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California Pollution Control Financing Authority

Presents:

Helping Small Businesses Become ADA Compliant

CalCAP/ADA Financing Program Webinar

Thursday, June 2, 2016

10:00 a.m. – 11:30 a.m. PDT

[Webinar commenced at 10:02 a.m.]

>> MODERATOR: Hello, thank you for attending the Helping Small Businesses Become ADA Compliant webinar. We'll begin in about two minutes. Thank you.

>> JANA E DAVIS: Good morning, on behalf of the California Capital Access Program I would like to welcome you to the webinar, Helping Small Businesses Become ADA Compliant. My name is Janae Davis and I'm the California Pollution Control Financing Authority Strategic Outreach and Development Manager. I have the privilege of introducing the newest program, the Americans with Disabilities Financing Program, or the ADA Financing Program. Other CalCAP ADA team members participating on this

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morning's webinar include: Renee Webster-Hawkins, the Executive Director of the California Pollution Control Financing Authority, program managers Jason Bradley and Bianca Smith, and Betina Brantley, our program analyst, will be assisting throughout the presentation. Additionally, we have three subject matter experts: Angela Jemmott with the California Commission on Disability Access, Ida Clair with the Division of State Architects, and Rachelle Golden of Overstreet & Associates who provides training to small businesses about their ADA responsibility. Each of the experts has significant knowledge and expertise in helping small businesses become ADA compliant.

Just a little housekeeping before we get started; all attendees are and will remain in listen-only mode for the remainder of the presentation. If you would like to pose a question to the CalCAP staff, type your inquiry in the question section of the webinar control panel and we will address it at the conclusion of the presentation in the question and answer session.

If one of your questions would be better addressed on an individual basis, we welcome inquiries and will be providing contact information at the conclusion of the presentation. Additionally, if you require technical assistance, please utilize the question section of your webinar control panel, and staff will attempt to address your concerns at the earliest opportunity.

Again, welcome, thank you for joining us. I'm now going over the speakers again. Renee Webster-Hawkins, the Executive Director for the California Pollution Control Financing Authority, Rachelle Golden, an attorney with Overstreet & Associates, who provides training to businesses on ADA responsibilities, Angela Jemmott, the Executive Director with the California Commission on Disability Access, Jason Bradley,

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Program Manager with CPCFA, Ida Clair, a Senior Architect with the California Division of State Architect, and Bianca Smith, a program manager at CPCFA. I'm going to turn it over to Renee to go over the agenda this morning.

>> RENEE WEBSTER-HAWKINS: Thank you Janae, and welcome to everyone joining us today. We are happy to present this webinar to describe the California Americans with Disabilities Act Small Business Capital Access Loan Program, what we call the CalCAP ADA Program. This is the new credit enhancement program to assist small businesses in California with improving their physical public accessibility and complying with the Americans with Disabilities Act.

We have a robust agenda today and planned the presentation to run a solid hour or a little more depending on your questions in the end. In this webinar we will cover the history of CPCFA, and how our small business programs work under CalCAP, what Assembly Member Jimmy Gomez hopes to accomplish through his legislation AB 1230 which he authored to support this new CalCAP program, why compliance with the ADA and the California building code is smart for you as a business owner, what the top access violations are in California based on state-collected data, what businesses and types of property improvements are eligible to participate in CalCAP ADA, and the role of the state Certified Access Specialist inspection under the Division of the State Architect. Finally, we'll go through how to enroll a loan in our program and share with you the timeline and next steps for our program outreach, development, and implementation.

We hope you come away with an appreciation for the collaboration and consultation from the subject matter experts and our sister state agencies. We have

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been working with the California Commission on Disability Access, the Division of the State Architect, the Department of Rehabilitation, small business organizations, and we have been working with the stakeholders to develop the programs as we present it to you today.

First, a little bit of background on CPCFA and why we're running this program. CPCFA was founded in 1973 primarily to serve as a conduit bond issuer for tax exempt bonds for private companies engaging in pollution control activities such as waste hauling, recycling, reuse, waste water treatment, and water furnishing projects that have a public benefit.

