U.S. Department of the Treasury

State Small Business Credit Initiative (SSBCI)

Frequently Asked Questions

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Note: The date listed after each question indicates the date such frequently asked question (FAQ) was added or most recently amended.

GENERAL

1. What are the upcoming SSBCI Capital Program and Technical Assistance (TA) Grant Program deadlines? [03/02/2022, updated 06/22/2022]

- September 1, 2022 at 11:59 pm Eastern Time: Deadline for Tribal governments to initiate and submit their complete SSBCI capital application. To participate in the SSBCI program, Tribal governments were required to submit a Notice of Intent (NOI) to Treasury by December 11, 2021. A list of Tribal governments that submitted an NOI by this deadline can be found at https://home.treasury.gov/system/files/136/Tribal-Government-NOI-Submissions.pdf.
- September 1, 2022 at 11:59 pm Eastern Time: Deadline for all jurisdictions to submit their TA Grant Program applications. The TA Grant Program application template can be found at https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci.

2. What is the process for application approval, and when will applications be reviewed? [12/15/2021, updated 06/22/2022]

An application for SSBCI Capital Program funding is not a competitive award process. Treasury will approve applications that satisfy the requirements under the SSBCI statute, Capital Program Policy Guidelines, and all other SSBCI regulations and guidance, including FAQs. To expedite processing, applicants should make every effort to ensure that their applications include all applicable supporting documentation. Treasury will review complete applications in the order in which they are received.

3. Removed on 03/02/2022.

4. How may a jurisdiction amend its programs after Treasury's approval of its application? [12/15/2021, updated 06/22/2022]

For the SSBCI Capital Program, after a jurisdiction's application is approved, the jurisdiction is permitted to submit a request to modify its programming due to a change in the condition (financial or otherwise) or operations of the jurisdiction or a desire to create new programming (modification request). Approval from Treasury in the form of a written amendment to the Allocation Agreement will be required before any such modification may be implemented. A modification request is not considered to be approved until both the jurisdiction's authorized representative and Treasury have executed an amendment to the Allocation Agreement (which will be prepared by Treasury).

5. When will the SSBCI Technical Assistance Program guidance be published? [12/15/2021, updated 06/22/2022]

The SSBCI TA Grant Program Guidelines for the portion of technical assistance funding that will be available directly to eligible jurisdictions were published on April 28, 2022.
The TA Grant Program Guidelines are available on the SSBCI website at

https://home.treasury.gov/system/files/136/SSBCI-Technical-Assistance-Guidelines-April-2022.pdf. Treasury intends to publish FAQs for the TA Grant Program.

6. Can a jurisdiction use the same letter of designation for its SSBCI Capital Program application and its SSBCI TA Grant Program application? [09/27/2022]

Yes. Both designations can be in one letter of designation if the letter makes it clear that (1) authority is being designated for both the SSBCI Capital Program and the SSBCI TA Grant Program and (2) all requirements for each designation (as described in the respective applications) are met.

7. May TA Recipients use SSBCI TA funds to provide legal, accounting, and financial advisory services to qualifying small businesses applying for Small Business Administration (SBA) Disaster Assistance Loans? [10/04/2024]

Yes, provided that this support is consistent with the TA Recipient's approved application and project plan. Under 12 U.S.C. 5708(e) and Treasury's TA Grant Program Guidelines, Recipients may use funds to provide legal, accounting, and financial advisory services to qualifying small business applying for SSBCI capital programs or other federal or other jurisdiction programs that support small businesses. SBA loan programs, including disaster assistance loans, qualify as other federal small business support programs. However, under the TA Grant Agreement Treasury enters into with each Recipient, Recipients must implement their TA grants in accordance with their approved application and project plan. If supporting SBA disaster loan applications falls within a Recipient's existing project scope, no pre-approval from Treasury is required. If supporting SBA disaster loan applications is outside of a Recipient's approved project scope, the Recipient may propose changing the scope to include supporting SBA disaster loan applications. Recipients interested in doing so should contact Treasury to request Treasury's prior approval to change the scope of the program. See 2 C.F.R. § 200.308(c).

8. How long will Treasury operate the SSBCI Capital Program? [10/29/2025]

The SSBCI statute, 12 U.S.C. 5708(c), provides that Treasury's authorities to implement and administer the SSBCI Capital Program terminate seven years after the enactment of the American Rescue Plan Act of 2021, which was enacted March 11, 2021. Therefore, under current law, all disbursement, technical support, and other program actions performed by Treasury will cease on March 11, 2028.

The expiration of Treasury's authorities under the SSBCI statute does not affect any authorities that may continue to exist under other applicable law, such as laws related to the collection of debts or investigation of waste, fraud, and abuse and any associated remedies available to federal or state auditors or investigatory bodies.

9. How long will Treasury operate the SSBCI TA Grant Program and SBOP? [05/11/2026]

Treasury will continue to operate the SSBCI TA Grant Program and Small Business Opportunity Program (SBOP) through the end of the contractual period of performance for all grant recipients and the completion of appropriate close-out activities and any other duties in accordance with the SSBCI TA Grant Agreements and 2 CFR Part 200. However, Congress has provided that all

undisbursed SSBCI funding is rescinded on September 30, 2030. See Pub. L. 117–2, section 3301(a)(2)(B). While Treasury will make reasonable efforts to process all pending disbursement requests prior to September 30, 2030, disbursement requests submitted after June 30, 2030, are not expected to be processed.

Under Treasury's SSBCI TA Grant Program and SBOP terms and conditions, all modifications to an SSBCI TA grant's period of performance require prior approval by Treasury in accordance with 2 CFR 200.308. Treasury expects to deny any requests for extension that would increase the period of performance beyond the standard five-year cap for the TA Grant Program and the three-year cap for SBOP awards. Treasury may approve limited extensions, in its discretion, so long as they do not cause the period of performance to exceed five years for TA and three years for SBOP, or go beyond September 30, 2029, whichever is earlier. For grant modifications approved after the date of this FAQ, Treasury will not make additional disbursements of SSBCI funding (e.g., second or third tranches) to the recipient during any approved extension period.

This FAQ does not limit any authorities that may continue to exist under applicable law, such as laws related to collection of debts or investigation of waste, fraud, and abuse and any associated remedies available to Treasury, federal or state auditors, or investigatory bodies.

CAPITAL PROGRAM

The following FAQs provide additional guidance regarding the SSBCI Capital Program Policy Guidelines published on November 10, 2021. The questions are categorized by the relevant section of the Capital Program Policy Guidelines.

Section III.b, Main Capital Allocation – Tranching and Deployment

1. Where can jurisdictions deposit and maintain disbursements of allocated funds under the Capital Program? [08/15/2022]

Section 2.3 ("Cash Depositories") of the Allocation Agreement requires that jurisdictions deposit and maintain disbursements of allocated funds in U.S. government-insured interest-bearing accounts whenever possible.

Under this provision, jurisdictions may invest amounts that would exceed applicable deposit insurance limits in cash and cash equivalents. Cash equivalents are short-term, highly liquid investments that are readily convertible to known amounts of cash and have original maturities of three months or less, such as Treasury bills, commercial paper, and certificates of deposit. In deciding how to maintain allocated funds, jurisdictions should also consider: (1) the requirement that the jurisdiction be fully positioned to act on providing the kind of credit or equity support that the jurisdiction's approved program was established to provide (see section 3.4 of the Allocation Agreement); and (2) that interest earned on SSBCI funds not invested or lent to a business counts as program income (see section 3.3 of the Allocation Agreement and section III of the Capital Program Reporting Guidance).

2. **What requirements apply to an entity that implements an SSBCI program if that entity does not contract directly with a jurisdiction or its implementing entity? [09/27/2022]**

Under 12 U.S.C. § 5703(c), a jurisdiction may be approved for participation in the SSBCI program if it "has contractual arrangements for the implementation and administration of [its] program with . . . an authorized agent of, or entity supervised by, the [jurisdiction], including for-profit and not-for-profit entities."

Section 3.1 of the Allocation Agreement requires a participating jurisdiction to cause any entities with which it designates or contracts to implement approved programs, including its implementing entity and contracted entities, to comply with the SSBCI statute and Treasury's SSBCI regulations, guidance, and other requirements.

When a jurisdiction designates an entity to implement an SSBCI capital program, Treasury encourages the jurisdiction or its implementing entity to contract directly with that entity whenever feasible. However, a jurisdiction may indirectly contract with an entity to implement SSBCI capital programs; for example, some states may have legal requirements for the implementing entity to contract with a third party, which then subcontracts with the entity designated to implement an SSBCI capital program. In such cases, section 3.1 of the Allocation Agreement requires the jurisdiction to cause the subcontracted entity to comply with the SSBCI statute and Treasury's SSBCI regulations, guidance, and other requirements.

Jurisdictions should report the activity of the subcontracted entity as if it were a "contracted entity" under the Capital Program Report Guidance.

3. **How can participating jurisdictions continue to run their SSBCI programs in advance of a subsequent disbursement? [12/04/2023]**

When a participating jurisdiction requests its second and third tranches of SSBCI funding, Treasury will review the certification provided by the participating jurisdiction and perform targeted compliance testing on certain supporting documentation related to the jurisdiction's use of previously disbursed SSBCI funds. Treasury will not disburse second and third tranches of SSBCI funding until it completes this process. While that review is pending, participating jurisdictions may continue to run their SSBCI programs using funds previously disbursed by Treasury. To promote continuity in funding, Treasury strongly encourages jurisdictions to contact Treasury before they approach the 80 percent threshold to prepare for the disbursement process and to enable the following tranche to be disbursed before previously disbursed funds are exhausted.

If a jurisdiction exhausts its SSBCI funds previously disbursed by Treasury before receiving its next tranche, it may continue to make loan and investment commitments under its SSBCI programs to eligible small businesses. Jurisdictions should include a statement in the documentation for such transactions, which may include commitment letters, that funding for the transaction is contingent upon the jurisdiction receiving additional funding from Treasury in accordance with applicable law. All commitments made by a jurisdiction that are contingent on

the receipt of additional funding from Treasury are made at the jurisdiction's and the business's risk, and Treasury has no obligation to provide funds to satisfy such commitments before Treasury has approved the subsequent disbursement to the jurisdiction.

In contrast, beginning as of the date of this FAQ, jurisdictions are not permitted to close and fund SSBCI transactions with non-SSBCI funds (e.g., using other state funds) and then replace or reimburse those non-SSBCI funds with SSBCI Allocated Funds after Treasury approves the jurisdiction's request for a subsequent disbursement.

