'S RECEIPT OF SSBCI FUNDING. THE ALLOCATION AGREEMENT MAY REQUIRE ADDITIONAL COMPLIANCE OBLIGATIONS OR RESPONSIBILITIES FROM THE SELECTED FUND MANAGER(S) WITH REGARD TO THE SEDI SEED FUND.**

When preparing your response to this Notice, keep in mind that, in this Notice, the word “shall” or “must” denotes proposal items which are mandatory for a proposal to be deemed complete; the word “should” denotes proposal items which are recommended, but not mandatory; and the word “may” denotes proposal items which are permissible, but not mandatory.

### **QUESTIONS and ANSWERS:**

- Questions concerning this notice may be submitted in writing via e-mail to [SSBCISediFund@njeda.com](mailto:SSBCISediFund@njeda.com) and must be received at or before 5 PM ET on Tuesday, February 21, 2023. Phone calls/faxes shall not be accepted.
- The subject line of the e-mail must state: “SEDI Seed Fund Manager Notice of Investment Opportunity.”
- All answers to the questions submitted within the required timeline for this notice will be posted to the Authority’s website <https://www.njeda.com/notices-of-investment-opportunity/> as soon as available, but in no event later than Friday, March 3, 2023, at 5:00 PM ET.

### **CONFIDENTIALITY:**

All responses and materials submitted in connection with this Notice may be subject to requests for disclosure, including, but not limited to the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq. If the respondent asserts that any of its information is protected from disclosure, respondent must identify and mark any such specific information as protected and must the basis for such purported protection from disclosure.

#### **1. INTENT/SUMMARY**

NJEDA seeks submissions from venture capital managers that have demonstrated competency, capacity, and skill in managing early-stage investment strategies into start-up and early-stage companies in New Jersey (“NJ” or “State”), to receive an investment from a public institution and manage a possible SEDI Seed Fund (the “Fund”) for investment into SEDI businesses.

The December 2022 version of the U.S. Treasury Capital Program Policy Guidelines provide a definition of which small businesses qualify as a SEDI business. The basis for eligibility can be geographic, demographic, or socioeconomic. A small business may qualify as a SEDI business if it meets at least one of the four criteria below:

- 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 Community Development Finance Institution (“CDFI”) Investment Areas. [https://cimsprodprep.cdfifund.gov/CIMS4/apps/pn-cdfi/index.aspx?entity=STATE,34&center=-74.727071,40.085163&level=9&tool=result&visible=CT\\_2015\\_CDFI\\_ALL,STATE](https://cimsprodprep.cdfifund.gov/CIMS4/apps/pn-cdfi/index.aspx?entity=STATE,34&center=-74.727071,40.085163&level=9&tool=result&visible=CT_2015_CDFI_ALL,STATE)
- Business enterprises that certify that they will operate a location in a CDFI Investment Area.
- Business enterprises located in a CDFI Investment Area.

\*The term “owned and controlled” means, if privately owned, 51 percent is owned by such individuals; if publicly owned, 51 percent of the stock is owned by such 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 such individuals.

When the Authority receives the allocation from the SSBCI program, \$20 million will be committed to the SEDI Seed Fund. The funds will be disseminated to the qualified, highest-scoring manager(s) to make “seed” to “Series A” investments into early-stage, New Jersey companies owned by SEDI entrepreneurs

Additionally, in accordance with SSBCI requirements, one or more fund manager(s) to be selected must raise a private capital match of at least 1:1 at the fund level, yielding a \$40 million (or greater) total fund, assuming a single deployment of \$20 million. The fund manager(s) may also implement the use of a side-car structure (fund of one) to achieve the 1:1 match. A minimum of 90% of the investments must be in companies with a New Jersey location. The fund manager(s) must ensure that the SSBCI investment is catalytic to private financing, based on the fund's age, size or experience.

The State and the Authority have developed various products as further inducement to encourage engagement from venture capital managers. For example, the State recently revised the NJ Angel Tax Credit (ATC) Program to incentivize limited partners’ (“LP”) commitments to NJ-dedicated venture capital funds. The recent update to the ATC Program allows venture capital fund LPs, whose general partners (“GP”) commit to investing at least 50% of the fund into NJ-based businesses, to receive State corporate business or gross income tax credits up to 20% of their commitment to the fund. The tax credit amount is increased by 5% if the venture capital fund commits to invest at least 50% to diverse entrepreneurs (defined as State certified minority- or women-owned businesses). Subject to NJ tax law, the amount of the tax credit otherwise allowable against the LP’s tax, which cannot be applied for the tax credit approval year against the tax credit otherwise due may be treated as an overpayment, or carried forward if a corporate business tax. **This summary is provided as a courtesy and is not comprehensive. Respondents must consult with their own consultants, advisors, and attorneys to determine applicability of the ATC Program.**

The selected fund manager(s) shall manage the SEDI Seed Fund to support NJ-based SEDI businesses. The Fund will be funded by the NJEDA’s receipt of SSBCI funds, which will be provided in three tranches and subject to availability of funds. The fund manager(s) selected must be ready to accept NJEDA’s investment and deploy this model in NJ shortly after the award of the SSBCI funds, as U.S. Treasury requires that, within 90 days of signing the SSBCI Allocation

Agreement, SSBCI programs be fully positioned to provide the kind of investment support they were established to provide. The selected fund manager(s) must be able to meet this requirement, as the U.S. Treasury may further specify and have in place, legal documents and form agreements as well as processes in place by this deadline. While the SSBCI compliance requirements and regulations listed in this notice are current, the fund manager(s) shall be responsible for complying with any additional finalized SSBCI rules and requirements as issued by the U.S. Treasury.

The objective of this Notice is to identify fund managers(s) whose expertise will best meet the goals of the SSBCI program and the SEDI Fund. The NJEDA reserves the right to reject any and all submissions at its discretion, including any and all submissions that may meet the minimum score.