In the 1990s the legislature authorized CPCFA to create, and offer, grant and loan programs to clean up and remediate brown fields and underutilized properties depending on available funding to us. Most importantly for this program, in 1994 our authority was expanded to create and implement the California Capital Access Program to offer credit enhancements to incentivize banks and other private lenders to make loans to small businesses.

So we're going to do a brief overview of how our basic CalCAP program works. CalCAP offers a small business loan incentive as a simpler alternative to SBA loans and other government lending programs. Here's how the basic CalCAP model works. If you are a small business and you want to take out a loan for startup costs, working capital or expansion of the business, you would apply for a loan from your commercial banker, lender or community development financial institution.

If your lender is not enrolled in our programs, it is easy to do so if the lender contacts our staff, or you can contact us and ask us to reach out to the lending

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institution.

Once you've applied for a loan with the lender, the lender will do the usual underwriting and credit approval and offer you a loan. If you and the lender decide together to enroll the loan in the CalCAP program, you and the lender will each pay a small fee. The fee is deposited into a loan loss reserve fund that we maintain for that lender.

On your behalf, the lender will fill out a loan enrollment application and ask you to sign a certification that the loan is being used for eligible small business purposes. The lender will submit the enrollment application to CalCAP. After CalCAP staff reviews the enrollment application we deposit a percentage of the total loan amount into the same loan loss reserve fund maintained for that lender.

Under the usual scenario, you will pay off the loan and never hear from CalCAP again. The more loans a lender enrolls, the larger that lender's loan loss reserve fund grows. In the rare event that a borrower defaults on a loan enrolled in the program, the lender may tap into that loan loss reserve fund to reimburse itself for losses, such as the unpaid principal balances and reasonable costs, after liquidating collateral and attempting to collect from the borrower.

CalCAP has proven to be a powerful program. We have offered the small business program since 1994. We also offer special programs targeted to benefit small business owners, such as owners of heavy duty diesel trucks, to upgrade their tractors to newer, cleaner burning models. We also offer a program to support small businesses that want to install electric vehicle charging stations for their customers or their employees. Up through the end of 2015, CPCFA has enrolled over 23,000 loans in its various CalCAP

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programs, incentivizing over \$2.2 billion of investment of private capital in California's small businesses.

So what does this legislation authorize? Given the success of our CalCAP programs, in 2015 assembly member Jimmy Gomez approached us to ask if we could create a loan program specifically for very small businesses, so these businesses can increase the physical access into their business for disabled persons.

By carrying out tenant improvements in their place of business, the business owners can help attract clients and customers who are disabled and avoid potential claims filed under the Americans with Disabilities Act by plaintiffs and high frequency litigants. Assembly Bill 1230 was passed by the legislature and was signed by the Governor in October of 2015; and it provided CPCFA a one-time \$10 million appropriation to create the CalCAP ADA program. Loans can be enrolled in the program to support physical alterations, retrofits, signage, and other improvements to increase access and comply with the ADA.

The statute directs CPCFA to conduct a rule making to establish specific program rules and procedures. The statute also directs CPCFA to create a sustainable evergreen program, and we intend to recapture unclaimed funding from loan loss reserve funds to be used to support future loans after the initial \$10 million is expended.

Based on the original CalCAP program, CalCAP ADA includes specific rules reflecting the author's intentions to support physical alterations and retrofits to comply with the ADA, and to direct this program to the smallest of businesses who shoulder a disproportionate share of the burden of litigation under the ADA. Therefore, AB 1230 limits the program to mom & pops and other small businesses employing up to 15

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full-time equivalent employees, and occupying up to 10,000 square feet. Jason will cover other program parameters in a little bit.

We note that this program is available to both for-profit and non-profit businesses. So now I would like to turn this program over to Rachelle to share with us why the ADA compliance is smart business.

>> RACHELLE GOLDEN: Hi, thank you so much for having me. As introduced, my name is Rachelle Golden. I'm a defense attorney in Fresno, California who represented numerous business owners of all sizes, but specifically small businesses. This program is something that is near and dear to my heart because the first question I'm usually asked is: "is there money to do this? Where's the money coming from? How can I get help doing this?" These retrofits can be very expensive. It's an honor to be part of the panel.

