

CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY

Resolution Number 2011-05 Cal Loan Program Revised Collection Procedures

December 1, 2011

Staff Summary

ISSUE:

At the December 2, 2010 Authority meeting, the Authority approved for a limited time the amendment of certain Cal Loan program documents to allow for the implementation of additional collection procedures for pre-default and defaulted loans. In addition, at the August 25, 2011 Authority meeting, the Authority extended the expiration date of the collection procedures until December 31, 2011. The collection procedures were expected to enhance collection efforts by providing the collection agencies, who contract directly with ALL Student Loan (ALL), the administrator of the Cal Loan Program, with tools that would provide greater flexibility and opportunity to take a more active approach to borrower repayment activities while also providing the borrower with increased repayment option incentives.

There has been minimal success with the current collection procedures. At this time, ALL requests further modifications to the collection procedures in the Administration Agreement regarding settlement authority and the rehabilitation (“rehab”) loan program to allow the collection agencies even more flexibility in their collection efforts.

As of September 30, 2011, three borrowers with five loans have made the settlement payments totaling \$81,768.96, while one borrower whose loans in the amount of \$10,872.13 has been rehabilitated and reinstated. In addition, ALL has two borrowers whose loans in the amount of \$23,338.37 are currently in the rehabilitation program. There are no further updates at this time.

Settlement Modifications: The collection agencies request more flexibility in the settlement of the outstanding student loan balances by seeking the removal of certain procedural barriers to successful settlement negotiations with the borrowers. The following are suggested modifications to the current requirements:

1. Allow up to six (6) months for a student loan borrower in default to remit the agreed-upon settlement amount. (Currently, accounts are required to be paid off within 30 days of the settlement amount agreement.) The agencies try to collect as much cash in as short amount of time as possible. This change is designed to give the collection agents flexibility to tailor settlement provisions based on each borrower’s circumstances. The collection agents will still target receiving the full settlement amount within 30 days (or the shortest possible period). Further, for those settlements structured to be paid over time with up to a six month window, the collection agents would require a material first installment (no less than 20% of the agreed upon balance). The six month window should be viewed as an outside parameter rather than a provision to be offered to every borrower considering settlement.

2. Allow the collection agencies to immediately offer either the rehab or the settlement option, rather than keep to the strict, scripted rehab first, then settlement at the 5% incremental reduction. (Currently, borrowers are offered the rehab program first, then the option to settle the account by waiving a percentage of the account balance in 5% increments up to 25% of the outstanding balance of the student loan account.)
3. Allow the settlement amount to be reduced to no less than 50% of the outstanding balance of principal, interest, and fees with ALL's pre-approval. The pre-approval is to ensure that agencies are not settling the majority of accounts less than the prescribed 75% of the balance. (Currently, settlements are limited to 75% of the outstanding student loan balance.) Settlements below 75% should be reserved for situations where ALL determines that the exception is warranted given the borrower's circumstances and ability to pay.
4. In all settlement cases, if the borrower fails to meet the agreed-upon settlement repayment terms, the agreement will be null and void, and the agency may collect the remaining balance in full.

Rehab Modifications:

The Administration Agreement will also be amended to clarify that rehabilitated borrowers will not be eligible for deferments or forbearances, but will be eligible for loan discharge due to death or permanent and total disability.

In addition, if ALL reasonably determines that a borrower is unable to follow an aggressive repayment schedule, ALL may offer a rehabilitation program where the student loan account is re-amortized for the remaining term or an extended term not to exceed March 2019, the final maturity of CEFA's 2001 Student Loan Revenue Bonds.

At this time, staff supports the proposed modifications to the collection procedures to allow the collection agencies greater flexibility to collect on the outstanding student loan balances. In addition, MBIA, the bond insurer for the 2001 Bonds also supports these modifications.

RECOMMENDATION:

Staff recommends the Authority approve Resolution Number 2011-05 to amend the Second Amended and Restated Administration Agreement between CEFA and ALL to further modify the rehabilitation loan program and the settlement authority collection procedures.