4. **What is the final deadline for participating jurisdictions to submit an SSBCI Capital Program disbursement request? [10/29/2025]**

While the appropriation of funds for the SSBCI program does not expire until September 30, 2030, Treasury's authorities to implement and administer the SSBCI Capital Program terminate by statute on March 11, 2028. Therefore, Treasury will be unable to transfer funds to participating jurisdictions under the SSBCI Capital Program after March 11, 2028. To enable appropriate processing by Treasury in accordance with program requirements, including FAQ #3 in Section III.b, participating jurisdictions must submit all final disbursement requests to Treasury by December 31, 2027. While Treasury will make reasonable efforts to process all pending disbursement requests prior to the expiration of its authority, disbursement requests submitted after December 31, 2027, are not expected to be processed.

In addition, participating jurisdictions are encouraged to work with Treasury well in advance of qualifying for their next tranche (e.g., once they have deployed 50 percent of their current tranche), which will help expedite Treasury's review of any disbursement request. Participating jurisdictions also are encouraged to respond to any compliance testing conducted by Treasury as described in FAQ #3 in Section III.b quickly, as delays in responses by the participating jurisdiction may foreclose Treasury's ability to process a disbursement request even if it is submitted by December 31, 2027. If any compliance issues are not fully resolved by March 2028, Treasury may, in its sole discretion, withhold an offsetting amount from a disbursement that is made by March 11, 2028, to provide the participating jurisdiction with partial funds before Treasury's authority terminates.

Section III.c, Termination of Amounts Not Transferred; Reallocations

1. **Will Treasury terminate a participating jurisdiction's second and third tranches of Capital Program funds if they are not disbursed by the statutory deadlines? [10/29/2025]**

The SSBCI statute, at 12 U.S.C. 5702©(4), authorizes Treasury to terminate the availability of any SSBCI allocated funds not transferred to a participating jurisdiction if the jurisdiction has not received its second tranche by the three-year anniversary of the date that Treasury approves the jurisdiction for participation in the SSBCI Capital Program.

To avoid a termination of funding under this provision of the statute, a participating jurisdiction should, within three years after the execution of its allocation agreement, (1) expend, obligate, or transfer at least 80 percent of its first tranche disbursement of allocated funds, and (2) submit a disbursement request to Treasury in accordance with FAQ #4 in Section III.b. If either of these

criteria is not met, Treasury expects to terminate the participating jurisdiction's second and third tranche allocated funds that have not been transferred to the jurisdiction.

During Treasury's disbursement review described in FAQ #3 in Section III.b, Treasury or the participating jurisdiction may identify certain transactions or administrative costs that are not compliant under SSBCI program rules and therefore may not count toward the 80 percent threshold. If, after excluding those transactions or costs, the participating jurisdiction would fall below the 80 percent threshold, then Treasury expects to terminate the jurisdiction's remaining allocated funds unless the jurisdiction can identify alternative compliant transactions or costs that were expended, obligated, or transferred prior to the jurisdiction's three-year anniversary.

For example, assume a participating jurisdiction's three-year anniversary is January 1, 2026, and it submits a second tranche disbursement request on December 20, 2025, certifying to 81% deployment of the first tranche, but on January 5, 2026, Treasury determines that a transaction comprising 2% of the jurisdiction's first tranche is non-compliant. In that case, the jurisdiction may meet its threshold if it identifies alternative and compliant uses of funds (equal to at least 1% of the first tranche) that occurred *on or before January 1, 2026*. If the jurisdiction identifies a qualifying alternative use of funds, the jurisdiction's allocation for its second and third tranches will not be terminated based on the three-year deadline. However, Treasury reserves the right to take any other appropriate action regarding any identified non-compliance, including the remedies set forth in Section 5.2 of the Allocation Agreement, and jurisdictions are advised to consider unenrollment and replenishment as set out in Section XII of the Guidelines.

This FAQ does not extend the otherwise applicable December 31, 2027, final deadline for disbursement requests under FAQ #4 in Section III.b. This FAQ also does not limit Treasury's other authorities to withhold or terminate the availability of funding in accordance with the SSBCI statute, Allocation Agreement, and program rules, including Treasury's authority to determine that a general event of default has occurred under Section 5.1 of the Allocation Agreement and to exercise associated remedies.

Section IV, SEDI-Owned Business Allocations

1. **Must eligible jurisdictions establish separate programs for business enterprises owned and controlled by socially and economically disadvantaged individuals (SEDI-owned businesses)? [03/02/2022]**

Eligible jurisdictions are not required to establish separate programs for SEDI-owned businesses. However, eligible jurisdictions must maintain records of the total amount of their SSBCI funds expended for SEDI-owned businesses.

2. **How did Treasury identify Community Development Financial Institution (CDFI) Investment Areas, defined in 12 C.F.R. § 1805.201(b)(3)(ii), for purposes of determining the preliminary allocation amounts for the $1.5 billion SEDI allocation and the initial eligible amounts for the $1.0 billion SEDI incentive allocation? [03/02/2022]**

To determine the amounts in the table with preliminary allocation amounts and initial eligible amounts that Treasury published on its website,[1] Treasury generally used the CDFI Fund's list of Investment Areas that was available in November 2021.[2] With respect to American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands, Treasury has determined that these territories in their entirety constitute CDFI Investment Areas.

3. How does Treasury identify CDFI Investment Areas for purposes of the "expended for" requirement for the $1.5 billion SEDI allocation and for purposes of qualifying for the initial eligible amounts under the $1.0 billion SEDI incentive allocation? [03/02/2022, updated 02/21/2024]

For purposes of the "expended for" requirement for the $1.5 billion SEDI allocation and for purposes of qualifying for the initial eligible amounts under the $1.0 billion SEDI incentive allocation, Treasury will use the list of CDFI Investment Areas identified by the CDFI Fund. For each transaction, whether the relevant location is in a CDFI Investment Area must be determined immediately before the consummation of the relevant loan, investment, or other credit or equity support-related transaction, at the same time that ownership and control is assessed. A map of CDFI Investment Areas for purposes of SSBCI is available at https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/2021-ssbci/cdfi-fund-investment-areas.

To provide advance notice and appropriate flexibility to jurisdictions, if the CDFI Fund's list is updated during a given calendar year, then during that calendar year jurisdictions may assess transactions using either the prior list or the updated list of CDFI Investment Areas. For example, the CDFI Fund published an updated list of Investment Areas (labeled "2020" in the CDFI Public Viewer) on January 6, 2023. From January 6, 2023 through December 31, 2023, jurisdictions can document a transaction as supporting a SEDI-owned business using either this updated list or the previously issued list (labeled the "2015" list in the CDFI Public Viewer). For transactions consummated on or after January 1, 2024, only the updated list may be used to document SEDI-owned business transactions.

Further, Treasury has determined that American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands in their entirety constitute CDFI Investment Areas for purposes of the SSBCI, because each of these territories has a poverty rate of at least 20 percent.

4. What point in time is used for the determination of whether the ownership and control of a business qualifies the business as a SEDI-owned business? [03/02/2022]

[1] The table can be found at https://home.treasury.gov/system/files/256/Updated-Preliminary-Allocations-Table-Nov-2021.pdf.

[2] The CDFI Fund's list of investment areas can be found at https://www.cdfifund.gov/documents/geographic-reports.

For each business that receives a loan, investment, or other credit or equity support under the SSBCI, the determination of whether a business is a SEDI-owned business must be based on the ownership and control of the business immediately before the consummation of such transaction.

5. What type of documentation is required to demonstrate that the SSBCI funds have been expended for SEDI-owned businesses? [03/02/2022]

SSBCI funds count toward fulfilling the "expended for" requirement for the $1.5 billion SEDI allocation and qualifying for funding under the $1.0 billion SEDI incentive allocation if the SSBCI funds have been expended for loans, investments, or other credit or equity support to any of the four groups of businesses set forth in Section IV.a of the Capital Program Policy Guidelines.

Certification is required with regard to groups (1) to (3). In the Capital Program Policy Guidelines, Treasury stated that group (3) is intended to cover a business taking out a loan or investment to build a location in a CDFI Investment Area in the future and that a jurisdiction may reasonably identify businesses located in CDFI Investment Areas in group (4) based on businesses' addresses from the relevant loan, investment, and credit or equity support applications without additional certification. For group (3), Treasury now expands that group to include businesses that take out a loan or make an investment to open or operate a location in a CDFI Investment Area in the future.

For groups (1) to (3), eligible jurisdictions must provide businesses with a form of certification intended to determine the SEDI-owned business status. The certification should be signed by an authorized representative of the business. Businesses must be permitted to identify all the categories in groups (1) to (3) that apply, including all of the subcategories in group (1) that apply. For groups (2) and (3), the certification form must include the address(es) of the residence(s) or location(s) located in CDFI Investment Areas. Treasury will provide a sample certification form that jurisdictions may use for this purpose. For group (1), Treasury will not require verification or documentation other than the self-certification.

6. How was an eligible jurisdiction's initial eligible amount of SEDI incentive funding calculated? [03/02/2022]

As described in Section IV.b of the Capital Program Policy Guidelines, the total of all initial eligible amounts is $800 million. Of this amount, $59 million is available to Tribal governments, in proportion to Tribal governments' main capital allocation as a percentage of the main capital allocation for states, the District of Columbia, territories, and Tribal governments. Each Tribal government's initial eligible amount was calculated as described in the Allocation to Tribal Governments, available at https://home.treasury.gov/system/files/256/Updated-Tribal-Methodology-document-Nov-2021.pdf.

For other eligible jurisdictions, each jurisdiction's initial eligible amount was calculated as the remaining $741 million multiplied by the sum of the jurisdiction's population residing in CDFI Investment Areas[3] divided by the total population residing in CDFI Investment Areas in all eligible jurisdictions, excluding Tribal governments. These initial eligible amounts are

[3] For an explanation of how Treasury identifies CDFI Investment Areas, see FAQ 2 above in this section.

available at https://home.treasury.gov/system/files/256/Updated-Preliminary-Allocations-Table-Nov-2021.pdf.

7. How is an eligible jurisdiction's SEDI Objective calculated? [03/02/2022, updated 10/04/2024]

For states, the District of Columbia, and territories, the SEDI Objective equals the percentage of the population of the eligible jurisdiction that are residents in CDFI Investment Areas, as defined in 12 C.F.R. § 1805.201(b)(3)(ii), divided by the total population of the jurisdiction. These jurisdictions' SEDI Objectives are posted on Treasury's website at https://home.treasury.gov/system/files/256/SEDI-Objectives.pdf. For territories, including Puerto Rico, the SEDI Objective is 90 percent. For Tribal governments, the SEDI Objective is 80 percent.