So first off, I would like to go through some statistics on why compliance is smart business. It is estimated that 18.7% of the United States population has a disability of some kind, whether that's a mobility disability or mental impairment. The vast majority of the 56.7 million people have a disability here in the United States. Of that 18.7%, 12.6% are severe. So these are the people that have a major life function impairment, such as me. I use a wheelchair and have been in a wheelchair now for 17 years due to a snowboarding accident as a teenager, so severe disability meaning I can't walk at all. There are others that are more severe. They require breathing apparatuses or they have in-home care. So that's a big chunk of that 18%. What's really significant, and I think is really important to pay attention to, is that of that 18.7%, 5.2% are school aged. This means that these are children that are going to be your patrons and customers for their whole lives. 2.8 million children in the United States are estimated to have a

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disability of some kind. This is smart business because once you become compliant, you are catering to a vast majority of people that you may have excluded unknowingly or unintentionally.

\$200 billion in annual discretionary income comes from those with disabilities. That is a huge number. If you are not compliant about physical access, you are excluding potentially a huge population of people. By excluding, you're not maximizing your revenue potential, and this just gives a glimpse of how big and how much the ADA affects people's interaction with businesses throughout our country.

It's estimated that 42% of all ADA lawsuits are brought in California. The reason why this is ADA-only is because these are the federal court cases that we've tracked. I know that the California Commission on Disability Access has more refined numbers as far as state law versus federal law cases, so if you have questions about that, feel free to jump in and ask Angela about that.

42% of federal lawsuits regarding the ADA are brought in California. That's a big number, so we're in California with a growing population of disabled people. People are living longer. Children are going to become your mom and pop shop owners. They're going to be your lawyers. They're going to be all around you all the time. So if 42% are brought in California, these federal lawsuits, we're in a unique position to really affect change. Not only affect change, but on a national level and we could truly be an example for what other states might potentially be looking at for guidance.

The common structure, or what's becoming the common structure of an ADA claim, is under the ADA, which is the federal standard you are required to do readily achievable barrier removal. What's important are the trigger dates. If you have a

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building that was built before January 26th of 1992, you're required to do what's readily achievable. That means if you can replace your doorknobs because you have a knob instead of a lever, do that. That's readily achievable. If you have a threshold that exceeds a quarter of an inch, that's readily achievable.

Facilities built after January 26th, 1993 are required to be in compliance with the 1991 Americans with Disabilities Act standards, which are the design and construction standards of 1991. That got you some safe harbors there. So if you met that 1991 standard early on, then you're pretty much locked in. If you didn't, now any facility that is built after March 15th of 2012, you're required to meet the 2010 ADA standards as well as any sort of applicable California building code, and Ida can speak to that a little bit later.

Why this is important is because these trigger dates are going to trigger what your responsibilities are and what the applicable construction standard is. So in federal court, the key term is readily achievable. It's a balancing test. Legally if you know how much it's going to cost to make the retrofit, how big your business is, and how many employees you have, all those moving parts are weighed and analyzed by courts to see if it's readily achievable.

Now taking a step down to state court, a California building code violation is now a violation of the Civil Rights Unruh Act of California which pre-dates the ADA. Under the Unruh Act, you're allowed to get your statutory penalties. That's \$4000 per occurrence, which means per visit to the property as well as attorney fees and costs. Now in federal court, that's not allowed. You're only allowed to sue for injunctive release.

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What's happening is plaintiffs are oftentimes bringing these state law Unruh Act Civil Rights claims and kind of piggybacking them on to their ADA claims in federal court. The reason why I'm finding in my practice that this happens is because with SB 269; you may have heard about, it's the first time we have a notice of opportunity to hear from small businesses of certain types of violations and there are demand letter requirements you have to fulfill in state court. If you bring your case in federal court, those kinds of procedural rules no longer apply, so a demand letter doesn't have to be sent and there is no notice and opportunity for these minor violations under SB 269, which was just enacted. If you have any questions about that, please e-mail me at any time, and I will be happy to discuss those with you.

The reason they do that is so they can get that injunctive relief in federal court which is also authorized in state court, but then they get their attorney's fees and court costs in the \$4,000 statutory penalty. You're now in federal court, and not only asking the judge to decide your federal claim but now you're asking them to decide these state law claims as well.