As further described in Section 4, the general *scope of services* requires that the selected fund manager(s) establish, fully invest and manage the Fund on NJEDA's behalf. Management of the Fund shall broadly entail, but not be limited to:

- Creating the Fund special purpose vehicle, if applicable
- Contributing to the capital raise by utilizing established relationships to draw additional capital commitment to the Fund
- Strict adherence to NJEDA and SSBCI compliance and reporting requirements as detailed in the limited partnership agreement and/or side letter, which may be updated from time to time in accordance with updates to the SSBCI rules
- Developing and maintaining a pipeline of prospective, NJ-based, SEDI-owned companies in need of seed or early-stage capital (i.e. deal sourcing)
- Responsibly investing the capital into qualifying businesses in line with the Fund strategy as agreed upon at time of execution
- Managing the Fund's day-to-day operation and reporting requirements
- Setting and managing annual budgets
- Managing employees, back-office, vendors, investor relations
- Responding to non-deal related requests related to the purposes of the Fund, such as market intelligence reports, and other ad hoc requests that the NJEDA may require
- Developing, managing, and maintaining necessary due diligence measures
- Monitoring, managing, and reporting on portfolio companies
- Working closely to support portfolio chief executive officers to ensure value creation and provide a pipeline of services to the portfolio companies; and
- Ensuring the Fund and individual transactions adhere to all SSBCI program and fund requirements and a document evidencing such is supplied to the NJEDA prior to any investment being funded

To be considered, respondents must fully respond to the Due Diligence Questionnaire in Appendix A and must include the required exhibits listed in Appendix B. If any section or question does not apply, then respondent must indicate that is not applicable. The evaluation process is outlined in Section 7.

## 2. **BACKGROUND**

Since 1999, the Authority has committed more than \$64.5M to 20 venture capital funds. These commitments have resulted in direct-investments into 114 NJ-based, early-stage companies, yielding over 6,500 jobs in New Jersey, and a private leverage multiple in excess of 64.7x. The Authority aims to deepen the success of its early-stage investment strategy and expand its investments into SEDI businesses through the 2021 iteration of SSBCI. The Authority previously participated in the 2010 SSBCI program with investments in three venture capital funds with regional strategies.

On March 11, 2021, President Biden signed The American Rescue Plan Act, which provided \$10 billion to fund SSBCI and authorized U.S. Treasury to administer SSBCI for seven years after enactment, through March 2028. The program was created to strengthen state programs that support private financing to small businesses, thereby delivering credit and investment capital to small businesses that are not getting the support they need to expand and create jobs. Specifically, the program allocated \$1.5 billion for business enterprises owned and controlled by socially and economically disadvantaged individuals. Additional information on the SSBCI program can be found here: <https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbc>.

Of the \$10 billion of SSBCI funding, the State of New Jersey has been allocated \$255 million. The NJEDA has been designated by the New Jersey Department of the Treasury to administer the funds on behalf of the State. New Jersey, through the NJEDA, has requested \$20 million from the SSBCI allocation for its SEDI Seed Fund and is awaiting execution of the allocation agreement. The SSBCI funding is disbursed to states in three tranches. Timing and size of these tranches can depend on a state's performance across its SSBCI program portfolio.

Interested managers must understand the reporting and compliance standards mandated by SSBCI. The selected manager(s) must commit to adhering to all reporting and compliance requirements set by SSBCI and/or NJEDA for any transaction that utilizes SSBCI monies, whether in part or in whole. The selected manager(s) must also demonstrate an ability to leverage the allocated public funds for additional private capital to achieve a public/private ratio of 1:1 on the fund level (e.g. an additional private capital raise of \$20 million, assuming a single manager allocation of approved funds).

### 3. **REPORTING REQUIREMENTS AND COMPLIANCE OVERVIEW**

The SEDI Seed Fund will be funded by federal monies received through SSBCI. The guidelines for the initiative mandate that “at a minimum, \$1 of public investment by the State program will cause and result in \$1 of new private [financing capital].” To achieve this, NJEDA is mandating that the selected manager(s) raise an additional \$20 million in private capital that will be co-mingled with the SSBCI allocation at the fund level. For this Fund, the “cause and result” requirement will be met by the selected fund manager(s) raising matching private capital of at least 1:1 at the fund level, because private capital would not enter into the Fund for the purpose of investing in SEDI-owned businesses without the presence of the SSBCI capital. The Fund's ability to invest is conditional upon the Fund first meeting or exceeding the 1:1 private financing ratio. The manager(s) may also implement the use of a side-car structure (fund of one).

In addition to regular reporting provided for in the Fund agreements (which may include Limited Partnership Agreement (LPA) and NJEDA side letter agreement), the selected fund manager(s) shall provide transaction details and federally-required certifications to NJEDA before each investment. NJEDA will utilize a compliance checklist to verify compliance before approving the use of SSBCI funds. Compliance requirements are summarized in attached Appendix C for your review. Detailed program information, including Capital Program Policy Guidelines, Frequently Asked Questions, and Capital Program Reporting Guidance, is available on U.S. Treasury's SSBCI website at <https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/ssbci-2021>. U.S. Treasury may make additional changes or clarifications to these requirements, and the fund manager shall be required to comply with all such changes that are applicable to the Fund.

SSBCI 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. The selected manager(s) must be able to record, with a written, detailed report, each investment transaction that received SSBCI funds, in part or in whole. Example reporting shall include, without limitation: details on investment performance and other transaction-specific details for each business (and the business's owners) that received SSBCI capital. Reports will be due in advance of each investment to help verify compliance. Compliance requirements are summarized in attached Appendix C for your review. Detailed program information, including Capital Program Policy Guidelines, Frequently Asked Questions, and Capital Program Reporting Guidance, is available on U.S. Treasury's SSBCI website at <https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/ssbci-2021>.

U.S. Treasury may make additional changes or clarifications to these requirements, and the fund manager shall be required to comply with all such changes that are applicable to the SEDI Seed Fund. While the compliance and regulations listed in this notice are current, there is no guarantee that this is a complete list of your responsibilities. The fund manager(s) shall be responsible for complying with additional and final SSBCI rules and requirements applicable to the Fund when and as issued by the U.S. Treasury. In addition, the fund manager's obligations and responsibilities shall be consistent with and comply with the terms of the Allocation Agreement that will be signed between U.S. Treasury and the New Jersey Department of the Treasury that will govern the use of the SSBCI funds that NJEDA will invest in the Fund. A Sample Capital Allocation Agreement is available on the U.S. Treasury SSBCI website, and exact terms will be shared with the selected manager once the New Jersey allocation agreement is executed.

The fund manager(s) shall submit reports to the Authority within 15 days after the end of each quarter. In addition to the report items listed above, the report shall also include the total amount of SSBCI funds deployed to eligible small businesses on a quarterly and cumulative basis, the aggregate amount of SSBCI funds deployed for very small businesses (VSBs) and businesses owned by socially and economically disadvantaged individuals (SEDI-owned businesses), the amount of program income generated, and the amount of SSBCI funds deployed for administrative costs. The Fund Manager(s) shall also submit quarterly reporting with transaction detail to NJEDA.

Direct and indirect administrative costs include, but are not limited to: management fees, performance fees/carried interests, transactional and operational costs (i.e., organizational expenses, investment expenses, service provider expenses, insurance expenses, investment advisory committee expenses, regulatory expenses, tax expenses, fund termination expenses), extraordinary expenses (e.g., litigation expenses), borrowing costs/cost of capital, equalization payments, and placement agent fees.