8. Why is the SEDI Objective important for eligible jurisdictions? [03/02/2022]

The SEDI Objective establishes a target percentage of the capital allocations under 12 U.S.C. § 5702 that an eligible jurisdiction should strive to deploy to meet the needs of SEDI-owned businesses in the jurisdiction. It provides a benchmark for achieving robust support for deploying capital to meet the needs of SEDI-owned businesses.

9. How can an eligible jurisdiction receive some or all of its initial eligible amount of SEDI incentive funding, and how is this related to an eligible jurisdiction's SEDI Objective? [03/02/2022]

As described in Section IV.b of the Capital Program Policy Guidelines, for an eligible jurisdiction to receive part or all of its initial eligible amount of SEDI incentive funding for each of the second and third tranches of main capital, the jurisdiction must certify to Treasury that it has deployed 80 percent of its prior tranche of SSBCI funds. Treasury will then determine the eligible jurisdiction's success in meeting its SEDI Objective with a multi-step calculation.

First, Treasury will calculate the percentage of funds the jurisdiction has expended (not transferred or obligated) for SEDI-owned businesses since the jurisdiction's previous disbursement of capital. We refer to this percentage as the "percentage of funds expended for SEDI-owned businesses."

Treasury will then measure the percentage of the jurisdiction's SEDI Objective that the jurisdiction has achieved. That calculation is as follows:

$$\boldsymbol{SEDI\ Objective\ Achieved} = \frac{(Percentage\ of\ funds\ expended\ for\ SEDI\text{-}owned\ businesses)}{(SEDI\ Objective\ )}$$

Finally, Treasury will use the calculated SEDI Objective Achieved to calculate the jurisdiction's "SEDI Incentive Disbursement Amount" as follows:

SEDI Incentive Disbursement Amount =

$$SEDI\ Objective\ Achieved * (\frac{initial\ eligible\ amount}{2})$$

Following is an example of how the second tranche of an eligible jurisdiction's SEDI Incentive Disbursement Amount would be calculated. Assume the eligible jurisdiction has an initial eligible amount of SEDI incentive funding of $22 million and a SEDI Objective of 40 percent. At the time of the second disbursement, $11 million of the initial eligible amount (half of $22 million) is available if the jurisdiction meets its target by expending 40 percent of its funds for SEDI-owned businesses. Assume the jurisdiction expended $10 million of its first tranche of its total capital allocation, of which $3 million (30 percent) was expended for SEDI-owned businesses. Thus, the SEDI Objective Achieved is equal to 30 percent divided by 40 percent, or 75 percent. The jurisdiction would then receive a SEDI Incentive Disbursement Amount of $8.25 million (75 percent of $11,000,000).

Combining all these steps, the calculation is as follows:

SEDI Incentive Disbursement Amount =

$$(\frac{30\%}{40\%}) * (\frac{\$22{,}000{,}000.00}{2}) = .75 * \$11{,}000{,}000 = \mathbf{\$8{,}250{,}000}$$

10. Can SSBCI funds expended for loans or investments to a non-profit organization be considered expended for a SEDI-owned business? [08/05/2024]

SSBCI funds expended for loans, investments, or other credit or equity support to an eligible non-profit organization (see Sections VII.f and VIII.f of the Capital Program Policy Guidelines) may qualify as expended for SEDI-owned businesses if the non-profit organization is one of the four groups of businesses listed in Section IV.a of the Capital Program Policy Guidelines. Similar to mutual institutions, a non-profit organization is considered to be "owned and controlled" by the individuals described in groups (1) or (2) of Section IV.a if (1) a majority of the board of directors (or such other governing body that serves the same function as a board of directors) is comprised of such individuals, and (2) the community which the non-profit organization services is predominantly comprised of such individuals.

11. In the case of non-profit organizations, what type of documentation is required to demonstrate that the SSBCI funds have been expended for SEDI-owned businesses? [08/05/2024]

FAQ #5 above in this section specifies the documentation required to demonstrate that SSBCI funds have been expended for SEDI-owned businesses,[4] and Treasury has published a sample certification that may be used to obtain applicable SEDI-owned business certifications.[5] Non-profit organizations may qualify under the same standards and use the existing sample certification so long as they meet the criteria set out in this FAQ and FAQ #10 above. Specifically, with respect to the four groups of businesses in Section IV.a of the Capital Program Policy Guidelines:

1. A non-profit organization may qualify under group (1) if a majority of its board of directors (or such other governing body that serves the same function as a board of directors) is comprised of the individuals described in group (1) and the community the non-profit organization services is predominantly comprised of such individuals.
2. A non-profit organization may qualify under group (2) if a majority of its board of directors (or such other governing body that serves the same function as a board of directors) reside in CDFI Investment Areas, and the community which the non-profit organization services is predominantly comprised of CDFI Investment Area residents.
3. A non-profit organization may qualify under group (3) if it will build, open, or operate a location in a CDFI Investment Area.
4. A non-profit organization may qualify under group (4) if it is located in a CDFI Investment Area.

Certification is required for groups (1) to (3). An authorized representative of the non-profit organization (for example, the organization's president, chief operating officer, general counsel, or other appropriate corporate officer) should complete the SEDI-owned business certification on its behalf. Individual certifications from each member of a board of directors are not required. For group (4), jurisdictions reasonably may identify that a non-profit organization is located in a CDFI Investment Area based on the non-profit organization's address from the relevant loan, investment, and credit or equity support application without additional certification.

Section VI.d, Approving States for Participation – Tribal Governments

1. For a group of Tribal governments that submit a joint application for SSBCI funding for a capital program to be implemented by a non-Tribal entity, can the non-Tribal entity sign and implement the Allocation Agreement on behalf of the group of Tribal governments? [06/22/2022]

The SSBCI statute provides that a "State" may participate in the SSBCI. The statute defines "State" to include "a Tribal government, or a group of Tribal governments that jointly apply for

[4] See FAQ # 5 "What type of documentation is required to demonstrate that the SSBCI funds have been expended for SEDI-owned businesses."

[5] Sample Certification 5, https://home.treasury.gov/system/files/256/SSBCI_Sample_Certifications.pdf.

an allocation" (12 U.S.C. § 5701(10)) and permits Tribal governments to apply jointly (12 U.S.C. § 5702(b)(2)(C)). Section VI.d of the Capital Program Policy Guidelines provides general instructions on how Tribal governments may apply jointly.

As described in the Guidelines, Tribal governments may apply jointly through an organization or other Tribal government representative if each Tribal government applying jointly authorizes the organization or other Tribal government representative to represent the Tribal government for purposes of SSBCI. The Guidelines and Section 5.1 of the capital program application provide additional information on requirements for joint applications.

If a joint application is approved, a non-Tribal entity that has authority to act on behalf of each of the Tribal governments that are jointly applying may sign an Allocation Agreement on behalf of that group of Tribal governments. However, consistent with the statutory requirement that the participating entity is the "group of Tribal governments" – and not a third party –the group of Tribal governments is considered the "Participating Jurisdiction" as that term is used in the Allocation Agreement.

Article V of the Allocation Agreement sets out Treasury's remedies for events of default under the Allocation Agreement. Section 5.6 of the Allocation Agreement and Section XII of the Guidelines describe the process for un-enrollment of transactions for noncompliant use of funds. Treasury encourages Tribal governments to consider these potential remedies and circumstances as they establish terms under agreements with a non-Tribal entity responsible for implementing an SSBCI capital program. Tribal governments may wish to clearly specify in their agreements with the non-Tribal entity what happens in the event of any of the situations contemplated by Article V of the Allocation Agreement or Section XII of the Guidelines.
If Tribal governments apply jointly using a structure other than designating a non-Tribal entity as their joint implementing entity, Treasury will evaluate those applications based on their structure and may issue additional guidance. Tribal governments considering other structures are encouraged to contact Treasury before submitting an application to discuss their proposed models.

Section VII.f (applicable to CAPs) and Section VIII.f (applicable to OCSPs) – Lender Assurances: Refinancing and New Extensions of Credit – 12 U.S.C. § 5704(e)(7)(A)(ii)

1. **Removed on 06/20/2023**

2. **How are refinancings reported? [06/20/2023]**

Table 7 of the Capital Program Reporting Guidance includes two data elements that allow for reporting on the eligible business purpose of a loan or investment: Primary Purpose of the Loan or Investment and Secondary Purpose of the Loan or Investment. Transactions where a new lender is refinancing a loan made by another non-affiliated lender should be reported as follows:

- For the data element "Primary Purpose of the Loan or Investment," the primary underlying eligible business purpose for the funding should be reported (e.g., marketing, market research, and commercialization expenses; purchase existing building, etc.). Because the eligible business purpose of the new loan is generally determined by the purpose of the underlying funding being refinanced, the new lender should make reasonable efforts to determine the eligible business purpose for the underlying funding.
- For the data element "Secondary Purpose of the Loan or Investment," the option "Refinance outstanding debt" should be selected. While refinancing outstanding debt is not in itself an eligible business purpose, this reporting helps Treasury to track refinancing transactions.

Section VIII.a, Approving State OCSPs – In General

1. The SSBCI Capital Program Policy Guidelines treat OCSPs involving credit/debt differently from equity/venture capital OCSPs, in certain circumstances. How will SSBCI evaluate proposed OCSPs where the investment structure has characteristics of both types of OCSPs? [06/22/2022]

Following is a description of how Treasury will apply the SSBCI Capital Program Policy Guidelines to two types of investments that have characteristics of OCSPs involving credit/debt and equity/venture capital OCSPs. If jurisdictions propose programs with other characteristics, Treasury intends to evaluate those programs based on their structure and may provide further guidance.

OCSPs Using Certain Convertible Debt Instruments

Certain proposed SSBCI programs may seek to use SSBCI funds to make investments in businesses using convertible debt instruments that automatically convert into the issuer's capital stock upon the occurrence of the issuer's next priced financing. Consistent with footnote 34 of the Capital Program Policy Guidelines, Treasury intends to evaluate programs that use these instruments under the equity/venture capital OCSP standards in the Guidelines. For reporting purposes, these investments should be treated as equity instruments (see the "convertible debt" and "convertible note" data elements in Table 9 of the SSBCI Capital Program Reporting Guidance).

Debt/Equity Hybrid OCSPs

Certain proposed SSBCI programs may seek to use SSBCI funds to provide debt financing to a small business or venture capital fund in a manner that satisfies two characteristics:

- The SSBCI-supported investment is made by a jurisdiction or jurisdiction-affiliated entity, which is an entity governed by the jurisdiction, and occurs alongside new private capital in the form of an equity investment.
- The SSBCI-supported investment is structured as a debt instrument that has equity-like characteristics (e.g., profit sharing, interest contingent on revenues).

