

TITLE 4. CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

Proposed Regulatory Action

The California Pollution Control Financing Authority (“CPCFA” or the “Authority”) proposes to amend Sections 8078.8 - 8078.10 of Title 4 of the California Code of Regulations (the “Proposed Regulations”) concerning the administration of the California Americans with Disabilities Small Business Capital Access Loan Program. These Proposed Regulations are necessary to ensure that changes authorized through Assembly Bill 1553, signed by Governor Brown on October 10, 2017, are implemented in furtherance of the California Americans with Disabilities Act Small Business Capital Access Loan Program (the “CalCAP/ADA Program” or “CalCAP/ADA”). The Proposed Regulations have been approved by the Office of Administrative Law (“OAL”) on an emergency basis, and this proposed rulemaking would make these changes permanent.

Authority and Reference

Authority: Sections 44520, 44559.5, 44559.11 and 44559.13 Health and Safety Code. Sections 44520, 44559.5, 44559.11 and 44559.13 of the Health and Safety Code authorize the Authority to adopt regulations relating to small business financing.

Reference: Sections 12101 of Title 42 of the United States Code. References the federal Americans with Disabilities Act and amendments thereto.

Reference: Sections 4459.5 of the Government Code. References the Certified Access Specialist, which is any person who has been certified pursuant to Section 4459.5 of the Government Code.

Reference: Section 55.53 of the California Civil Code. Sets forth pertinent details regarding the content and scope of a Certified Access Specialist (“CASp”) inspection, including the role of the CASp in assessing whether the inspected premises meet the construction-related accessibility standards.

Informative Digest/Policy Statement Overview

Existing law establishes the Capital Access Program and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that may have difficulty obtaining capital. (Health and Safety Code, § 44559)

The proposed amendments to the regulations will allow the Authority to include provisions specific to the California Americans with Disabilities Act Small Business Capital Access Loan Program (“CalCAP/ADA Program”). The proposed regulations will expand the definition of small business for the purposes of the CalCAP/ADA program to include businesses with less than \$5 million in total gross annual income. In addition, the proposed regulation will allow the Authority to include a reimbursement to the borrower for the cost of the Certified Access Specialist (“CASp”) Report to incentivize participation in the CalCAP/ADA Program.

The Authority has performed a search of existing regulations and has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations.

Anticipated Benefits of the Proposed Regulations:

The broad objective of the regulations is to provide access to capital and economic incentives for small businesses concerning physical alterations or retrofits necessary for compliance with the federal Americans with Disabilities Act (“ADA”). It is anticipated that with the proposed regulations, expanding the definition of small business to include businesses with less than \$5 million in total gross annual income will help increase access and compliance with ADA for more types of small businesses in California. The regulations also aim to incentivize participation in the CalCAP/ADA Program and compliance with the ADA by allowing the Authority to reimburse the small business owner for the cost of the CASp Report.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

After conducting a review for any regulations that would relate to or affect these areas, the Authority has determined that the proposed regulations are not inconsistent or incompatible with existing regulations.

§ 8078.8 Definitions.

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Section 8078.8(d). Adds the term “CASp Inspection Report” to the definition as it can be used interchangeably with the term CASp Report.

Section 8078.8(h). Updates the name of the Program to conform to the statute.

Section 8078.8(k). Adds the term “Reimbursement” and “Reimbursement for CASp Report” defined as the amount that may be reimbursed to the Qualified Small Business by the Authority. The Reimbursement can not exceed 5% of the loan amount enrolled in the CalCAP/ADA program. A range of factors can impact the costs of a CASp report like square footage of the facility, specific areas that need to be inspected, and license level of CASp inspector. The reimbursement amount of the CASp report cost is limited to a maximum of 5% of the enrolled loan amount in an effort to prevent an overcharge of the CASp report cost.

Section 8078.8(1)(2). Updates the definition of “Small Business” or “Qualified Business” to expand the criteria for qualified businesses to be eligible for the CalCAP/ADA Program to have a total gross annual income to less than \$5million according to the statutory changes.

Necessity. The proposed amendments are necessary to include definitions specific to the CalCAP/ADA program and for consistency with the statutory changes.

§ 8078.10 Loan Enrollment.

This section describes the contents of a completed application, contribution amounts, and terms of the enrollment and reimbursement.

Section 8078.10(h). Provides the required information and documentation a Borrower must submit to the Authority in order to request a Reimbursement for the CASp Report cost. The required information is necessary to determine the maximum reimbursement amount for an eligible Borrower.