The fund manager(s) shall submit SSBCI annual reports and certifications by March 15 of each year. These reports and certifications comply with SSBCI reporting guidelines and include, but are not, necessarily, limited to:

- Reporting transaction-specific details for each investment in the fund’s portfolio
- Reporting company-specific detail for each investment in the fund’s portfolio
  - Company leadership’s demographics
  - Company’s total employment numbers
- Certification that “no principal of the investor or the investee has been convicted of a sex offense against any minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. § 16911))
- Adopt conflict-of-interest policies into the due diligence process to ensure investments do not go into businesses in which an SSBCI insider has a personal financial interest
- Certification Regarding Venture Capital Fund Services to Portfolio Companies, consistent with Section VIII.i “Services to Portfolio Companies” of the SSBCI Guidelines.

These annual reports must contain transaction-level data, including small business characteristics, for each investment made with SSBCI funds for that year, and information on all subsequent private financing or investments received by companies that received SSBCI investments in prior years, as well as, a summary of the performance results for all investments made, partially or in full, with SSBCI funds, and certification of the services provided to portfolio companies in that year.

The selected fund manager(s) must also certify that no principal of the selected fund manager(s) 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 (34 U.S.C. § 20911, formerly 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 partner; if a corporation, limited liability company, association, development company, or other entity, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20 percent or more of the ownership stock or stock equivalent of the entity.

#### **4. SCOPE OF SERVICES / DELIVERABLES:**

The following deliverables are the *minimum* requirements of the fund manager’s or managers’ performance against the resulting investment contract.

- The selected fund manager(s) must convene in-person office hours or engagements in New Jersey on a regular basis.
- If the interested fund manager(s) does/do not currently have an office in the State, the manager(s) may operate at a remote or satellite in-State office, co-working facility or establish a permanent facility. The office location must be provided to the Authority before closing and evidence must be presented to verify the active and in person sourcing efforts in New Jersey.
- The selected fund manager(s) shall enter into one or more agreements with the Authority regarding the investment, which agreements will be governed by New Jersey law and shall include the minimum 1:1 private capital matching requirement.
- The selected fund manager(s) shall provide quarterly financial statements and Fund updates in written form within 15 days of the end of each calendar quarter after the award

documents are executed. The updates must include detail on companies invested into, including but not limited to industry, business specifics, location, jobs, additional funding, and highlights of portfolio business advancements. The quarterly report must also include updates on activities to support the ecosystem of SEDI entrepreneurs and businesses in New Jersey, including events and marketing.

- The selected fund manager(s) shall provide, when requested by the Authority, any information on the Fund's portfolio companies and jobs created, as such information will be requested by the federal government. The selected fund manager(s) shall collect certifications from the portfolio companies relative to company name, jobs, and receipt of benefits. Preliminary form documents will be provided by NJEDA as soon as possible after signing of the allocation agreement.
- The selected fund manager(s) shall supply certifications to the Authority relative to award and receipt of funds, and such certifications shall be supplied to the U.S. Treasury by NJEDA. Preliminary form documents will be provided by NJEDA as soon as possible after signing of the allocation agreement.
- The selected fund manager(s) shall provide to the Authority annual Certified Public Accountant prepared financial statements for the life of the investment.
- The fund manager(s) shall submit quarterly and annual reports as described above.
- The Authority shall have a position on the Fund's advisory board.

The Authority reserves the right to:

- Request other supporting documentation from the respondent to support approval of this investment. All documents submitted by the respondent are non-returnable to the respondent fund manager(s).
- Modify, expand or delete any portion(s) of the Scope of Services/Deliverables.
- Conduct interviews with the respondent fund managers.
- Terminate this Notice for any reason.
- Reject any submission in its sole discretion. Incomplete submissions or submissions not received by the due date will result in the submission being deemed nonresponsive and will not be reviewed or considered.

Any firm submitting a response acknowledges that the compliance requirements and regulations listed may not be a complete or final list of the selected fund manager's responsibilities. Additional requirements, if any, will be determined once U.S. Treasury awards the SSBCI funds to the State of New Jersey.

If the selected Fund Manager fails to provide the deliverables required in the investment contract with NJEDA, they will be granted a 90-day grace period in which to cure the shortfall(s), after which point management fees will be withheld until deficiencies are corrected as outlined in the award agreement.

## 5. **USE OF FUNDS**

The selected manager(s) shall be responsible to comply with the required guidelines for an investment to be made with funds co-mingled with the SSBCI allocation. The selected manager(s) must ascertain that their intended investment will be the first SSBCI investment into the prospective firm (including verification documentation). The prospective business must also be raising a capital round that meets the "early-stage" designation (typically rounds "pre-seed" to

“Series A”), with a target round of \$5 million or less. No investments may be made in capital rounds with total round size of \$20 million or more. Multiple investment transactions into a specific company, such as follow-on investments, are permissible, provided that funds into any one company will not surpass \$20 million.

The selected manager(s) must obtain written certifications from the investees affirming that the investment proceeds will be used for business purposes. A business purpose includes, but is not limited to, start-up costs; working capital; franchise fees; and acquisition of equipment under \$2,000, inventory, or services used in the production, manufacturing, or delivery of a business’s goods or services, or in the purchase, renovation, or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. Investment proceeds may also be used to purchase any tangible or intangible asset, except goodwill. Equipment acquisition and installation of \$2,000 or more and construction are not eligible uses.

Generally, invested capital may *not* be used to acquire or hold passive investments in real estate (see section VII(f) of the SSBCI Capital Program Guidelines for exceptions). Invested capital may *not* be used for the purchase of securities or for lobbying activities. It must *not* be used to make an investment into a business in which an “SSBCI Insider” has a personal financial interest. An “SSBCI Insider” is a person who, in the 12-months period preceding the investment close 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 non-profit or for-profit entity that operates an SSBCI venture capital program;
- 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:
  - a. The allocation of SSBCI funds among approved state venture capital programs;
  - b. Eligibility criteria for the state’s SSBCI venture capital programs; or
  - c. The processes for approving investments of SSBCI funds under the state’s SSBCI venture capital program.

Additionally, invested capital may not be used to:

- Repay delinquent federal or state income taxes unless the investee has a payment plan in place with the relevant taxing authority;
- Repay taxes held in trust or escrow (e.g., payroll or sales taxes);
- Reimburse funds owed to any owner, including any equity investment or investment of capital for the business’s continuance; or
- 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 qualifying under section 401 of Internal Revenue Code, worker cooperative, or related vehicle, provided that the

transaction results in the employee stock ownership plan or other employee-owned entity holding a majority interest (on a fully diluted basis) in the business.