What's great about California and the steps we have taken is the Certified Access Specialist Program. The CASp is somebody that's sat for an exam; they have a construction design, engineering background, or somebody with a piece of them in design standards. They sit for a very, very intense exam, and they learn how to work building codes, and learn which standards apply for which portions of the building. If you've got a permit pulled, that's going to trigger a different California building code cycle, so these trained, certified specialists can go out and do an audit of a facility.

Why this is so important is because if you are in state court with a state

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complaint, then if you have that inspection done before you get served with a complaint, and before the complaint is filed, and you're a small business, that case is stayed, meaning the case stops. It freezes, and no fees or costs can be incurred during that time. It's the court's way of forcing these plaintiffs and defendants to really settle and work things out and potentially fix any of these problems before, you know, the litigation can proceed.

That's a really amazing step in the right direction in state court. But as I said, when these cases are brought in federal court, that CASp kind of freezes, because you have done your homework before the complaint is filed doesn't exist.

Why the CASp program is so important is because if you need to know what's readily achievable, you can use the CASp report as a tool to identify your barriers. So you can make the determination if something is readily achievable. You don't know what your potential liability is if you don't know what your barriers are. Even though there's no real solid protection in federal court for using a CASp, it's still a vital tool that businesses can use in their favor to show "hey, hold the phone, I needed to know it was readily achievable so I had a CASp report done and I'm working on those things. So I'm fulfilling that obligation."

Or "I thought I was built to the 2010 ADA standards. I didn't know I was out of compliance." Well, CASp will identify that property, or audit that property from that applicable standard of when the last permit was pulled or when the building was built.

So this CASp program is really important, and they're expensive. You know, we always recommend to always get three bids, because there's going to be some that are cheaper than others. You might have a different construction need. If you are

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anticipating significant structural work, hire a CASp with an architectural or engineering background that could do the drawings for you. Or if it's minor things here and there, cosmetic, use somebody with a construction background.

So kind of analyzing what you might need is critical in choosing which CASp can work in your best interest. Getting three bids will give you a range of the costs. So you need to make sure, as I said, that the background matches the services needed. Sometimes an inexpensive CASp report might be the way you go because that is all you can afford for somebody who doesn't necessary have a license in architecture or engineering. They might be less expensive and more appropriate. But certainly if you need something that's more extensive, then somebody with the licensing can serve you best in a CASp report.

And what's really interesting to me in my practice is I've heard a lot of feedback from various people, legislatures, policy makers, different attorneys, plaintiff's attorneys, and defense attorneys, is that people think no one is going to do anything until they get sued.

Not only do I do defense work when people get sued, but I'm a proactive compliance consultant. I work hand-in-hand with CASp's before litigation is filed. I work with business owners and go through their finances and I speak with accountants with them. Really doing the analysis of what needs to be done and how much it's going to cost before they have been served with a complaint or knew that they could be served with a complaint. People want to comply. People want to become accessible. They understand its smart business. But it's expensive.

So this small business loan program is huge for these types of businesses that

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really want to do this anyways, despite litigation or in spite of litigation. So what's really great about this program is that most of my clients, unfortunately, are low income small businesses who are primarily non-English speaking. And why that's significant is because they can be an easy target to kind of extort high settlements out of because the legal education and background is oftentimes not there.

Oftentimes they can't afford to even hire an attorney for themselves. So they're left with kind of settling with the plaintiff without any sort of legal representation. So to have this program in place where we can really empower our low-income small businesses to really protect themselves is really important for the economy of the State of California.

And I believe that's all that I have to say on this issue. I actually have to jump out. I'm going to give you my personal e-mail address if you have any questions and want to e-mail me directly. My e-mail is rtg@oa-law.net. I'm available to anybody that is a part of this webinar. I can answer any questions that you have. I'm here as a resource for you.

So it has truly been a pleasure to be on the panel, and I'm excited about the program. I'll pass it off to Angela who is the Executive Director of the California Commission on Disability Access. She has some really great information for you. So take it away Angela.

>> ANGELA JEMMOTT: Well, thank you so much for the introduction. I appreciate that and all of you participating on the webinar. This is a great program and I'm so appreciative to be a part of this project with CalCAP. And I thank Renee and the team for inviting me to participate today. We are a fairly new organization within the

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state government so I wanted to share a little bit of background before I talk about the slide that you're looking at before you.