Section 8078.10(i). Provides the timeframe and process for the Authority to effectuate the reimbursement. This gives the Borrower an expected timeframe to receive the payment and holds the Authority to a timely standard.

Necessity. A description of the required information is necessary to specify the application contents that must be provided in order for the Authority to reconcile the reimbursement amount.

Disclosure Regarding the Proposed Action

The Authority has made the following determinations regarding the effect of the Proposed Regulations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code sections 17500–17630: None.

Other non–discretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant effect on housing costs: None.

Cost impact on a representative private person or business: The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Small Business: The proposed regulations will not have an effect on small business because the program is voluntary for any small business that seeks to apply for financial assistance in physically altering or retrofitting its small business facility for compliance with the federal ADA.

Significant, statewide, adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: The Authority has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Analysis

Assessment regarding effect on jobs/businesses: The proposed regulations will not have a significant effect on the creation or elimination of jobs in California, significantly affect the creation of new businesses or elimination of existing businesses within California, or significantly affect the expansion of businesses currently doing business in California.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment: The broad objective of the regulations is to provide access to capital for small businesses in order to make modification to their business buildings to be compliant with the federal ADA.

The proposed regulations will have some safety benefits and welfare for California residents because it assists businesses in making reasonable accommodations for people with disabilities. The Authority does not expect that the proposed regulations will impact the state's environment because the proposed regulations are intended to help meet Federal, State and local goals associated with reasonable accommodations for people with disabilities and incentivize participation in CalCAP/ADA.

Consideration of Alternatives

In accordance with Government Code Section 11346.5(a)(13) the Authority must determine that no reasonable alternative to the proposed regulations considered by the Authority or that has otherwise been identified and brought to the attention of the Authority would be more effective in carrying out the purpose for which the proposed regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Authority invites interested parties to present statements with respect to alternatives to the Proposed Regulations during the written comment period.

Agency Contact Person

Written comments, inquiries, and any questions regarding the substance of the Proposed Regulations must be submitted or directed to:

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Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments relevant to the Proposed Regulations to the Authority. The written comment period on the Proposed Regulations ends at **5:00 p.m. (PT) on May 7, 2018**. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time and day in order to be considered by the Authority.

**Availability of Initial Statement of Reasons
And Text of Proposed Regulations**

The Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 801 Capitol Mall, Second Floor, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the California Regulatory Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the Proposed Regulations. Copies of these items and all the information upon which the proposed rulemaking is based are available upon request from the Agency Contact Person designated in this Notice or at the Authority's website located at <http://www.treasurer.ca.gov/cpcfa/index.asp>.

Public Hearing

CPCFA does not intend to conduct a Public Hearing on the matter of these regulations, unless requested. Any interested person may submit a written request for a public hearing no later than 15 days prior to the close of the written comment period.

Availability of Changed or Modified Text

After the written comment period ends and following a public hearing, if any is requested pursuant to Section 11346.8 of the Government Code, the Authority may adopt the Proposed Regulations substantially as described in this Notice, without further notice. If the Authority makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least fifteen (15) calendar days before the Authority adopts the proposed regulations, as modified. Inquiries about and requests for copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice. The Authority will accept written comments on the modified regulations for fifteen (15) calendar days after the date on which they are made available.

Availability of Final Statement of Reasons

Upon completion, a copy of the Final Statement of Reasons may be requested from the Agency Contact Person designated in this Notice or found on the Authority's website at <http://www.treasurer.ca.gov/cpcfa/index.asp>.

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

TITLE 4, DIVISION 11, ARTICLE 7

INITIAL STATEMENT OF REASONS

Introduction

Pursuant to Article 8, Section 44520(b) of the Health and Safety Code, the California Pollution Control Financing Authority (the “Authority” or “CPCFA”) is authorized to adopt these regulations which are necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Existing law establishes the California Capital Access Program (“CalCAP”) and authorizes the Authority to contract with specified financial institutions to make loans to eligible small businesses that may have difficulty obtaining capital. (Health and Safety Code, § 44559)

The proposed amendments to the regulations allow the Authority to include provisions specific to the California Pollution Control Financing Authority’s California Americans with Disabilities Act Small Business Capital Access Loan Program (“CalCAP/ADA Program”) to ensure that changes authorized through Assembly Bill 1553, signed by Governor Brown on October 10, 2017, are implemented in furtherance of the CalCAP/ADA Program.