Treasury refers to programs that meet all of the above characteristics as "debt/equity hybrid OCSPs." Treasury intends to evaluate these programs under the equity/venture capital OCSP standards in the Capital Program Policy Guidelines, with the exception of the standard for lender or investor capital at risk (Section VIII.d of the Guidelines). The structure of debt/equity hybrid OCSPs is meaningfully different from the traditional case where an SSBCI investment takes the form of an equity investment and therefore lacks the protections generally associated with a debt instrument, such as rights to scheduled payments and seniority in cash flow rights. Thus, with respect to the lender or investor capital at risk requirement, the standard applicable to debt investors that originate loans will be applicable to a debt/equity hybrid OCSP. For debt/equity hybrid OCSPs, the 1:1 financing requirement described in the Capital Program Policy Guidelines is met at the transaction level if the loan is made directly to a small business, or is met at the fund level if the loan is made to a venture capital fund.

For reporting purposes, debt/equity hybrid OCSPs should be treated as equity programs and should be classified as "Hybrid – other support programs" in Table 3 of the Capital Program Reporting Guidance.

2. Can a jurisdiction make SSBCI-supported investments using a "side car" fund? [06/22/2022]

A side car fund is a fund organized to allow a jurisdiction to participate in the investments of a venture capital fund (the "main fund"), while enabling the jurisdiction not to participate in certain investments of the main fund that may be prohibited by applicable law or SSBCI program requirements. A side car fund may qualify for SSBCI-supported investment under the Capital Program Policy Guidelines to the same extent as an investment in a main fund if it satisfies the conditions described below, which are intended to ensure that the structure of the investment in the side car is consistent with the main fund in material respects relevant to the SSBCI program requirements.

The side car fund terms should be governed by a written agreement between the SSBCI investor and the general partner of the main fund. The investment must be on substantially similar economic and governance terms as the investments by limited partners in the main fund, except for deviations that are required to address SSBCI program requirements or other legal requirements (but not to achieve a more advantageous economic arrangement for the general partner, a limited partner, or the SSBCI investor).

Except for deviations required to address SSBCI program requirements or other legal requirements, the main fund and the side car fund must jointly participate in each portfolio company investment and on substantially similar terms in proportion to their respective amounts of committed capital. The side car fund must not sell distribute, or otherwise transfer portfolio company securities unless the main fund is engaging or has engaged in a proportionate sale, distribution, or transfer of corresponding securities on substantially similar terms.

If a side car fund complies with these terms, the capital commitments made by the investors in the side car should be treated the same as if they were made in the main fund, and the OCSP 1:1 financing ratio described in Section VIII.c of the Capital Program Policy Guidelines will be calculated as if the commitments were made in the main fund.

Section VIII.c, Approving State OCSPs – 1:1 Financing

1. **As a part of the application, eligible jurisdictions must describe how their Other Credit Support Programs (OCSPs) will in fact "cause and result in" private financing. How can an eligible jurisdiction meet this requirement when it plans to work with venture capital funds? [12/15/2021]**

As required by 12 U.S.C. § 5705(c)(1), each OCSP must "demonstrate that, at a minimum, $1 of public investment by the [jurisdiction's] program will cause and result in $1 of new private credit." Each eligible jurisdiction must describe how their OCSPs will "cause and result in" private financing in the SSBCI Capital Program application. For an eligible jurisdiction that plans to work with a venture capital fund, the jurisdiction might, for example, specify that the OCSP meets the requirement because the jurisdiction's participation in the fund serves as an anchor investment and thus sends a strong signal regarding the merits and risk profile of the fund that encourages other investors to invest in the fund. The jurisdiction might also specify, for instance, that the OCSP has a policy that any contract with a venture capital fund will ensure that the SSBCI investment is catalytic to private financing, based on the fund's age, size, or experience. An example of a situation where the SSBCI investment might not be catalytic is if it occurs after the venture capital fund's initial close; if this is the case, then the jurisdiction's explanation for "cause and result" in the application may address this circumstance.

2. **For OCSPs in which the jurisdiction invests in venture capital funds, how is the 1:1 financing requirement measured? [12/15/2021]**

The OCSP 1:1 financing requirement must be met at the venture capital fund level. Specifically, private investment in the specific fund must be equal to or greater than the SSBCI investment in that fund. The private investment should constitute "private financing," as defined in the Capital Program Policy Guidelines in Section VIII.c on 1:1 financing.

3. **Can Foreign Capital Count as Private Financing for Purposes of SSBCI Rules? [7/20/2026]**

Yes. Loans and investments may count toward SSBCI requirements if they are from a private source as described in Section VIII.b of the Guidelines, even if that source originates outside of the United States. In accordance with Presidential Memorandum dated February 21, 2025, it is the policy of the United States to preserve an open investment environment and Treasury encourages investments that will magnify federal SSBCI funding and support American small businesses.

The transaction, including the use of the private financing, must otherwise comply with all SSBCI requirements and any other applicable state, local, or federal law, including Committee on Foreign Investment in the United States (CFIUS) filing requirements that may be triggered (see, 31 CFR Parts 800 and 802). Participating jurisdictions should be mindful of these requirements and should communicate the same to their participating providers. In particular,

while investment from a foreign sovereign wealth fund will qualify as private financing for purposes of SSBCI requirements (*i.e.*, it does not originate from a domestic public source such as a state, federal, or Tribal government), such investments may be within CFIUS jurisdiction for purposes of CFIUS review. Treasury encourages participating jurisdictions to notify Treasury if they are engaging with foreign sovereign wealth funds; for example, foreign sovereign wealth fund participation in a venture capital fund may be relevant information to include in a notification under FAQ #13 in Section VIII.i.

Section VIII.d, Approving State OCSPs – Lender or Investor Capital at Risk

1. **What is the difference between a "lender" and a "debt investor" in SSBCI? [12/15/2021]**

An entity can be a lender or debt investor depending on whether the risk of the loan transactions is borne on a transaction-by-transaction basis or in a pooled manner.

Lenders are entities that bear the risk of loan transactions on a transaction-by-transaction basis. Under SSBCI capital-at-risk guidelines, lenders must bear 20 percent or more of the risk of loss in any loan transaction and must retain at least 5 percent of the risk of loss of the transaction if they transfer the ownership or risk of the lending transactions.

Examples of lenders include, but are not limited to:

- An entity, such as a financial institution, that originates a loan that is:
    - supported by an SSBCI guarantee fund,
    - supported by SSBCI participation in the loan, or
    - supported by SSBCI collateral support or other credit enhancement, for which the entity bears 20 percent or more of the risk of loss of that transaction. For instance, consider a financial institution that makes a $100 loan, of which the SSBCI program purchases a $20 participation with no seniority rights. After several years, the loan defaults, and total losses on the loan are $30, after accounting for amounts already repaid and any recoveries. In this scenario, the SSBCI funds would absorb $6 in losses, and the financial institution would absorb $24. This financial institution would be a lender under SSBCI capital-at-risk guidelines because the financial institution bore at least 20 percent of the risk of loss. As another example, consider a financial institution that makes a $100 loan, of which the SSBCI program purchases a $20 participation that is subordinate to the financial institution's interest. After several years, the loan defaults, and total losses on the loan are $30. In this case, the SSBCI funds would absorb the first $20 in losses, because it is subordinate, and the lender would absorb the remaining $10. This financial institution would also be a lender under SSBCI capital-at-risk guidelines because the financial institution bore at least 20 percent of the risk of loss; if the loan was a total loss (i.e., a loss of $100), then the financial institution would have absorbed more than 20 percent ($20) in losses.

- An entity that pools capital from the SSBCI investor and capital from private investors (e.g., loan funds) to make loans, but only if the pooling of capital does not result in the

pooling of the risk of the loan transactions. Rather, the contract governing payments to the SSBCI investor and private investors must specify that loss is borne on a transaction-by-transaction basis. For instance, consider a venture debt fund that makes 12 loans of $100 each. Rather than specifying terms for payment to the fund's private investors based on the pool of losses, the contract specifies that each private investor bears the private investor's pro rata share of the 20 percent of the loss for each of the 12 loans and prohibits compensation for losses from future repayments. Assume that there are losses on 3 of the 12 loans, with losses of $100, $50, and $80, respectively. In this case, each private investor would bear its pro rata share of 20 percent of the first loss (i.e., $20), 20 percent of the second loss (i.e., $10), and 20 percent of the third loss (i.e., $16).

In contrast, debt investors are entities that bear the risk of loan transactions in a pooled manner. Under the SSBCI capital-at-risk guidelines, for debt investors that originate loans, the capital from private investors must be *pari passu* with, or junior to, the SSBCI capital in cash flow rights up to the repayment of the SSBCI investment. For debt investors that do not originate loans, the capital from private investors in the same risk layer as the SSBCI capital must be *pari passu* with, or junior to, the SSBCI investment in cash flow rights.

One example of a debt investor that originates loans is a loan fund originating loans, where the SSBCI investor and private investors participate in the fund and bear the risk of loan transactions on a pooled basis rather than on a transaction-by-transaction basis. In this case, the loan fund may distribute cash flow to its investors in a manner that is not based on losses related to each individual loan.

One example of a debt investor that does not originate loans is a special purpose vehicle (SPV) that securitizes loans obtained from an originating lender, where the SPV packages the loans into asset-backed securities in which an SSBCI investor and private investors invest. In this scenario, the investors bear the risk of loan transactions on a pooled basis, not based on losses related to individual loans held by the SPV.

2. Do lenders need to comply with the capital-at-risk requirement if they subsequently transfer the ownership or risk of the loan to another entity? [12/15/2021, revised 04/07/2023]

Lenders may transfer the ownership or risk of a loan to another entity, such as a debt investor. However, lenders must bear 20 percent or more of the risk of loss in each loan at origination and retain at least 5 percent of the risk of loss of each loan after any transfer. If a lender transfers the ownership or risk of a loan, the subsequent entity must generally comply with the capital-at-risk requirement. As explained in Section VIII.d of the Guidelines, to the extent that an OCSP is structured such that a lender transfers a portion of SSBCI-compliant loans to a special-purpose vehicle (SPV) or other pooled entity funded by SSBCI capital and private capital, the OCSP may satisfy the private capital at risk requirement by showing that the originating lender will retain at least 20 percent of the risk of loss of each loan at a transaction level, regardless of the structure

of the SPV or other pooled entity. Otherwise, the OCSP will be assessed based on the existing standards applicable to debt investors that do not originate loans, as described above.