The selected manager(s) must obtain a written certification from the investee affirming that the investee is not:

- A business engaged in speculative activities that profit from fluctuations in price, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business or through the normal course of trade;
- A business that earns more than half of its annual net revenue from lending activities, unless the business is (1) a CDFI that is not a depository institution or a bank holding company, or (2) a Tribal enterprise lender that is not a depository institution or a bank holding company;
- A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants;
- 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 (this includes businesses that make, sell, service, or distribute products or services used in connection with illegal activity, unless such use can be shown to be completely outside of the business's intended market); this category of businesses includes direct and indirect marijuana businesses, as defined in SBA Standard Operating Procedure 50 10 6;
- A business deriving more than one-third of gross annual revenue from legal gambling activities;

The Authority will require a certification from the selected manager(s) on the use of funds and prohibited use of funds before funding any and all capital calls. The selected manager(s) must specify that the intended use of called capital is compliant with use of funds and reporting requirements. In the event of non-compliance, NJEDA may not fulfill capital call funding for the transaction.

## 6. **FUND MANAGER QUALIFICATIONS & ELIGIBILITY**

This Notice is a competitive opportunity. All interested fund managers must provide their submissions by 5pm ET on Thursday, March 16, 2023, in order to be considered. You must submit your submission in PDF format to [SSBCISediFund@njeda.com](mailto:SSBCISediFund@njeda.com). Only electronic submissions will be accepted.

Furthermore, you must adhere to the following guidelines:

- a. Include a cover page with preparer's contact information.
- b. Include a table of contents that lists all of the required evaluation criteria in Section 7.
- c. Must address each of the evaluation criteria.
- d. Must submit all requested information denoted with a "must" or "shall".

Respondents to this notice must fully answer the attached Due Diligence Questions (See Appendix A) and provide supporting exhibits as applicable (see Appendix B). To be eligible for evaluation and potential selection, respondents must demonstrate familiarity with the compliance

and reporting standards mandated by SSBCI, and must demonstrate an ability to leverage the allocated public funds for additional private capital to achieve at least a public/private ratio of 1:1 at the fund level. Responses will be scored against the NJEDA scoring matrix. The matrix measures, among multiple factors, the respondents' experience, capacity, and skills, and will rank the respondents against those criteria. The criteria and weights are listed in Section 7.

After scoring is complete, the Authority shall determine, in its sole discretion, whether to proceed with the proposed investment and Fund with the respondent(s) with the highest-scoring submission(s). If the Authority determines to proceed, such respondent(s) shall be required to complete a NJEDA legal debarment questionnaire and other NJEDA and State compliance documentation.

The respondent(s) with the highest-scoring submission shall also be expected to draft investment agreements to reflect NJEDA's investment. Those agreements shall include provisions required by State law and policy, including, but not limited to:

- The fund manager(s) shall indemnify NJEDA (except for investment losses) and provide insurance as NJEDA may request
- NJEDA shall not indemnify the fund manager(s)
- No transfers or assignments without NJEDA consent
- All Fund assets must be transferred to NJEDA upon dissolution
- Standard New Jersey State Conflict of Interest provision
- The fund manager(s) shall be subject to applicable political contribution disclosure requirements, which may include N.J.S.A. 19:44A-20.27 (L. 2005, c. 271)
- Records must be retained the greater of 5 years after the end of the Fund or the period required by federal law, and NJEDA and the New Jersey Office of the State Comptroller shall have the right to audit all records held by the fund manager(s) related to the Fund
- All agreements are subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liabilities Act, N.J.S.A. 59:13-1 et seq.

## **7. EVALUATION PROCESS/SCORING CRITERIA**

Submissions will be evaluated by a cross-organizational Evaluation Committee composed of NJEDA staff and management, to evaluate, score, and rank submissions. Scores will be averaged to determine an overall score for each submission.

Below are the evaluation criteria for the SEDI Seed Fund manager(s). Any submission that does not meet the minimum score of 10 in total will not be scored and ranked. Achieving a score of 10 or above does not guarantee selection. Each criterion is equally weighted. Specific questions to be answered that pertain to each criterion are in Appendix A.

### **1. Experience of Leadership**

Considers senior leadership's length of experience as fund manager and investor as detailed in their submission.

0 = No experience as fund manager and investor

1 = Minimal (2-4 years) experience as fund manager and investor

2 = Some experience (4-8 years) as fund manager and investor

- 3 = Exceptional experience (8-10 years) as fund manager and investor
- 4 = Unique experience (10+ years) as fund manager and investor

**2. Depth of Resource**

Considers number of investment professionals, support/back-office staff, professional network, and ability to effectuate strategy and ensure SSBCI compliance as detailed in their submission.

- 0 = No depth of resources
- 1 = Internal resources are insufficient for the scope of work, including SSBCI compliance
- 2 = Internal resources are undersized relative to the scope of work, including SSBCI compliance
- 3 = Internal resources are right-sized for the scope of work, including SSBCI compliance
- 4 = Internal resources are more than sufficient to achieve the scope of work in addition to current activities, including SSBCI compliance

**3. Consistency of Strategy**

Considers whether respondent's targeted strategy is consistent with prior investment experience as detailed in their submission.

- 0 = Not a consistent investment strategy
- 1 = Minimal consistency to manager's past investment strategy
- 2 = Some consistency to manager's past investment strategy
- 3 = Exceptional consistency to manager's past investment strategy
- 4 = Total consistency to manager's past investment strategy

**4. NJEDA Partnering**

Considers respondent's ability to serve as a strategic partner to the NJEDA, including the SEDI entrepreneurial ecosystem as detailed in their submission.

- 0 = No ability to support NJ's entrepreneurial ecosystem
- 1 = Minimal ability to support NJ's entrepreneurial ecosystem, provides less than 12 hours annually to engage in NJ's ecosystem events
- 2 = Some ability to support NJ's entrepreneurial ecosystem, provides more than 12 hours annually to engage in NJ's ecosystem events
- 3 = Exceptional ability to support NJ's entrepreneurial ecosystem provides executive talent to entrepreneurs as well as over 12 hours annually engage in NJ's ecosystem events
- 4 = Unique ability to support NJ's entrepreneurial ecosystem provides at least 8 events annually for entrepreneurs and/or investors.

**5. Sourcing/Pipeline Development**

Considers respondent's ability to source and track relevant and unique deal flow to effectuate strategy as detailed in their submission.

- 0 = No ability to source and track relevant deal flow
- 1 = Minimal ability to source and track relevant deal flow

- 2 = Some ability to source and track relevant deal flow
- 3 = Exceptional ability to source and track relevant deal flow
- 4 = Unique ability to source and track relevant deal flow

#### **6. Focus industry & Stage**

Considers respondent's ability to focus on identifying investment opportunities into "early-stage" (Pre-seed through Series B) companies in SEDI-owned businesses as defined elsewhere in this document, as detailed in their submission.