Statement of Benefits

The proposed amendments will help increase the pool of eligible small businesses by expanding the definition of small business specific to the CalCAP/ADA program and intend to incentivize small businesses to physically alter or retrofit their facilities for compliance with the federal American with Disabilities Act (“ADA”).

All numerical dollar amounts, percentages, time-frames, and similar figures were determined to be necessary in the exercise of judgment of the Authority, balancing the needs of the program, lenders, and borrowers.

Section Analysis

§ 8078.8 Definitions.

This section defines terms commonly used throughout the regulations to avoid ambiguity or misunderstanding.

Section 8078.8(d). Adds the term “CASp Inspection Report” to the definition as it can be used interchangeably with the term CASp Report.

Section 8078.8(h). Updates the name of the Program to conform to the statute.

Section 8078.8(k). Adds the term “Reimbursement” and “Reimbursement for CASp Report” defined as the amount that can be reimbursed to the Qualified Small Business by the Authority. The Reimbursement cannot exceed 5% of the loan amount enrolled in the CalCAP/ADA program. A range of factors can impact the costs of a CASp report like square footage of the facility, specific areas that need to be inspected, and license level of CASp inspector. The reimbursement amount of the CASp report cost is limited to a maximum of 5% of the enrolled loan amount in an effort to prevent an overcharge of the CASp report cost.

Section 8078.8(1)(2). Updates the definition of “Small Business” or “Qualified Business” to expand the criteria for qualified businesses eligible for the CalCAP/ADA Program to have a total gross annual income to less than \$5million according to the statutory changes.

§ 8078.10 Loan Enrollment.

This section describes the contents of a completed application, contribution amounts, and terms of the enrollment and reimbursement.

Section 8078.10(h). Provides the requirement information and documentation a Borrower must submit to the Authority in order to request a reimbursement for the CASp Report cost. The required information is necessary to determine the maximum reimbursement amount for an eligible Borrower.

Section 8078.10(i). Provides the timeframe and process for the Authority to effectuate the Reimbursement. This gives the Borrower an expected timeframe to receive the payment and holds the Authority to a timely standard.

Reliance

The proposed regulations are the result of collaborative effort between the Authority, the Division of the State Architect, and the California Commission on Disability Access.

Alternatives Considered

The Authority has determined that no alternatives are more effective, or as effective and less burdensome to affect persons or small businesses, than the proposed regulations.

Mandated Technology or Equipment

The Authority has determined the proposed regulations do not mandate the use of specific technologies or equipment.

Economic Impact Statement

The Authority has determined that the proposed regulations will have no significant adverse economic impact on small businesses, other businesses directly affected, or private persons, because they do not impose any kind of restrictions or burdens on businesses or persons. The Program is voluntary and the regulations provide financial incentives to qualified small businesses to physically alter or retrofit their facilities for compliance with the federal ADA. Furthermore, the Authority has determined that the amended regulations do not impose any additional cost or savings requiring reimbursement under Section 17500 et al of the Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any other State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) of the Government Code.

The creation or elimination of jobs within California: The revisions in Sections 8078.8 through 8078.10 of the CPCFA Regulations are not expected to have a direct impact on the creation or elimination of jobs within the State of California, due to the limited amount of funding available to support small businesses and due to the nature of the uses of loan proceeds. The revisions and of Sections 8078.8 through 8078.10 do not implement a new program, but rather, just expand and improve aspects of an already existing program.

The creation of new businesses or the elimination of existing businesses within the State of California: The proposed amendments to sections 8078.8 through 8078.10 of the CPCFA Regulations are not expected to have a direct impact on creating new businesses, as this program is in place already. However, the Authority anticipates the proposed amendment will help prevent the elimination of some existing businesses within the State of California because the Authority expects it will incentivize and help small business owners obtain the capital they need to avoid potential costly litigation due to their facilities being out of compliance with the federal ADA.

The expansion of businesses currently doing business within the State of California: The adoption of Sections 8078.8 -8078.10 of the CPCFA Regulations are not expected to have an impact on the expansion of businesses within the State of California. The program is designed to increase access to capital for small businesses seeking to physically alter or retrofit their existing facilities to ensure that the facility is in compliance with the federal ADA The Regulations seek to promote and incentivize Program participation.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment: The broad objective of the regulations is to provide access to financing for small businesses and to enable small businesses which have difficulty obtaining financing to physically alter or retrofit their small business facilities for compliance with the federal ADA. It is anticipated that the increase in ADA compliant small business facilities will help meet California's and federal policy goals associated with reducing physical barriers that prevent access to certain small business facilities for disabled persons and will increase the general well-being of disabled citizens. The Authority anticipates that the proposed Adopted Regulations

will have some worker safety benefits, including but not limited to reducing physical barriers and otherwise improving accessibility for disabled workers and California disabled residents as well. The Authority does not expect that the proposed Adopted Regulations will impact the state's environment.