And that is in 2008 the California state legislature concluded that in many instances persons with disabilities continued to be denied full and equal access to public facilities, even though that right was provided under state and federal law. The legislature further concluded that businesses in California have the responsibility to provide full and equal access to public facilities as required in law and regulations, but that compliance may be impeded in some instances by conflicting state and federal regulations, resulting in unnecessary litigation.

The legislation passed bill 1608, establishing the California Commission on Disability Access with a vision of developing recommendations that would enable persons with disabilities to exercise their right to full and equal access to public facilities and that will facilitate business compliance with the applicable laws, building standards, and regulations to avoid unnecessary litigation. As well as addressing many other reforms related to access compliance.

And so there is, since 2012, CCDA has been collecting alleged violations from both the state and federal courts. With that collection we have collected and provided on our website the top ten alleged violations.

We are mandated to give tools to help businesses and this is one of the tools that we believe is something that you could take advantage of right away. And so we want you take advantage of this opportunity of learning some of the quick simple ways that you can assess within yourselves where you are in relation to violations or potential violations in your business.

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I will say that it is interesting that many people have identified what we call a drive-by, but I will tell you that if a person cannot pull into your business and cannot feel that they can access your facility, they will not come into your business. As Rachelle was saying, smart business. We're talking about smart business tips. And this, indeed, is an opportunity to think about smart business tips and ways to boost your business.

So let me just tell you, this is a collection beginning in 2012. And we, for example, in 2013 we collected over 28,000 violations that were reported within the state and federal courts. In 2014, over 31,000 collected violations. So what you're looking at is the top ten of those collections.

And so you see before you: parking, service counter heights, path of travel, curb and entrance ramps, entry ways and signage, and then restrooms. We have, beginning in 2013, out of all of that which you've noted as the top ten, 41% of violations were sent in regarding parking. That is van accessibility, access aisles and/or loading zones, if parking didn't have striping or signage or even the lack of parking spaces. 41% was in 2013. 2014, 38% was parking. 2015, 42%, again, was parking as the number one, number two, and number three reasons for submitting in cases. That tells you as a business owner that this is something you can easily respond to because, in terms of cost factors, that's probably one of the most minor cost factors within violation reduction. But, again, look at our website. It is an opportunity for you to actually see some tips that were developed by the Department of Rehab called Boost Your Business Helpful Tips. It gives some good examples, illustrations, and clear instructions of how to assess and look at those opportunities within just parking along with the other areas of service counters, path of travel, and so forth.

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We know that it is smart business to find ways to look for ways or people to come into your business. And these are examples of it right here before you. Again, this is just on our website beginning for you as tools. We have additional tools that we will be developing and we look forward to sharing with you as the months come along. But right now, this is something available right now and it's exciting for you to know along with this opportunity for loans to be able to increase your business.

So we thank you for your time of listening. And if there are any questions, definitely, we look forward to answering the questions. And as well as you can go on the website to respond to, or ask questions in, the future instances to CCDA. So for that I will pass it on to Jason.

>> JASON BRADLEY: Hello, thank you Angela. So Rachelle and Angela touched on why being ADA compliant makes good business sense, and why it's a challenge for many small businesses in California. Non-compliance is costing small business owner's potential revenue from the disabled community and putting finances at risk because of a potential ADA complaint. The CalCAP program provides a viable financing option to assist with projects that comply with the federal Americans with Disabilities Act that Renee touched on earlier in the presentation. Now let's look at what and who is eligible for the program.

We'll start with the what. Loan proceeds can be used for the physical alterations, or retrofits, of an existing business facility to ensure it is in compliance with the American with Disabilities Act. It's aimed at California's smallest businesses. Therefore, to be eligible, the small business must have no more than 15 full-time employees, the facility must be less than 10,000 square feet, and the business must

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have a total gross annual income of \$1 million or less.

In addition, the small business cannot provide overnight accommodations. So hotels and motels are not eligible for the program. The program does institute a \$50,000 limit for each enrolled loan, and offers coverage under the program for up to five years.