- 0 = No ability to identify NJ SEDI investments
- 1 = Minimal ability to identify NJ SEDI investments
- 2 = Some ability to identify NJ SEDI investments
- 3 = Exceptional ability to identify NJ SEDI investments
- 4 = Unique ability to identify NJ SEDI investments

#### **7. Performance History**

Considers respondent's past investment returns (realized & unrealized) on attributed investments as compared to industry and applicant peers (benchmark source: Pitchbook) as detailed in their submission.

- 0 = No past investment returns
- 1 = Low (third quartile or lower vs. peers) past investment returns
- 2 = Moderate (second quartile vs. peers) past investment returns
- 3 = High (top quartile vs. peers) past investment returns
- 4 = Exceptional (top 10% vs. peers) past investment returns

#### **8. New Jersey Investment History**

Considers respondent's investment amount (on attributed investments) into New Jersey companies to date on an absolute basis and relative to industry and applicant peers as detailed in their submission.

- 0 = No history of investing in NJ companies
- 1 = Minimal history (less than 10% of investment) of investing in NJ companies
- 2 = Some history of investing (10% -25% of investment) in NJ companies
- 3 = High investment (25% -50% of activity) history in NJ companies
- 4 = Exceptional investment (50% or more of activity) history in NJ companies

#### **9. Incentive and Alignment**

Considers whether respondent's carry is comparable to peers, properly aligned with objectives, and equitably spread among team, as detailed in their submission. Also considers alignment of respondent's commitment as a general partner (GP) with limited partners' commitment(s).

- 0 = Has above market carry % (over 25%), GP's commitment <1%
- 1 = Has high market carry % (over 20%), GP's commitment <1%
- 2 = Has high carry % (over 20%), GP's commitment >3%
- 3 = Has carry % comparable to peers (20%), GP's commitment >3%
- 4 = Has carry % comparable to peers (20%), GP's commitment >5%

## **10. Management fees, other fees and Expenses**

Considers whether fees and expenses are sufficient to effectuate strategy and comparable to industry as detailed in their submission.

- 0 = Management fee >2.5% over the life of the fund
- 1 = Management fee 2.25-2.5% over the life of the fund
- 2 = Management fee 1.75% - 2.25% over the life of the fund
- 3 = Management fee 1.25% - 1.75% over the life of the fund
- 4 = Management fee <1.25% over the life of the fund

## **11. Governance**

Considers whether key person clause is strong and effective

- 0 = No key person clause
- 1 = Single individual key person clause
- 2 = Multiple individual key person clause requiring limited partner vote to activate
- 3 = Multiple individual key person clause with automatic effect
- 4 = Multi-tiered key person clause

## **12. Fundraising status & capability**

Considers respondent's ability to match or raise an additional private capital to meet the SSBCI 1:1, fund-level matching requirement, as detailed in their submission.

- 0 = No ability or experience to meet required private matching
- 1 = Minimal ability or experience to meet required private matching; i.e. indicates ability to match less than the SSBCI 1:1 requirement
- 2 = Some ability or experience to meet required private matching; i.e. can match the SSBCI 1:1 requirement
- 3 = Exceptional ability and experience to meet required private matching; i.e. can meet 125% of the 1:1 match
- 4 = Unique ability and experience to meet required private matching; i.e. can meet 200% of the required SSBCI match

## **13. Diversity**

Considers respondent's clearly articulated diversity, equity, and inclusion (DE&I) policy, specifying the collection of relevant diversity metrics internally, as well as from portfolio companies. Also considers respondent's clearly articulated Code of Conduct (CofC) addressing harassment and discrimination internally

- 0 = No defined DE&I and CofC policy for investment company or for portfolio companies
- 1 = Defined DE&I and CofC policy for investment company or for portfolio companies
- 2 = Defined DE&I and CofC policy for investment company and for portfolio companies
- 3 = Defined DE&I and CofC policy for investment company and for portfolio companies with a demonstration of success towards either policy through metrics

4 = Defined DE&I and CofC policy for investment company and for portfolio companies with a demonstration of success towards both policies through metrics

## APPENDIX A

### DUE DILIGENCE QUESTIONNAIRE

Respondents to this notice are required to submit detailed responses to these questions as applicable, which give insight into the prospective managers' structure and policies. If not applicable, mark it "N/A"

#### 1.0 Respondent Firm: General Information

- 1.1. Provide a brief overview of respondent, including information on the founding, subsequent history and information on any predecessor firm and/or parent firm.
- 1.2. Provide the address for all office locations of respondent. Describe the potential plans for any expected office location changes during the life of the Fund.
- 1.3. Provide an overview (including chart) of the ownership structure of respondent, its relevant investment advisors, and any parent organization. Include details on the timing and rationale for each significant ownership change. Include percentage ownership, ownership vesting schedules, and any changes in ownership over the last 10 years as well as any future anticipated ownership changes and vesting schedules.
- 1.4. Provide brief bios for each member of respondent. Indicate any involvement by members of the management team in any community or business organizations active in New Jersey as well as any SSBCI personnel or professional connections.
- 1.5. Provide an overview (including chart) of the management/organizational structure of respondent, including back-office personnel. Discuss respondent's succession plans.
- 1.6. Provide an overview of all investing, advisory or other business activities performed by respondent. If respondent entered into any joint ventures with another manager, describe the structure, governance and economics of the relationship. Has respondent participated in side-car structures? If so, please describe.
- 1.7. Describe any additional outside activities (non-profit, academic, etc.) of respondent or its Principals, as named in the respondent's organizational documents, that are expected to take-up a significant (approx.  $\geq 20\%$ ) amount of time during the investment period of the Fund. Include the associated time commitments for each activity.

#### 2.0 Respondent Firm: Diversity and Inclusion

- 2.1. Detail respondent's formal Diversity and Inclusion policy or initiative. Has the Firm been successful in implementing its D&I policies? Please be thorough in your assessment.
- 2.2. Does respondent have a senior executive appointed to ensure the policy is executed?
- 2.3. Describe the development/implementation of and/or any significant changes to respondent's Diversity and Inclusion policy and Code of Conduct since the closing of respondent's most recent prior fund (or the inception of the firm if raising your first fund).
- 2.4. Detail respondent's Code of Conduct that covers harassment, discrimination and/or workplace violence.
- 2.5. Indicate if respondent would require such a Code of Conduct for the Fund's portfolio companies.