Documents Relied Upon

CPCFA did not rely upon any documents when preparing the proposed regulations for the CalCAP/ADA Financing Program .

TEXT OF REGULATIONS

Title 4. Business Regulations Division 11. California Pollution Control Financing Authority Article 7. Capital Access Program for Small Businesses

§ 8078.8. Definitions.

In addition to the definitions in Section 8070, the following definitions shall apply only to the California Americans with Disabilities Act Small Business Capital Access ~~Financing Loan~~ Program, Sections 8078.8 to 8078.14 inclusive. To the extent the definitions contained herein conflict with definitions contained in Section 8070, the definitions in this section shall control for purposes of the California Americans with Disabilities Act Small Business Capital Access ~~Financing Loan~~ Program.

(a) “Americans with Disabilities Act” or “ADA” means the federal Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.) and amendments thereto.

(b) “Certified Access Specialist” or “CASp” means any person who has been certified pursuant to Section 4459.5 of the Government Code.

(c) “CalCAP/ADA Contribution” means the Contribution(s) made by the Authority from the California Americans with Disabilities Act Small Business Capital Access Financing Program Fund established pursuant to Section 44559.13(b)(2) of the Health and Safety Code.

(d) “CASp Report” and “CASp Inspection Report” means a written inspection report pursuant to Section 55.53 of the California Civil Code.

(e) “Cost Estimate” means a written proposal or estimate of the costs of materials, services and other expenses to complete some or all of the physical alterations or retrofits identified in the CASp Report, as provided by the CASp or by a licensed contractor.

(f) “Eligible Costs” means and includes all or any part, as defined in subdivision (b)(3) of Section 44559.13 of the Health and Safety Code, of the price of construction, purchase price of real or personal property, the price of demolishing or removing any buildings or structures, the price of all machinery and equipment, the amount of financing charges and interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the price of insurance during construction, the amount of funding or financing noncapital expenses, the amount of reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements, the price of engineering, financial, and legal services and other service contracts, the price of plans, specifications, studies, surveys, estimates, administrative expenses, and any other expenses of funding or financing, that are necessary and allocable to the eligible project, and shall not include costs not directly related to physical alterations necessary for compliance with the Americans with Disabilities Act.

(g) “Eligible Project” means the physical alterations or retrofits to an existing small business facility as defined in subsection (l) necessary to ensure that the facility is in compliance with the Americans with Disabilities Act as identified in a CASp report on the facility, and the financing necessary to pay eligible costs of the project.

(h) “Program”, and “CalCAP/ADA Financing Program” and “CalCAP/ADA Program” and “CalCAP/ADA” mean the California Americans with Disabilities Act Small Business Capital Access Loan Program, ~~referred to herein as the California Americans with Disabilities Act Small Business Capital Access Financing Program~~, established pursuant to the Section 44559.13 of the Health and Safety Code. Where the term “Program” is used in Sections 8078.8 to 8078.14 inclusive, the definition provided in this subdivision shall be used instead of the definition provided in Section 8070(p) of the California Code of Regulations Title 4, Division 11, Article 7.

(i) “Qualified Loan” means a loan or portion of a loan as defined in Section 44559.1 subdivision (j)(1) of the Health and Safety Code, where the proceeds of the loan or portion of the loan are limited to the Eligible Costs for an Eligible Project under this Program, where the loan or portion of the loan does not exceed fifty thousand dollars (\$50,000), and where the term of loss coverage for each qualified loan is no more than sixty (60) months. “Qualified Loan” does not include any of the following:

(1) Any portion of a loan to the extent the same portion thereof has been, is being, or will be enrolled in any other government program substantially similar to the Program; and

(2) Any loan where the total amount or value of loans enrolled in the Program by the Borrower exceeds \$50,000.

(j) “Recapture” means the withdrawal of CalCAP/ADA Contribution amounts on an annual basis when enrolled loans mature or after sixty (60) months from the date of enrollment, whichever occurs first. Recapture is not applicable for Contributions on charged off loans for which a claim has been approved.