For example, consider a community development financial institution (CDFI) that makes 120 loans and sells the loans to an SPV while maintaining 5 percent of the risk of loss of each of the 120 loans. The SPV issues two tranches of interests: a junior tranche held by both an SSBCI investor and private-capital investors in equal amounts and on a *pasri passu* basis within this tranche, and a senior tranche held only by private-capital investors. In this example, both the CDFI and the SPV are complying with the capital-at-risk requirement.

3. **If a lender hires one or more entities to provide services related to SSBCI-supported small business loans on the lender's behalf, do these entities need to comply with the capital-at-risk requirement? [12/15/2021]**

A lender may hire or contract with one or more entities, such as a community development financial institution (CDFI), to provide services, such as assisting a small business in applying for SSBCI-supported loans or servicing such loans, on behalf of the lender. In this scenario, if the hired entity acts on the lender's behalf and the lender approves the loan and abides by the capital-at-risk requirement, then the hired entity is not considered a lender for purposes of this capital-at-risk requirement. However, if an entity (e.g., a CDFI) is acting separately and making and approving loans, then it must abide by the capital-at-risk requirements.

4. **How can SSBCI fund investment programs satisfy the requirement that the fund or entity managers in SSBCI venture capital programs have exposure to the risk of their portfolios in a manner that is consistent with industry standards? [08/26/2024]**

Section VIII.d of the Capital Program Policy Guidelines specifies that for equity investors, if SSBCI capital is invested through a venture capital fund, the fund or entity manager must have exposure to the risk of its portfolio in a manner that is consistent with industry standards. This section of the Guidelines refers to what is typically called the fund manager's (or general partner's) commitment to a fund. The fund manager's commitment is intended to help ensure alignment between the interests of the fund manager and the other investors, which are typically limited partners.

Investors have adopted or proposed various mechanisms and arrangements to ensure the fund manager's interests are aligned with the investors' interests, and within the industry these arrangements may vary, based on the manager or fund's age, size, and experience. For example, for certain funds the private limited partners may choose to reduce or eliminate the typical requirement for a manager to make a financial contribution to the fund and instead implement other mechanisms to ensure that the manager's interests are aligned with those of the investors.

Recognizing the variety of programs and funds participating in SSBCI, Treasury does not impose a one-size-fits-all requirement, but jurisdictions should analyze whether their arrangements are appropriate to give the fund or entity manager exposure to the risk of the portfolio in a manner consistent with industry standards. For example, evidence of alignment between the interests of the fund manager and the investors could be reflected in the limited partner agreement or in disclosures made by the fund manager and relied on by the investors to make their investment

decision. Jurisdictions should retain all financial records, statistical records, and other records pertinent to their determination regarding this requirement in accordance with Section VI of the Capital Program Reporting Guidance.

Section VIII.f, Approving State OCSPs – Loan/Investment Purpose Requirements and Prohibitions

1. **Can Tribal governments use SSBCI Capital Program funds to provide investments, loans, or other credit or equity support to Tribal enterprises? [12/15/2021]**

For purposes of the SSBCI, a "Tribal enterprise" is an entity: (1) that is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or (2) that is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns.

Tribal enterprises may use SSBCI Capital Program funds to provide investments, loans, or other credit or equity support to other Tribal enterprises if these transactions comply with the SSBCI statute, the Capital Program Policy Guidelines, all other SSBCI regulations and guidance, and the Tribe's own conflict of interest policy.

2. **Is a governor of a state or a governing official of a territory, the District of Columbia, or a Tribal government considered to be an SSBCI insider for purposes of the SSBCI equity/venture capital program conflict-of-interest standards? [03/18/24]**

The SSBCI equity/venture capital program conflict-of-interest standards make clear that SSBCI insiders generally include government officials with direct oversight or jurisdiction over an SSBCI equity/venture capital program, such officials' immediate superiors, and any other person who exercised a controlling influence on jurisdiction decisions regarding the allocation of SSBCI funds, the eligibility criteria, or the process for approving investments under approved equity/venture capital programs. See SSBCI Capital Program Policy Guidelines Section VIII.f. Under these provisions, the governor of the state or the governing official of a territory, the District of Columbia, or a Tribal government is generally considered to be an SSBCI insider.

3. **The Conflict-of Interest Standards for Equity/Venture Capital Programs provide that jurisdictions should adopt policies consistent with the standards. In designing and implementing these policies, what due diligence are participating jurisdictions expected to perform, especially with respect to SSBCI insiders that may not be closely involved in the day-to-day operation of the SSBCI program, such as governors? [05/10/2024]**

In accordance with the Capital Program Policy Guidelines, SSBCI funds may not be used by SSBCI equity/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.[6] To implement this standard, participating jurisdictions should consider adopting a compliance risk and oversight risk management framework that includes the controls described below, some of which are described in more detail in the SSBCI National Compliance Standards:

1. Developing a list of all SSBCI insiders, regardless of their involvement in the day-to-day operations of the SSBCI program. That list should be reviewed quarterly, cross-checked against lists of current and potential equity owners of any potential investee, and provided to investors and investees of SSBCI funds, including venture capital funds, which should certify prior to receiving SSBCI funds that, to the best of their knowledge, a particular investment complies with the conflict-of-interest standards set forth in Section VIII.f of the Capital Program Policy Guidelines (*See* SSBCI Sample Certifications #1 and #2);

2. For all persons directly reviewing, recommending, or approving a particular investment:[7] obtaining certifications or written documentation (e.g., board or investment committee meeting minutes) evidencing that they do not have actual knowledge of any personal financial interests that would prohibit the transaction under SSBCI conflict-of-interest standards (including knowledge of any personal financial interests of SSBCI insiders that are not directly reviewing, recommending, or approving a particular investment or those SSBCI insiders' family members or business partners); and

3. For covered persons not directly reviewing, recommending, or approving a particular investment:[8] cross-checking potential investees and the lists of their current and potential equity owners against any publicly available personal financial disclosures for those persons. For example, if Company A is a potential investee and its list of current equity owners includes Fund B, program staff should determine whether Company A or Fund B appears on the covered person's personal financial disclosures. If jurisdictions exempt financial interests below a certain level (in dollar amount or percent ownership) from financial disclosure requirements, we do not expect SSBCI programs to conduct any additional diligence to uncover investments below this *de minimis* threshold, if such exemption policy was in place as of January 1, 2024, or, for a policy first implemented after January 1, 2024, if it sets a threshold no greater than $15,000. Jurisdictions are not expected to obtain conflict-of-interest certifications or any other written documentation from any person not directly reviewing, recommending, or approving a particular investment.

[6] The terms "SSBCI insider," "family member," "business partner," and "personal financial interest" are defined in Section VIII.f of the Capital Program Policy Guidelines. Indirect financial interests derived solely through (i) publicly traded mutual funds or exchange-traded funds, or (ii) publicly traded companies whose primary business is not to invest in small private companies, are not covered "personal financial interests" for purposes of SSBCI conflict-of-interest rules.

[7] This includes jurisdiction officials or employees, contracted entity staff, members of a committee making investment recommendations, or any other persons directly involved in the specific investment decision by reviewing the potential investment (e.g., performing due diligence on the investee), preparing or making an investment recommendation, or approving the investment.

[8] This includes all SSBCI insiders not covered in the previous footnote of this FAQ, and would generally include governors, former program officials and employees, and all family members and business partners of SSBCI insiders, so long as they are not directly involved in a particular investment decision.

SSBCI programs are not required to adopt all of the practices above. However, if a program has implemented these practices in good faith and with reasonable diligence prior to the closing of an investment, and an impermissible personal financial interest is discovered only after closing, we will not make an adverse compliance finding or require the participating jurisdiction to unenroll and replenish the transaction. Jurisdictions should retain all financial records and other records pertinent to their SSBCI investments and conflict-of-interest policies in accordance with Section VI of the Capital Program Reporting Guidance.

The above approach reflects the requirement that SSBCI programs must not make investments in any companies where they know, or reasonably should know, that an SSBCI insider, or their family members or business partners, have a financial interest. At the same time, it reflects the practical understanding that the information reasonably available to conduct due diligence may vary based on the circumstances, and that SSBCI programs are not expected to expend unreasonably burdensome auditing efforts for each transaction to uncover remote financial interests that are not known by the persons making the investment decisions.

The following examples illustrate the above principles:

- While indirect financial interests (e.g., those held through an LLC or a venture capital fund) are generally considered to be "personal financial interests" under SSBCI rules,[9] SSBCI programs are not expected to audit multiple layers of financial interests in an investee, so long as no person directly reviewing, recommending, or approving a particular investment has actual knowledge of an impermissible indirect interest, and the interest is not discovered following the diligence steps described above.[10]
- Similarly, no diligence would be expected with respect to holdings in blind trusts, so long as the trusts are truly "blind," i.e., their holdings are not disclosed publicly or to their beneficiary, and none of the persons directly reviewing, recommending, or approving a particular investment have any knowledge of an interest in the investee held through the blind trust. Therefore, if interests in blind trusts become known or disclosed, SSBCI investments remain prohibited in the known or disclosed investees.
- For family members and business partners of SSBCI insiders[11] who are not participating in specific investment decisions, no diligence is expected beyond cross-checking against any public financial disclosures (if those persons make such disclosures) and making sure

[9] However, as noted above, indirect financial interests derived solely through (i) publicly traded mutual funds or exchange traded funds, or (ii) publicly traded companies whose primary business is not to invest in small private companies are not covered "personal financial interests" for purposes of SSBCI conflict-of-interest rules.

[10] Investments that would otherwise present a clear conflict of interest cannot be transformed into permissible investments merely through the use of more complex financial structures. For example, an SSBCI insider may not evade the conflict-of-interest rules by transferring an interest in the company to an LLC where the SSBCI insider is the sole member. Therefore, SSBCI programs must not make an investment where the persons recommending or approving the investment have actual knowledge of an impermissible indirect interest, regardless of the structure of the interest.

[11] Note that the SSBCI conflict-of-interest standards only apply to the family members of SSBCI insiders and the business partners of SSBCI insiders. Second order connections (e.g., a business partner of a family member of an SSBCI insider) are not covered by the SSBCI conflict-of-interest standards.

that investors, investees, and others directly participating in the investment decision do not have actual knowledge of a personal financial interest of any SSBCI insider's family members or business partners. For example, as applied to a governor's sibling or spouse, jurisdictions would be expected to check whether a governor's sibling or spouse filed public financial disclosure forms or were covered by the governor's own public financial disclosure, and the investors, investees, program officials, and other persons documenting that to their knowledge the transaction would comply with SSBCI rules (see #1 and #2 above in this FAQ) should be informed that the governor is an SSBCI insider and that the rules also cover personal financial interests of the governor's family members.