- 2.6. Does respondent have a formal underwriting procedure to evaluate diversity in prospective businesses it is considering for investment? If “yes,” what metrics does respondent consider relevant?
- 2.7. Have there been any claims of sexual or general harassment, misconduct or discrimination against any current or former respondent employees (while employed by respondent) within the last 5 years? Please explain.
- 2.8. Does respondent track the gender composition of employees taking family leave benefits? If ‘yes’, provide a summary of employees that have taken family leave in the last three years.
- 2.9. For investments made by respondent during the last five years, what is the average percentage of board members identifying as female per company? Average percentage of board members identifying as minorities? Data should be as-of the earlier of the most recent quarter-end or the date the investment was exited. Only include investments in which respondent held a majority interest (either directly or through “club deals”). SSBCI data definition identifies ethnic minorities as the following: Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and Sub Continent Asian American.
- 2.10. Does respondent have formal mentorship program for minorities and/or women?
- 2.11. Does respondent work with organizations that promote the attraction and retention of women and minorities within private equity? If “yes”, provide a list of these organizations, as well as any additional programs you have embraced.

### **3.0 Respondent Fund: General Information**

- 3.1. Provide the legal and tax structure (or proposed legal and tax structure) of the Fund (including chart). Describe any distinctive features.
- 3.2. Detail the respondent’s ability and capability in attracting additional capital to the Fund. List any current investor (Limited Partners) relationships (if available, the names and contact details) that you are confident could commit capital to the Fund. Have they invested in any previous funds managed by the respondent?
- 3.3. In your efforts to attract additional capital to the Fund, will unregistered placement agents (i.e. (a) not affiliated with a FINRA member broker-dealer, or (b) not registered as a municipal advisor with the SEC and the MSRB), be prohibited from assisting in the fundraising process?
- 3.4. State the respondent’s policy (or proposed policy) regarding co-investments or side-car agreements with other funds, agencies, allocators, other affiliates and/or limited partners. How will these co-investment or side-car opportunities be allocated? If applicable, provide examples of past co-investments and/or side-car opportunities.
- 3.5. State the respondent’s ability and intent to borrow capital, as well as any limits on borrowing capacity at the fund. Is the Fund prohibited from holding leverage on its balance sheet?

### **4.0 Proposed Fund Investment Strategy**

- 4.1. Summarize the respondent’s proposed investment strategy and types of transactions the Fund will pursue. Include details on anticipated transaction sizes (including minimum/maximum), investment pace, holding periods, industry/sector focus, investment stage and other relevant characteristics).

- 4.2. Indicate the Fund size needed to achieve critical mass to effectuate the targeted strategy as delineated by the respondent. Discuss the respondent's ability to invest at the Fund's targeted size. Also address the impact on co-investing with Limited Partners and non-Limited Partners.
- 4.3. Provide detail on the respondent's proposed diversification strategy in terms of number of investments and sector allocations.
- 4.4. Describe the background and evolution of the respondent's investment strategy, including strategies that may not apply to this Fund. Discuss how the Fund's investment strategy compares to the respondent's previous (if applicable) and current fund.
- 4.5. Describe respondent's competitive advantages and discuss how the respondent attempts to produce replicable returns.
- 4.6. Describe respondent's proposal for how the Fund will invest the capital in NJ-based, SEDI-owned companies. What percentage of respondent's current portfolio companies are located in NJ? What percentage of current portfolio companies are owned by SEDI entrepreneurs?
- 4.7. Describe the SEDI entrepreneur venture capital market in NJ and provide an overview of current opportunities. Discuss respondent's experience investing in SEDI entrepreneurs.
- 4.8. Describe the respondent's proposal for the Fund's investment structures. What will be the typical equity structures used by the Fund? Discuss the use of leverage at the portfolio company level and state the targeted leverage levels (%) of a typical investment. Discuss the effectiveness of the Fund's expected strategy if leverage is not applied.
- 4.9. Describe respondent's preference for being a control, minority, joint or sole investor. Detail this preference historically. What controls and rights does respondent seek when executing investments? If predominately a control investor, under what scenarios would respondent consider a non-control position (and vice-versa)?
- 4.10. Describe any proposed Fund investment limitations (e.g. % of fund in a single company, geography, security type, company stage, etc).
- 4.11. Describe and list the Fund's direct competitors.
- 4.12. Discuss the risk factors of respondent's proposed Fund investment strategy (e.g. political risk, economic, financial, geographic, technology, business cycle, etc.) and the steps taken to mitigate these risks.
- 4.13. Discuss respondent's approach to working with existing or new management teams at portfolio companies. Describe (citing examples) the strategies that are used to incentivize portfolio company management teams. Discuss the services the respondent proposes that the Fund provide portfolio companies.
- 4.14. Discuss respondent's strategic strengths used to create value for its portfolio companies (i.e. restructuring, strategic (re)positioning, leveraging, structural improvements – marketing, finance, operations, etc.). Discuss how respondent's strengths in creating value for investments impact its sourcing capabilities. Provide case studies to illustrate respondent's value creation capabilities, if possible.
- 4.15. What is respondent's proposed return-profile threshold (gross IRR, money multiples, etc.) for targeted investments? What is the respondent's proposed holding period?

4.16. What are possible drivers that could lead to investing more or less capital in NJ-based investments?

## **5.0 Respondent Investment Process**

5.1. Describe the respondent's deal sourcing capabilities and the process used to identify attractive investment opportunities. How is the sourcing process staffed, conducted and documented? What criteria are used to assess an investment's attractiveness? Is the process documented?

5.2. Describe the respondent's screening and due diligence processes. How is each process staffed, conducted and documented? How long is the due diligence process?

5.3. Describe any functions performed by third parties in the sourcing, screening and due diligence processes. Describe the respondent's decision-making process for determining if a third party is used/not used. If any third parties have already been identified, describe their qualifications and experience.

5.4. Provide details on the respondent's internal decision-making and approval process, including details on the role, composition and function of the respondent's Investment Committee.

5.5. Discuss the respondent's approach to the valuation of investment opportunities and pricing discipline.

5.6. Discuss the respondent's portfolio investment monitoring policy, including details about contact events (weekly, quarterly, board meetings, etc.). Discuss the respondent's approach to board representation at its portfolio companies.

5.7. How many active portfolio companies is each investment professional responsible for? How was this number determined and how has it evolved over the respondent's history?

5.8. Describe the respondent's criteria for evaluating follow-on investments. Does the respondent propose that the Fund follow the most current International Private Equity and Venture Capital (IPEV) valuation guidelines? Include a description of respondent's proposal for the Fund's provisions for capital recycling and follow-on reserves.

5.9. Discuss if the respondent proposes that the Fund be valued by an independent, third-party valuation firm.

5.10. Discuss the respondent's strategy/criteria/plan for exiting investments. Include an analysis of past exits (IPO, trade sale, financial buyer, write-offs, etc.). Provide examples that illustrate the respondent's decision-making for choosing the type of exits.