(k) “Reimbursement” and “Reimbursement for CASp Report” mean the amount of all or part of the CASp Report cost reimbursed upon loan enrollment by the Authority to the Qualified Business. The Reimbursement shall not exceed 5% of the loan amount enrolled in the Program and is issued pursuant to Section 8078.10(h).

~~(k)(l)~~ “Small Business” or “Qualified Business” means a business referred to in Section 44559.1 (i) and (m) of the Health and Safety Code, that meets the following additional criteria:

(1) Fifteen or fewer full-time equivalent employees;

(2) Less than ~~one~~ five million dollars (\$5,000,000) in total gross annual income from all sources; and

(3) Does not provide overnight accommodations.

~~(d)~~(m) “Small Business Facility” or “Facility” means an existing small business facility of less than 10,000 square feet plus common areas and publicly or privately owned access points such as sidewalks and parking lots, if responsibility for those areas has been shifted to the small business owner pursuant to local ordinance or an enforceable lease agreement.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code. Reference: Sections 44559.1, 44559.3, 44559.5, ~~and 44559.11~~ and 44559.13, Health and Safety Code; 42 U.S.C. Section 12101; Section 4459.5, Government Code; and Section 55.53, Civil Code.

§ 8078.10. Loan Enrollment.

(a) The terms and conditions of the Qualified Loans, including rates, fees and other conditions, shall be determined solely by agreement of the Participating Financial Institution and the Borrower.

(b) A Participating Financial Institution shall be authorized to enroll under the Program all or a part of any Qualified Loan:

(1) by notifying the Authority in writing, within 15 business days after the Qualified Loan is made, that it is enrolling a Qualified Loan. For purposes of this section, the date on which the Participating Financial Institution makes a Qualified Loan is the date on which the Participating Financial Institution first disburses proceeds of the Qualified Loan to the Borrower; and

(2) by transmitting to the Authority the Fees collected from the Participating Financial Institution and the Borrower in connection with the Qualified Loan, and by providing written evidence that the Fees have been deposited in a Loss Reserve Account held either by the Participating Financial Institution or the Program Trustee.

(c) A Participating Financial Institution may enroll all or any portion of a Qualified Loan in the Program by submitting a CalCAP/ADA Loan Enrollment Application which shall include the following information:

(1) The official business name of the Borrower, including a “Doing Business As” if any, and the business address.

(2) Name and title of individual(s) responsible for signing for the Qualified Loan on behalf of the Borrower(s).

(3) Brief description of the Borrower's business and regular activities and either the SIC Code(s) or the NAICS Code(s) applicable to such business, and the amount of its annual revenues.

(4) Brief summary of the intended use of the proceeds of the Qualified Loan consistent with uses permitted as Eligible Costs.

- (5) Location(s) of the Small Business Facility.
- (6) Amount of the Qualified Loan being enrolled in the Program, and total loan amount if different, and the Participating Financial Institution loan number.
- (7) Whether the Qualified Loan is secured, unsecured, or a term loan.
- (8) Date of the Qualified Loan.
- (9) Interest rate applicable to the Qualified Loan.
- (10) Term or maturity date of the Qualified Loan.
- (11) Whether the loan is for alteration(s) or retrofit(s) of a Small Business Facility located in a Severely Affected Community.
- (12) The Participating Financial Institution's certification as to the number of full-time equivalent employees currently employed by the Borrower.
- (13) The Participating Financial Institution's certification that the loan is a Qualified Loan, and that the business receiving the Qualified Loan is a Qualified Business.
- (14) The Participating Financial Institution's certification upon enrollment of a Qualified Loan that the proceeds of the loan will be used for the Eligible Costs of an Eligible Project.
- (15) The Participating Financial Institution's certification that, upon request of the Executive Director, the Participating Financial Institution will provide information from the financial records of the Borrower, and that the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.
- (16) The Participating Financial Institution's certification that the total amount of loans for the Borrower enrolled in the CalCAP/ADA program does not exceed \$50,000.
- (17) The Participating Financial Institution's certification that it has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable interest in the CalCAP/ADA Contribution.
- (18) The Participating Financial Institution's certification that the Borrower has provided a CASp Report and a Cost Estimate and that the physical alterations or retrofits to be financed are included in the CASp Report.
- (19) The Participating Financial Institution's certification that the Borrower will provide all applicable licenses or permits needed for the construction related retrofit(s) or alteration(s).

(20) Acknowledgment that the lending activities of the Participating Financial Institution are subject to any applicable safety and soundness standards as set forth in applicable lending regulations.