4. **Prior to a first close, fund managers sometimes make a financial investment in a company with the intent to transfer the investment into the fund after the initial close. This activity is sometimes referred to as "warehousing" investments. Can SSBCI funds be used to participate in the warehoused investments made by independent non-profit or for-profit managers once they are transferred into the fund? [12/17/2024]**

No. Pursuant to Section VIII.f of the Guidelines, because "warehoused" investments involve a previous investment of non-SSBCI funds by the fund manager, SSBCI funds may never be used to participate in those investments. In addition, consistent with FAQs #4 and #14 in Section VIII.i below, SSBCI funds may not be used to pay for any fund expenses directly attributable to those unallowable investments.

5. **Venture capital funds sometimes add new limited partner (LP) investors after the first close of the fund. These new LP investors are usually assigned pro rata positions in portfolio companies that the fund previously invested in out of its first close. Can a participating jurisdiction's SSBCI program be assigned a pro rata position in this manner? That is, can SSBCI funds be used to participate in the investments made by independent non-profit or for-profit managers prior to the SSBCI commitment? [12/17/2024]**

No. Similar to FAQ #4 in this section, in this situation the investments from the first close represent a previous investment of non-SSBCI funds by the fund manager, so SSBCI funds may never be used to participate in those investments or pay for any fund expenses directly attributable to those investments.

Section VIII.i, Approving State OCSPs – Additional Guidance Regarding Equity/Venture Capital Programs

1. **How can jurisdictions that contract with venture capital funds use the federal contribution to cover services to portfolio companies? [12/15/2021]**

Venture capital funds offer a variety of services to their portfolio companies (i.e., the potential SSBCI investees). These services can include, for example, financial management, operational guidance, IT consulting, transaction consulting, and connecting portfolio companies to potential

customers, investors, board members, and officers. These are services that the portfolio companies need to grow their businesses and vary depending on the portfolio company's stage in the venture capital 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 jurisdiction's venture capital program.

In the agreement between a jurisdiction 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. The agreement between the fund and the portfolio companies should include disclosure of these services offered by the fund manager. Consistent with industry standards on payments of fees to cover these services to portfolio companies, the fund should reimburse the jurisdiction for payments of such services covered by SSBCI funds before returns on investment are paid to the general or limited partners.

2. What is the definition of a venture capital fund? [12/15/2021, updated 09/27/2022]

For purposes of SSBCI, a venture capital fund is an entity that meets the Securities and Exchange Commission's (SEC) definition of venture capital fund set out at 17 C.F.R. § 275.203(l)-1 as well as any entity that would meet that definition but for the form of the investment of SSBCI funds in the entity, e.g., via a debt instrument (in the latter case, this deviation from the regulatory definition may have implications for the ability of program participants to rely on the SEC's venture capital fund definition and any associated exemption from certain requirements under the Investment Advisers Act of 1940). For example, entities that receive SSBCI funding via a debt instrument in a debt/equity hybrid OCSP described in FAQ #1 under "Section VIII.a, Approving State OCSPs – In General," will qualify as a "venture capital fund" for purposes of SSBCI, so long as the entities otherwise meet the definition under 17 C.F.R. § 275.203(l)-1.

3. How is the "annual average" calculated for purposes of the limit of 1.71 percent of the federal contribution to a venture capital fund that is allowed to cover services to portfolio companies? [03/02/2022]

Funds from the federal contribution may be used to pay for such support services up to an annual average of 1.71 percent of the federal contribution to a venture capital fund over the life of the jurisdiction's venture capital program (referred to as the "1.71 percent allowance"). The "annual average" is calculated based on the average amount of the federal contribution that is used to cover services to portfolio companies over each year of the life of the venture capital fund, up to a maximum of ten years. Because the 1.71 percent allowance is an average, the fund may in some years use an amount of the federal contribution greater than 1.71 percent to cover services to portfolio companies, so long as in other years the amount used is less than 1.71 percent. Because the annual average is calculated over a period of up to ten years, the maximum expenditure on services to portfolio companies is 17.1 percent of the federal contribution (i.e., 1.71 percent x 10 years). If, however, a fund's life is less than ten years, the annual average for such fund must be calculated based only on the life of that fund. For example, if the life of a fund is only five years, the maximum allowance for such fund is 8.55 percent (i.e., 1.71 percent x 5 years). The percent of the federal contribution that may be used to cover the services to portfolio companies must be set forth in the contract between the SSBCI investor

(i.e., the eligible jurisdiction or its contracted entity) and the venture capital fund. The contractual terms should not allow the expenditure to exceed the maximum allowance calculated based on the life of the venture capital fund.

4. In addition to the 1.71 percent allowance for services to portfolio companies, can a jurisdiction also use administrative cost funds for its equity/venture capital programs? [03/02/2022]

As described in Section XI of the Capital Program Policy Guidelines, administrative costs for the main capital allocation are capped at 5 percent of SSBCI funds for the first tranche and 3 percent for each of the second and third tranches. The 1.71 percent allowance applies to the federal contribution, not the administrative cost funds. Jurisdictions may use their administrative cost funds for equity/venture capital programs, including venture capital fund operating expenses, subject to the Uniform Cost Principles in 2 C.F.R. Part 200 Subpart E.

5. What are the benefits of the "Incubation Funding" and "Early-Stage Investment Models"? [03/02/2022]

Under these models described in Section VIII.i of the Capital Program Policy Guidelines, jurisdictions may choose to offer private investors a call option. The call option allows private investors to buy the SSBCI shares or other securities, such as convertible notes, at cost or at a predetermined higher-than-cost multiple. This is possible because under the capital-at-risk standard for these models, the private capital must be *pari passu* with, or junior to, the SSBCI investment in cash flow rights only up to the repayment of the SSBCI investment. A call option that offers an at-cost buyout does so by offering a 1.0X call option for the private investor to acquire the SSBCI shares or other securities at a price per share equal to the amount of the investment. A jurisdiction may also benefit from investment gains by offering a higher-than-cost option (such as 1.5X or 2X).

Jurisdictions can use a call option to incentivize private investors that have experience and a track record in early-stage investing to provide capital alongside jurisdictions to reach underserved entrepreneurs or undertake high-risk opportunities. Furthermore, employing these models can help increase the provision of incubator-like services to early-stage businesses in that jurisdiction to accelerate their growth and decrease their likelihood of failure, fostering job creation and economic development in the jurisdiction.

6. How is the Early-Stage Investment Model different than the Incubation Funding Model? [03/02/2022]

These models are described in Section VIII.i of the Capital Program Policy Guidelines.

The Incubation Funding Model involves an investment program in which the jurisdiction contributes SSBCI capital to a fund. Any fund that provides investment capital to portfolio companies and meets all applicable SSBCI requirements (including the investment size limit, requirement to directly or indirectly provide incubator-like services to all companies in the fund's portfolio, and the necessary experience and track record in early-stage investing) can qualify under the Incubation Funding Model. Examples of funds that may qualify include seed funds, venture capital funds, accelerators acting as funds, university technology investor office

funds, impact investors, or angel structures raising fund-like structures such as angel groups, syndicates, or super-angel funds.

In contrast, the Early-Stage Investment Model involves a direct equity investment program where a jurisdiction's SSBCI funds are co-invested alongside private capital in each qualifying investment.

Under either model, the jurisdiction may offer a call option to the fund (in the Incubation Funding Model) or the private investors (in the Early-Stage Investment Model) to buy the SSBCI shares or other securities, such as convertible notes, at a predetermined price or multiple (greater than or equal to 1).

7. Under the Early-Stage Investment Model and the Incubation Funding Model, the fund or co-investor must have a history of providing "incubator-like services." What are "incubator-like services"? [03/02/2022]

Incubator-like services are services that are provided to entrepreneurs in the very early stages of business development and are not typical services provided to portfolio companies by most venture capital funds. For example, incubator-like services might include a package of activities such as providing workspaces, networks, and feedback forums, potentially in shared spaces with other entrepreneurs; offering business training programs on accounting, financial statements, use of option pools, and financial projections; giving pre-product feedback on pitch construction, platform choice, engineering, and revenue model types; and providing training to early-stage companies on business formation and employment laws. Incubator-like services may include program-based services typically offered by accelerator programs that are fixed-term or cohort-based to capitalize on economies of scale and build entrepreneurial ecosystems. Incubator-like services may be provided by any entity qualified to perform such services and must be provided consistent with all applicable SSBCI requirements to satisfy the requirement under the Incubation Funding Model or Early-Stage Investment Model.

8. Is the fund or co-investor under the Incubation Funding or Early-Stage Investment Model, respectively, required to provide incubator-like services to startups? [03/02/2022]

A venture capital fund (in the Incubation Fund Model) or a co-investor (in the Early-Stage Investor Model) must provide incubator-like services to investee companies. However, these services may be provided either directly, by the venture capital fund or co-investor, or indirectly, through an incubator or another organization. Under the Incubation Funding Model, the available incubator-like services must be equally accessible to all portfolio companies.

9. What should jurisdictions consider in structuring the call option's price and duration under the Incubation Funding and Early-Stage Investment Models? [03/02/2022]

Under the Incubation Funding and Early-Stage Investment Models, the purpose of the call option to buy the SSBCI shares or other securities, such as convertible notes, is to incentivize private investors that are considering contributing capital to a fund with SSBCI capital, or to co-invest with SSBCI capital, to bear the economic risk of investing in early-stage companies, including

start-ups that may need a longer horizon for realizing market or revenue opportunities. Treasury encourages jurisdictions to consider how to use the option exercise price and duration (i.e., the time period during which the option may be exercised) to effectively create such incentives.

For example, an option duration of three to five years is, in many cases, sufficient to create an incentive for these private investors because the portfolio companies that are most likely to achieve success will have likely raised follow-on rounds of capital at higher valuations by that time, thereby providing the necessary information for the private investors to act, if desired, on the option. However, jurisdictions may also want to consider the sector focus of the fund in determining the option duration, as some sectors require more time for market realization.

Treasury also encourages jurisdictions to consider the incentives created when determining the call option's exercise price. Jurisdictions are not limited to offering the call option to buy the SSBCI shares or other securities, such as convertible notes, at cost. A call option that offers an at-cost buyout does so by offering a 1.0X call option, where 1.0X means that the price for exercising the option (i.e., purchasing the SSBCI shares) is 1.0 times the amount of the initial SSBCI investment. A jurisdiction may want to set a call option exercise price that would imply a return for the jurisdiction if the option is exercised; for example, a 1.5X call option or even higher option exercise price allows the jurisdiction to partake in the upside gains from the investment.