5.11. Describe the respondent's processes for protecting against fraud and corruption, post-investment. If applicable, discuss any fraud and/or corruption that were detected in prior investments. Describe the respondent's process to resolve problems, noncompliance, etc.

## **6.0 Respondent Track Record**

6.1. Provide examples of active/exited investments with an investment multiple (TVPI) below 1.0x. Discuss what went wrong, action taken, lessons learned and how (and when) outside experts were brought in.

6.2. Discuss any investments in respondent's track record that are not included in the provided appendices. Describe the rationale for excluding them.

## **7.0 Reporting**

7.1. Provide the name, address, and email of the audit firm(s), along with a contact's name and email address, that you have used for the respondent (plus respondent's Principals as named in the respondent's organization document) and its fund(s) over the last 3 years. Also discuss if the audit firm(s) is unaffiliated with the respondent or any of its current or former individuals/Principals managing the fund.

7.2. Discuss if carry payments and allocation in prior funds have been audited (as part of an annual audit of respondent and its funds), as will be in this fund, to ensure they reflect the terms and conditions in the Limited Partner Agreement.

7.3. Discuss the respondent's proposed standard reporting package and confirm if respondent proposes that it will be modeled on the Institutional Limited Partner Association (ILPA) Reporting Best Practices.

## **8.0 Respondent Team**

8.1. Provide an overview of respondent's executive Members, owners, or managers, including the shared work history of respondent's owners, principals, and managers as named in the respondent's organizational document. Also, provide a description of each job title, detailing the responsibilities held by junior, mid-level and senior staff.

8.2. Provide brief bios for each investment professional of the respondent. Indicate any involvement by members of the management team in any community or business organizations active in New Jersey.

8.3. Describe any organizations, associations, groups or clubs that any of the members of the management team are involved in that will help facilitate a pipeline of SEDI-owned New Jersey startups seeking seed or start-up capital.

8.4. Discuss respondent's approach to staff retention and training. Discuss respondent's historical experience in this area. Discuss any promotions that took place over the last year and any that are expected to happen in the next six months.

8.5. Describe the circumstances of any "Key-Person" event in respondent's history. Describe the steps taken by respondent to remedy the situation and the subsequent impact on any respondent policies.

8.6. Describe any known conditions (health, financial, litigation, personal, etc.) of any of respondent's owners, principals and managers that might influence their ability to execute their duties to the Fund or respondent.

8.7. Describe any significant staff departures (partner in the respondent or director-level employee (or higher) with more than five years of history with respondent) over the past five (5) years.

8.8. Describe any significant staff departures (as noted above) that are expected to occur between now and the next five years.

## **9.0 Alignment of Interests**

9.1. Describe the compensation structure (salary, bonus, group/individual performance incentives, profit sharing, equity ownership, carried interest, etc.) for all investment professionals. Include details on the allocation of the carried interest among Principals, as named in the respondent's organizational documents and others inside/outside the organization. How does this compare with respondent's previous

fund's carry split (if applicable)? Provide details on any separate compensation arrangements proposed outside the Fund.

9.2. How is the carried interest vested for those parties that participate in the proposal for the Fund? What happens to the unvested carry of former investment professionals?

9.3. Describe how the respondent's contribution for investments is allocated among the investment professionals.

9.4. Describe how the respondent's contribution for investments will be financed.

9.5. Describe how any Principal, as named in respondent's organizational documents, or affiliate of respondent will invest in the Fund (outside of respondent's commitment).

9.6. Discuss if any commitments from respondent and/or any of its executives, owners, investment professionals, and managers be leveraged or loaned.

9.7. Were there any carry claw back situations in any of respondent's prior funds?

## **10.0 ESG (Environmental, Social, Governance)**

10.1. Describe the role of respondent's internal advisory board(s). Detail all matters referred to the advisory board(s), including any currently unresolved matters. Describe any additional governing/advisory bodies that impact the management or investment activity of respondent (e.g. CEO Circle, operating committee, management affiliate, etc.).

10.2. Detail any conflicts of interest (potential, current and historic) within respondent, and explain how they have been/are identified, managed, disclosed (to Limited Partner Advisory Committee (LPAC) or otherwise) and resolved. Identify any committees in place to help with the resolution of conflicts (conflict committee, etc.).

10.3. What is respondent's policy of personal investments by any employees or affiliates in deals reviewed by the respondent (both accepted and rejected)? If applicable, provide a list of all previous investments of this nature.

10.4. Is respondent a registered investment advisor (RIA)?

10.5. What are respondent's ESG-related policies and how do ESG factors influence respondent's investment beliefs?

10.6. What is the current implementation status of respondent's responsible investment policy? Does respondent have any firm plans to develop respondent's approach towards the management of ESG factors?

10.7. How does respondent contribute to portfolio companies' management of ESG-related risks and opportunities?

10.8. What monitoring processes would respondent have in place to assess the proposed Fund's portfolio companies' management of ESG factors?

## **11.0 Administration and Legal**

11.1. Describe the activities of respondent's support functions (Finance and Fund Administration, Human Resources, Compliance/Legal, etc.).

11.2. Describe the Fund's proposed internal accounting. What accounting principles does respondent propose for the Fund to operate under? Has respondent established an internal audit function? If so, how often are internal control audits performed?

11.3. Detail the processes and procedures for capital movements (capital calls, transfers of cash, investment acquisitions and distributions).

11.4. Provide an overview of the third parties providing services to respondent or proposed Fund (e.g., law firms, custodians, fund administrators, prime brokers, consultants, banks, etc.). How does respondent manage counterparty risk related to these third-party arrangements?

11.5. List and describe any software that respondent uses for business functions like portfolio management, trade order management, administration, and risk.

11.6. Describe any litigation/investigation against Respondent, its affiliated entities and/or its current or former owners and managers that is pending, ongoing, or closed in the last three years.