(21) The Participating Financial Institution shall be authorized to certify to the information requested by subsections (12), (13), (14), (18) and (19) above based upon the Participating Financial Institution's established due diligence and underwriting standards, and shall maintain substantiating documentation in the Borrower's loan file.

(22) Certification from the Participating Financial Institution that it has not, and will not, enroll the Qualified Loan, or any portion thereof, in any other Capital Access Loan Program for Small Business offered by the Authority as long as funds are available for this Program.

(23) Certification from the Participating Financial Institution that it has provided the Borrower the CPCFA's Privacy Notice for the CalCAP/ADA Financing Program, which provides the notice required under the California Information Practices Act (CIPA) (Civil Code section 1798.17). The Privacy Notice for the CalCAP/ADA Financing Program informs the Borrower that personal information protected by the CIPA may be disclosed under the following circumstances:

(A) To consultants, auditors or contractors retained by the CPCFA where disclosure is required to fulfill CalCAP program requirements and subject to a nondisclosure agreement;

(B) To another governmental entity where required by state or federal law; or

(C) As otherwise required by law.

(24) The submittal of a completed Borrower's Eligibility Criteria and Self-Certification form in which the Borrower certifies to the following:

(A) That, when applicable, it satisfies the definitions in Sections 8078.8(f), (g), (i), (k) and (l) of the California Americans with Disabilities Act Small Business Capital Access Financing Program Regulations;

(B) The facility is located within the boundaries of the State of California;

(C) The Borrower has legal control of the facility for a term that is equal to or greater than the length of the enrolled loan, and assumes financial liability of the loan;

(D) The Borrower agrees to allow the participating financial institution to provide information from financial records of the Borrower upon request of the Executive Director of CPCFA;

(E) The Borrower has no legal, beneficial, or equitable interest in the CalCAP/ADA Contribution;

(F) If the physical alteration(s) or retrofit(s) financed through this Program is a part of a larger construction project carried out by the Borrower, the enrolled amount of the loan in this Program is limited to Eligible Costs necessary and allocable to the Eligible Project;

(G) The Borrower will provide all applicable licenses and permits needed for construction related retrofit(s) or alteration(s) to the Participating Financial Institution;

(H) The Borrower has provided a CASp report and a Cost Estimate to the Participating Financial Institution and that the physical alterations or retrofits to be financed are included in the CASp Report;

(I) The Borrower's certification that the proceeds of the loan will be used for the Eligible Costs of an Eligible Project;

(J) The Borrower agrees to allow CPCFA staff or its designee to inspect the project site;

(d) Upon enrollment of a Qualified Loan, the Participating Financial Institution shall elect a Contribution between 2 and 3.5 percent of the Qualified Loan, and shall deposit the Participating Financial Institution's and Borrower's Contributions each in the elected amount into the Participating Financial Institution's Loss Reserve Account established for the CalCAP/ADA Program pursuant to Section 8078.11.

(e) Upon verification of the deposit of the Participating Financial Institution's and Borrower's Contributions, all Qualified Loans shall receive a CalCAP/ADA Contribution equal to four times the amount of the Participating Financial Institution's Contribution.

(f) All Qualified Loans that support Eligible Projects located in a Severely Affected Community shall receive an additional CalCAP/ADA Contribution in the amount equal to the Participating Financial Institution's Contribution.

(g) Without regard to the terms of the loan, the term of enrollment in the Program shall not exceed sixty (60) months from the date of first disbursement of the Qualified Loan.

(h) Upon enrollment in the CalCAP/ADA Program, the Borrower may request a Reimbursement by submitting a CASp Report Reimbursement request to the Authority, which shall include the following information:

(1) Borrower's name, address, phone number, and e-mail address.

(2) Loan amount enrolled in CalCAP/ADA Program, loan disbursement date, and invoice for the cost of the CASp Inspection Report.

(3) A copy of the notice of access inspection completed by the CASp pursuant to Civil Code Section 55.53.

(4) Statement that the Borrower agrees to provide any additional information regarding the use of proceeds under the loan to the Program Trustee, if requested prior to the issuance of the Reimbursement amount.

(i) Upon verification of the eligibility of the Borrower's Reimbursement request, the Authority shall instruct the Program Trustee to disburse the Reimbursement to the Borrower within thirty (30) business days.

Note: Authority cited: Sections 44520, 44559.5, 44559.11 and 44559.13, Health and Safety Code.
Reference: Sections 44559.2, ~~and 44559.4~~ and 44559.13, Health and Safety Code; and 42 U.S.C. Section 12101.