The various ways in which a jurisdiction can choose to structure the call option exercise price and duration can be combined to reflect the jurisdiction's sustainability objectives, the willingness of private investors to take risk, and the expected trigger events. For example, a jurisdiction could offer a 1.0X call option on the jurisdiction's SSBCI investment if the call option is exercised within three years, after which the option increases to 1.5X, and to 2.0X after the fifth anniversary.

10. Is the 1.71 percent allowance for services to portfolio companies in the context of venture capital funds available for debt funds? [09/27/2022]

Because the 1.71 percent allowance for services to portfolio companies is permissible only for funds that meet the definition of a "venture capital fund," debt funds are unlikely to qualify for the 1.71 percent allowance. As noted in FAQ # 2 above in this section, for purposes of SSBCI, a venture capital fund is an entity that meets the SEC's definition of venture capital fund set out at 17 C.F.R. § 275.203(l)-1 as well as any entity that would meet that definition but for the form of the investment of SSBCI funds in the entity. Under 17 C.F.R. § 275.203(l)-1(a)(2), to qualify as a venture capital fund, an entity is subject to certain limitations on its ability to acquire assets other than qualifying equity investments and short-term holdings. Debt funds are unlikely to meet this requirement.

11. Can the 1.71 percent allowance be used to provide services to a small business before the venture capital fund invests in any portfolio companies? [09/27/2022]

If a venture capital fund has not invested in any portfolio companies since the date of the first close of SSBCI capital, the fund must satisfy three criteria to use the 1.71 percent allowance

described in Capital Program Policy Guidelines Section VIII.i, "Additional Guidance Regarding Venture Capital Programs – Services to Portfolio Companies":

- First, the fund may make payments using the 1.71 percent allowance only within 12 months after the date of the first close of SSBCI capital.
- Second, the fund's payments using the 1.71 percent allowance before an investment in a portfolio company cannot exceed 3 percent of the federal contribution to the venture capital fund over the 12-month period after the date of the first close of SSBCI capital.
- Third, the fund's payments must satisfy all the requirements related to the 1.71 percent allowance in the Capital Program Policy Guidelines and all other SSBCI rules and guidance, including FAQs.

The 1.71 percent allowance may be used only for services provided to potential portfolio companies related to the same venture capital fund to which the SSBCI capital will be contributed and cannot be used for services provided before an agreement to contribute SSBCI capital to the venture capital fund is executed. Consistent with industry standards, the venture capital fund should reimburse the jurisdiction for payments for such services before returns are paid to the general or limited partners.

12. What documentation standards apply to the 1.71 percent allowance? [09/27/2022]

As explained in the Capital Program Policy Guidelines, in the contractual agreement between a jurisdiction 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. The agreement between the venture capital fund and portfolio companies should include disclosure of these services offered by the fund manager.

To support its annual certification of services provided, the venture capital fund should maintain documentation of services provided in line with industry standards, such as periodic reports on portfolio companies provided to private capital limited partners. Jurisdictions should consider adopting best practices to monitor venture capital fund activities in line with industry standards, such as reviewing the venture capital fund's documentation of services provided.

13. Treasury approved my jurisdiction's venture capital fund program, but we have changed venture capital funds or selected venture capital funds that were not named in our original application. Should the jurisdiction notify Treasury of the new venture capital funds selected under the program? [01/19/2024]

Yes. In general, participating jurisdictions must implement their approved programs consistent with their approved applications, and certain changes to the operations of those programs may require notification to or pre-approval from Treasury. See also General FAQ # 4; Allocation Agreement Sections 3.7, 6.1, and 6.3.

Pre-approval from Treasury is generally not required before a jurisdiction selects or changes venture capital funds receiving investments under an approved program. However, because the selection of a venture capital fund impacts a jurisdiction's ability to carry out an approved venture capital fund program, participating jurisdictions should generally notify Treasury of the

selection of venture capital funds when none were selected at the time of application approval, as well as changes to selected venture capital funds that were specified in the original application.

The participating jurisdiction should notify Treasury within 30 calendar days of the date that SSBCI funds are committed, pledged, or otherwise promised in writing to a new venture capital fund. For jurisdictions that have made such obligations prior to the date of this FAQ and have not yet notified Treasury, please notify Treasury within 30 calendar days of the date of this FAQ.

In the notification, participating jurisdictions should provide sufficient information for Treasury to understand how the selection will affect the operation of the approved program. Relevant information may depend on the context of a particular jurisdiction's program, but may include information such as:

1. Name of the jurisdiction's approved venture capital fund program,
2. Name of the venture capital fund selected,
3. Amount of SSBCI funds obligated to the selected venture capital fund,
4. Date SSBCI funds were (or will be) obligated to the venture capital fund,
5. Size of the venture capital fund at the time SSBCI funds were (or will be) obligated to the venture capital fund, including all capital raised in the current close and previous closes, that the participating jurisdiction has identified as available to invest alongside SSBCI funds,
6. Total size of the venture capital fund at the time of the SSBCI obligation, including all capital raised in the current close and previous closes, and
7. A brief description of the venture capital fund's investment strategy.

In addition, if there are updates to the operation of (but not the identify of) selected venture capital funds (e.g., the size of the fund), the participating jurisdiction may consider notifying Treasury of these updates as well.

The participating jurisdiction may email the notification and all relevant information to SSBCI_Information@Treasury.gov and cc: the participating jurisdiction's assigned Outreach Manager.

Note that this answer is limited to notifications regarding venture capital funds selected for investment; Treasury may require review, pre-approval, information, or amendments to the Allocation Agreement in the case of other proposed changes to approved programs, such as a change of the contracted entity administering a direct investment program. Jurisdictions contemplating other changes to approved programs should contact Treasury regarding whether additional information or additional steps may be required.

14. To what extent can SSBCI funds be used to pay for the administrative costs of a venture capital fund if the fund contains investments that the participating

jurisdiction's SSBCI program is not participating in (such as investments that are ineligible for SSBCI investment)? [12/17/2024]

As described in FAQ #4 above, participating jurisdictions may use their SSBCI administrative cost funds to pay for venture capital fund operating expenses, subject to the Uniform Cost Principles in 2 C.F.R. Part 200 Subpart E. Consistent with these principles, SSBCI funds may only be used to pay for venture capital fund administrative costs that are reasonably allocable to the SSBCI participation in the fund. For example, SSBCI funds may be used to pay for a fund's fixed administrative costs that are not directly attributable to particular investments (e.g., the fund's accounting costs) in proportion to the SSBCI share of the fund's committed capital. By contrast, SSBCI funds may not be used to pay for any expenses that are directly attributable to particular investments (e.g., legal fees for work on an investment in a particular portfolio company) if SSBCI does not participate in those investments, including investments that are ineligible for SSBCI participation.

Section IX.c, Other SSBCI Program Requirements – In-State and Out-of-State Loans and Investments

1. **Treasury requires each jurisdiction to use at least 90 percent of its SSBCI Capital Program funding for loans, investments, and other credit or equity support for small businesses headquartered in the jurisdiction. What types of transactions would qualify in this 90-percent funding category for Tribal governments? [12/15/2021]**

For Tribal governments, the following types of transactions qualify for purposes of this 90 percent requirement (i.e., qualify as "in-jurisdiction transactions"):

- Transactions with businesses on Tribal lands, which include lands defined in 18 U.S.C. § 1151; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. § 1601 *et seq.*); and any land owned by a Tribal government in trust, fee, or restricted fee status.
- Transactions with businesses in states of the United States where the Tribe is physically located or within which the Tribe exercises jurisdiction.
- Transactions with Tribal enterprise-operated businesses, businesses owned by Tribal members, and businesses in states of the United States in which Tribal members reside. For example, a Tribe that is headquartered in Arizona may have most of its members in a town on the border of Nevada and Arizona. Because the Tribe exercises jurisdiction over its members in both states, it may invest in both states.

Tribal SSBCI program transactions that do not fall into the above categories do not qualify as in-jurisdiction transactions and thus are "out-of-jurisdiction transactions." Up to 10 percent of a Tribal government's SSBCI funding can be used for out-of-jurisdiction transactions, and for each out-of-jurisdiction transaction, a Tribal government must reasonably explain how the transaction benefits the Tribe's economy. For example, the Tribal government may explain that the out-of-jurisdiction transaction may create or increase demand for products and services of businesses within the Tribe's jurisdiction.

Additionally, regardless of whether the Tribal government's OCSP will involve transactions in or out of the 90-percent funding category, the Tribal government should describe, as part of its SSBCI application, the expected benefits to the Tribe, Tribal businesses, and Tribal members from the OCSP. In the description, the Tribal government should focus on, but not limit its discussion to, the projected number and amount of SSBCI loans or investments closed through the OCSP; the number, types, and quality of jobs created; projected increases in tax revenues resulting through the OCSP; long-term economic benefits of the OCSP's investments; and other expected benefits from the economic development objectives of the Tribal government. In accordance with 12 U.S.C. § 5705(d)(1), in determining whether an OCSP is eligible for SSBCI, Treasury must consider this information. In recognition of the differential tax status of Tribal enterprises and member businesses, a Tribe may describe how the tax revenue category is applicable or inapplicable for its respective jurisdiction. See Section VIII.g, Approving State OCSPs – Considerations for Approving OCSPs.

Section IX.f, Other SSBCI Program Requirements – Minimum National Customer Protection Standards

1. **The Capital Program Policy Guidelines state that the interest rate for each SSBCI-supported loan, at the time of obligation, may not exceed the National Credit Union Administration's (NCUA's) interest rate ceiling for loans made by federal credit unions. As of what date is the interest rate cap determined? That is, what does "at the time of obligation" mean? [03/02/2022]**

"At the time of obligation" means at the time the loan is made. For example, if the SSBCI-supported loan has a variable interest rate, the interest rate at any point during the life of the loan cannot exceed the NCUA's interest rate ceiling in effect at the time the loan was made. Any change in the NCUA's interest rate ceiling after a SSBCI-supported loan is made does not impact the loan. That is, the interest rate on any loan made before a change in the NCUA's interest rate ceiling would continue to be capped by the rate ceiling at the time the loan was made, as opposed to being capped by the new rate ceiling. The interest rate on any loan made after the change, however, would be capped by the new rate ceiling rather than the prior rate ceiling.

Section IX.g, Other SSBCI Program Requirements – Disclosure of Terms

1. **FAQ incorporated under the Capital Program Policy Guidelines; accordingly, FAQ removed on 12/04/2023]**

Section XI. Administrative Costs

1. **How is Program Income calculated? [08/16/2023]**

Program Income is defined as gross income received by the Participating Jurisdiction that is directly generated by an SSBCI-supported activity or earned as a result of SSBCI Funds during the SSBCI program period. *See* Allocation Agreement Section 1.1. When income is generated by

an approved program that includes non-SSBCI funds, only the pro-rata share of Program Income that is attributable to SSBCI Funds is considered Program Income. For example, in an OCSP that is comprised of 60 percent non-SSBCI sources and 40 percent SSBCI Funds, 40 percent of the gross income is considered Program Income.