## APPENDIX B

### REQUESTED DUE DILIGENCE CHECKLIST

Respondent must include the below responses, unless not applicable. If not applicable, mark it “N/A”

1. Most recent presentation deck
2. Summary of proposed key terms of the investment agreement for the Fund (e.g. planned ratio of private capital to SSBCI capital, fees charged to NJEDA, management fee, carry, etc.)
3. Chart: Respondent ownership structure
4. Chart: Respondent management/organizational structure and biographies
5. Chart: Proposed Fund legal/tax structure or Fund with side-car structure with legal/tax structure. Any agreements to which Authority is a party must be governed by the laws of New Jersey.
6. Respondent’s annualized pro-forma budget for the period covering the life of the Fund
7. Proposed Fund budget and audited financial statements of fund(s) under management
8. List of participating Fund limited partners, if any at this time
9. If legally permitted, provide annual and quarterly reporting packages sent to any partnering state entities for the last two years (or through inception if less than two years).
10. Audited annual & unaudited quarterly reporting packages sent to limited partners for the last two years (or through inception if less than two years)
11. Valuation Policy
12. Examples of capital call and distribution notices
13. List of NJ sourcing actions/events attended or used in the last year
14. Company level track record information ([See Sample Template](#))
15. Historical fund level cash flows ([See Sample Template](#))
16. Historical investment level cash flows ([See Sample Template](#))
17. Reference list (e.g., co-investors, deal sources, banker, personal references, portfolio companies, limited partners, service providers) for all those participating in the carry pool ([See Sample Template](#))
18. NJ Tax Clearance certificate required for approval
19. Signed certification stating that no principal of the firm has been convicted of a sexual offense against a minor

## APPENDIX C

### SELECTED ADDITIONAL DETAILS OF SSBCI COMPLIANCE REQUIREMENTS

All managers selected to create or manage the SEDI Seed Fund must adhere to SSBCI compliance requirements and regulations. Below is a partial list of compliance requirements for your review. Program information, including Capital Program Policy Guidelines, Frequently Asked Questions, and Capital Program Reporting Guidance, is available on U.S. Treasury's SSBCI website at <https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/ssbci-2021>.

U.S. Treasury may make additional changes or clarifications to these requirements. In addition, the fund manager's obligations and responsibilities shall be consistent with and comply with the terms of the Allocation Agreement signed between U.S. Treasury and the New Jersey Department of the Treasury that will govern the use of the SSBCI funds that NJEDA will invest in the Fund. A Sample Capital Allocation Agreement is available on the U.S. Treasury SSBCI website, and exact terms will be shared with the selected manager(s) once the New Jersey Allocation Agreement is executed. Any firm submitting a response acknowledges that the compliance requirements and regulations listed below may not be a complete or final list of the selected fund manager's responsibilities. The fund manager(s) shall be responsible for complying with additional and final SSBCI rules and requirements applicable to the Fund when and as issued by the U.S. Treasury. While this list is a guideline, it is not intended to be inclusive. It is the responsibility of the fund manager(s) to follow SSBCI's rules, regulations, policies, and other guidance documents.

#### Investment criteria:

- The investee company for SSBCI funds must have 750 or less employees as calculated using the methodology under 13 C.F.R. § 121.106
- The Fund manager(s) must target an average investee size of 500 employees or less as calculated using the methodology under 13 C.F.R. § 121.106
- Ninety percent of investee companies must have a location in New Jersey.
- Investee companies must qualify as SEDI businesses as previously indicated.
- Prohibited activities for the investment entity include speculative activity (futures trading, etc), earning more than 50% of net revenues from lending (unless investee is a CDFI that is not a depository institution or a bank holding company), engaging in pyramid sales, illegal activities, or gambling (33% or more of annual revenue).
- No investment of SSBCI funds can be made in a business in which an SSBCI insider has a personal financial interest, as defined in the SSBCI Capital Program Policy Guidelines. Upper management of the life sciences/health care investment firms or executives of the portfolio companies cannot have any relationship with SSBCI executives. This requirement will be part of the required conflict of interest certification .
- An investment candidate cannot financially benefit from more than one state approved SSBCI program at a time without prior written consent of the U.S. Treasury.
- Fund managers may not combine financing from private tax credit-supported entities (i.e., entities that are funded through the sale of tax credits they received from a state) and SSBCI-supported programs for the same business purpose, or within the same investment or loan fund. Candidates will be required to attest that private capital is not from financing provided by tax-credit supported vehicles, such as funds capitalized by the sale of state tax credits.

- Principals of the investor or the investees cannot be convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. § 20911, formerly 42 U.S.C. § 16911)). For this purpose, “principal” is defined as if a sole proprietorship, the proprietor; if a partnership, each partner; if a corporation, limited liability company, association, development company, or other entity, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20 percent or more of the ownership stock or stock equivalent of the entity.

#### Use of Funds:

- Funds cannot be used to repay delinquent federal or state income taxes or to repay taxes held in trust or escrow.
- The funds may not be used to reimburse funds owed to any owner.
- The funds are not to be used to purchase a portion of the ownership interest.

#### Transaction Requirements:

- Investments may only be made in rounds with total round size under \$20 million. The fund manager(s) must target an average round size of \$5 million or less.
- Recipients of SSBCI funds are not to be discriminated against based on race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity).
- Records of direct and indirect private financing motivated by SSBCI funds must be maintained. The fund manager(s) must provide transaction-level information including additional private financing in portfolio companies and subsequent company growth. This information will be shared with U.S. Treasury by NJEDA.
- SSBCI capital must be separately accounted for in all transactions.
- All transactions must include disclosure by the investor in an easy-to-understand manner.

#### Fund & NJ Commitments:

- The ratio of private funds to SSBCI funds in an investment transaction must be at least 1:1, with private investments encouraged to be larger than public investments.
- There is to be no conflict of interest with SSBCI insiders and the officers/directors/owners of the investment firm. There can be no SSBCI influencer, family member, or person of financial interest to be involved in the designation of funds for SSBCI program.
- The funds are not to invest in a firm where NJEDA or the appointed investment manager(s) has a financial commitment or is related to a professional at the invested firm.
- The manager(s)s must identify the services to be provided to portfolio companies and annually certify these services were provided.
- The fund manager(s) must maintain detailed records of the total amount of the State’s SSBCI funds that are expended for NJ SEDI businesses.
- Noncompliance of an investment must be addressed immediately by the fund manager. The fund manager must notify the Authority of the noncompliance and the actions taken to resolve the compliance issue, and the Authority will provide this information to the U.S. Treasury.
- The fund managers must obtain an assurance from each investee stating that the investment proceeds will be used for permissible purposes under the SSBCI program.
- Managers and owners of the Fund cannot have 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 (34 U.S.C. § 20911)). For this purpose, “managers, owners and executives” are defined as a

director, or each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20 percent or more of the ownership stock or stock equivalent of the entity.

#### SSBCI Privacy Notice and Privacy Act Statement

The fund manager(s) are required to provide investee companies with a privacy notice and privacy act statement when investing and collecting information from investee companies. A sample of this disclosure is available for review in the SSBCI Capital Program Reporting Guidance, Appendix 2, accessible on the US Treasury's website <https://home.treasury.gov/system/files/136/SSBCI-Reporting-Guidance.pdf>, as of the date of this notice.

We thank you for your interest in supporting NJ's innovation ecosystem.