2. Can Program Income be used to pay for SSBCI administrative costs? [08/16/2023]

Yes. In addition to Allocated Funds (which are subject to the administrative cost caps set out in Section XI of the SSBCI Capital Program Policy Guidelines) Participating Jurisdictions may use Program Income (as that term is defined in the Allocation Agreement) to pay for administrative costs.

Program Income may only be used to carry out Approved Programs in accordance with Section 3.3 of the Allocation Agreement.

In addition, the Guidelines make clear that administrative costs, including administrative costs paid for through Program Income, are defined and governed by the Uniform Cost Principles set out in Subpart E of 2 C.F.R. Part 200, which include but are not limited to:

§ 200.430 Compensation – personal services,
§ 200.439 Equipment and other capital expenditures,
§ 200.453 Materials and supplies costs, including costs of computing devices, and
§ 200.459 Professional service costs.

Finally, note that there is no limitation on a participating jurisdiction's ability to use its own non-SSBCI funds to pay for administrative costs.

TECHNICAL ASSISTANCE (TA) GRANT PROGRAM

Section III. Eligible Recipients, Beneficiaries, and TA Providers

1. Can a state participating in the TA Grant Program make a subaward to a political subdivision of that state? [09/21/2022]

Yes. Section III.c, "Eligible TA Providers," of the TA Grant Program Guidelines specifies that a subrecipient may be an entity of the eligible recipient (e.g., a state entity). For purposes of the TA Grant Program, this includes a city or other entity that is a political subdivision of a state under applicable state law. Under section 3009(e)(1) of the SSBCI statute (12 U.S.C. § 5708(e)(1)), state entities, including political subdivisions, must carry out the state's technical assistance plan by providing technical assistance to qualifying small businesses directly or contracted with legal, accounting, and financial advisory firms.

2. How does Treasury define a "legal, accounting, or financial advisory firm" for purposes of the TA Grant Program? [09/21/2022]

Section 3009(e) of the SSBCI statute (12 U.S.C. § 5708(e)(1)) specifies that a jurisdiction may provide technical assistance either directly or contracted with legal, accounting, and financial advisory firms. While these terms are not defined in the SSBCI statute, the statutory objective is to provide legal, accounting, and financial advisory services to qualifying small businesses. Thus, the determination of whether an entity is a legal, accounting, or financial advisory firm depends on the extent to which the entity provides legal, accounting, or financial advisory services as described in Section IV of the TA Grant Program Guidelines. In particular, entities must meet at least one of the following criteria:

a. A primary purpose of the entity or a central part of the entity's mission is to provide legal, accounting, and/or financial advisory services,
b. The entity regularly markets or publicizes itself as providing legal, accounting, and/or financial advisory services, or
c. At least 25% of the entity's revenues or staff are dedicated to providing legal, accounting, and/or financial advisory services.

These entities may be either nonprofit or for-profit entities, as specified in Section III.c of the TA Grant Program Guidelines.

Recipients should maintain documentation evidencing their determination that each entity with which the recipient contracts to provide services under the TA Grant Program is a legal, accounting, or financial advisory firm. Treasury anticipates that forthcoming TA Grant Program Reporting Guidance will require each recipient to report on each TA provider with which it contracts to provide services under the TA Grant Program and report the recipient's categorization of the entity as a legal, accounting, or financial advisory firm. In making these determinations, recipients may, but are not required to, require entities to self-certify that they meet the definition set out in this FAQ.

3. Can a Tribal-affiliated entity or a non-Tribal entity apply for a TA grant, sign a TA Grant Agreement, and implement the grant on behalf of a group of Tribal governments? [05/09/2023]

Treasury will permit either non-Tribal entities or Tribal-affiliated entities (referred to as "Agent for the Tribes") to directly apply for and administer TA grants on behalf of a group of Tribal governments only under the following conditions, which ensure they are duly authorized by the relevant Tribes to act as their agent and have the capacity to effectively carry out the TA Grant Program on their behalf.

First, consistent with the SSBCI TA Grant Program Application, the Agent for the Tribes must provide Treasury with Tribal resolutions or other official Tribal documentation corresponding to each Tribal government listed in the joint application. This documentation must state that the Tribal government consents to the Tribal government's inclusion in a joint TA Grant Program application with other Tribal governments, and have designated the Agent for the Tribes as their agent with the authority to take the following actions on behalf of the Tribal government:

1. Submit the TA Grant Program Application;
2. Sign the TA Grant Agreement; and
3. Receive and disburse SSBCI TA Grant Program funds.

Second, the Agent for the Tribes (in its individual capacity) must certify to Treasury prior to application approval and upon submission of each required TA Grant Program report or request for additional disbursements of funding that:

1. It is duly authorized to act as agent of each of the Tribal governments and of the group of Tribal governments for the purposes of the SSBCI TA Grant Program.
2. It is capable of fulfilling program requirements on behalf of each of the Tribal governments and the group of Tribal governments.
3. To the extent it is acting as an agent for the group of Tribal governments, it agrees to comply with all terms and conditions of the TA Grant Agreement, including the SSBCI statute, the TA Grant Program regulations, TA Grant Program guidance, and other applicable Federal laws and regulations including with respect to the requirements for reporting and use of funds.
4. To the extent that it is acting in its own capacity, it agrees to comply with all terms and conditions of the TA Grant Agreement, including the SSBCI statute, the TA Grant Program regulations, TA Grant Program guidance, and other applicable Federal laws and regulations including with respect to the requirements for reporting and use of funds as if it were a subrecipient.
5. To the extent that it is also implementing or will also implement an SSBCI capital program or TA grant for another jurisdiction (e.g., for a U.S. state), it has disclosed

that relationship to the group of Tribal governments and has procedures in place to protect against any conflicts of interest that may arise.

6. It is not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities prior to obtaining any grant funds from Treasury per 31 CFR Part 19 and see also 2 CFR § 200.214.

If the TA Grant application is approved, Treasury will then permit the Agent for the Tribes to sign the TA Grant Agreement and to directly receive disbursements of funding in its capacity as the duly authorized agent of the group of Tribal governments.

Notwithstanding the above, the group of Tribal governments—not the Agent for the Tribes —is considered the recipient where that term is used in Treasury's guidance and 2 C.F.R. Part 200. Accordingly, Tribal governments are ultimately responsible for compliance with the terms and conditions of the TA Grant, including supervising and monitoring their agents and other third parties they may choose to work with to carry out the program. Tribal governments may wish to clearly specify in their agreements with each other or with the Agent for the Tribes how they intend, as a group, to monitor the Agent for the Tribes, and the effect for each of the Tribes in the event of any non-compliance or remedial actions taken against the group of Tribal governments, as contemplated by the TA Grant Agreement and 2 C.F.R. §§ 200.208, 200.339, and 200.340.

4. Does a Tribal government need to designate a specific agency, department, or subdivision as the recipient of its TA grant? [09/28/2023]

No. The TA Grant Program application and TA Grant Program Guidelines generally contemplate that a jurisdiction would designate a "specific agency, department, or political subdivision" to receive the TA grant on behalf of the jurisdiction as that recipient. In that case, Treasury requires the application to reflect the designated agency, department, or political subdivision applying for the TA grant on behalf of the jurisdiction as the recipient, and the application must include a Unique Entity Identifier (UEI) that is associated with the designated entity.

However, a Tribal government may choose to apply under its own name and receive the TA grant as the recipient instead of designating an agency, department, or political subdivision to apply for and receive the TA grant on its behalf, so long as that choice is clearly reflected in the relevant application materials. For example, the Tribal government itself should be listed in Section 4.1 of the TA Grant Program application, and the attached letter from the governing official of the Tribal government must also reflect the Tribal government as the recipient of the TA grant. In such case, the Tribal government must be registered on SAM.gov and include its UEI in the application.

Section V. TA Grant Program Application

1. How should Tribal government TA Grant Program applications address the connection to economic benefits requirement in the TA Grant Program Guidelines? [07/21/2023]

Section V.b of the TA Grant Program Guidelines (TA Guidelines) states that eligible recipients must describe in their TA plans how their anticipated TA providers together have the capability to achieve economic benefits to SEDI-owned businesses and very small businesses (VSBs) in a manner proportional to the ratio of the eligible recipient's allocated capital funds under the SEDI capital allocation (12 U.S.C. § 5702(d)) to the eligible recipient's allocated capital funds under the VSB capital allocation (12 U.S.C. § 5702(f)).

For purposes of a Tribal government application, if the application describes how its plan is designed to meet the needs of SEDI-owned businesses and VSBs, Treasury will consider the requirement to be met; no discussion of a specific ratio is required.

Section VIII. Award Administration Information

1. How will Treasury disburse TA Grant Program funds? Will fixed amount award procedures apply to TA Grant Program awards? [07/25/2022, updated 12/08/2022]

Funds for TA Grant Program awards that are $250,000 or less will be disbursed in full at the time of award issuance. Fixed amount award procedures will apply to awards of $250,000 or less. Fixed amount awards are defined at 2 C.F.R. § 200.1 and are designed to reduce some of the administrative burden applicable to federal awards while providing for accountability in the form of performance and results. TA Grant Program recipients with awards of $250,000 or less will not be required to submit a budget and narrative justification with their application or request any post-award budget amendments. TA Grant Program recipients still will be required to submit all other application documents, including a TA plan describing performance goals and benchmarks, and all required reports.

Funds for TA Grant Program awards that exceed $250,000 will be disbursed in thirds (33 percent, 33 percent, and 34 percent). Fixed amount award procedures will not apply to awards that exceed $250,000. The transfer of the first 33 percent will occur promptly following the receipt of the fully executed Notice of Award for the TA grant. To request a disbursement of TA award funds, a TA recipient must submit a Form SF-425 "Federal Financial Report (FFR)" that demonstrates that the recipient has used at least 80 percent of the prior disbursement of TA award funds. To assess whether a TA recipient has used 80 percent of the prior disbursement of TA award funds, Treasury will use the sum of the following two reporting items from the Form SF-425:

- Federal share of expenditures (line 10.e); and
- Federal share of unliquidated obligations (line 10.f).

In addition, TA recipients must submit a brief narrative describing how the project is progressing in accordance with the recipient's TA plan in the approved application. The recipient should succinctly address progress towards achieving the recipient's performance goals established under the TA plan, including output measures and benchmarks.