Because the loan coverage is limited to ADA alterations and retrofits, CPCFA is proposing utilizing the Certified Access Specialist Programs inspection report as a quick and easy way for the program to determine eligible costs. Ida Clair, Senior Architect at the Division of State Architect will talk about the CASp inspection report. But I want to touch on the role the report plays in our program.

Small businesses must obtain a CASp inspection report in order to qualify for the program. Now, the cost of the CASp inspection report is an eligible cost and can be financed and enrolled into the loan, the program's loan. In order for CPCFA to ensure that the use of loan proceeds is applicable to the physical alterations necessary for compliance with the Americans with Disabilities Act, cost estimates will be compared to the deficiencies identified in the CASp inspection report.

It's important to keep in mind that the total loan can't exceed the cost of items identified in the CASp inspection report, however, the amount enrolled in the program is limited to the related deficiencies identified in that report. And in addition, the CalCAP ADA loan need not cover the entire list of deficiencies identified in the CASp inspection report.

So now I would like to introduce Ida Clair, Senior Architect with the Division of

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State Architects, who will talk about it more in depth on the Certified Access Specialist Program.

>> IDA CLAIR: Thank you Jason. And thanks to Renee and your team for inviting me to speak on the Certified Access Specialist Program. The legislature created the Certified Access Specialist Program in 2003, specifically as a resource for business owners to have qualified professionals available to assist them in determining their compliance needs. In 2008 we certified our first access specialist. And today we have over 700 access specialists throughout the state to serve the business community.

Our Website is at www.dgs.ca.gov/casp. It has a section for business owners, property owners, and consumers. On this Website -- those arrows indicate where you will find a list of frequently asked questions and also the list of certified access specialists. This is the list of certified access specialists. When it's on your screen, it is in alphabetical order; however, you can sort to find a CASp in your area by clicking on the blue phone number link in the gray box on the top row. This will sort the list into area codes and you can find one in your local area code.

When you do select a certified access specialist to call and inquire about pricing, as Rachelle said, please call at least three, and ask them what their background is in order to determine a CASp for your needs. You want to call the CASps who have a yes in the *do inspections* box; because they will tell you the areas they serve. While there are many certified access specialists that serve the state, you will have an easy time finding one in your local area.

This is the link to our *frequently asked questions* about CASp services, and the statutes regarding what hiring a CASp can give you in terms of legal benefits. So please

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use this list and access this resource if you have any questions. Also, on the CASp website you will find my contact information. If you have any further questions about the CASp program, at the bottom of the page on the certified access specialist list, it will ask if you have questions about the CASp Program, and that's my phone number that you can call.

Also in 2008 the legislature established the Construction-Related Accessibility Standards Compliance Act. And what this act did in the civil code is it rewarded business owners who were proactive in achieving compliance or in seeking compliance with accessibility standards.

And how it rewards business owners is that if a business owner hires a CASp and receives a report, they get three legal benefits because they are recognized as being informed about their access issues, and proactive about correcting them. And those three legal benefits are a 90-day stay, as Rachelle mentioned, and an early evaluation conference to discuss the merits of the case. If a claim is filed while you are in the process of corrections, or after if something was inadvertently not corrected, you are eligible for reduced statutory damage if you correct the improvements within 60 days.

When a CASp provides an inspection for you, you will receive one of two reports. These are called reports with determination. A report with a determination that meets applicable standards means you are okay. You have no compliance issues and there are no improvements required.

Most, however, will receive an *inspected by a CASp* report, which means there are some issues. And when you have an *inspected by a CASp* report you have two methods to correct. One is option A, which is a reasonable time schedule for

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corrections, and the reasonableness of that schedule, is taken into consideration. Your finances, your time, your employees' disruption, and anything that you determine would make it a reasonable schedule for a correction.

If a claim is filed within your option of corrections, or within your time frame that you are making corrections, you have the opportunity for reduced statutory damages from \$4,000 to \$1,000 if you correct that violation within 60 days of that claim.

Option B is the new option that has just been established with Senate Bill 269 which recently passed. And if you elect to correct all violations within 120 days you are not liable for any statutory damages if a claim is filed. You can choose one of two. If you do choose option B, the 120-day schedule can only be extended if you have an active permit in process, and then it can only be extended to 180 days, but an active permit must be in process. So that commitment, if you are seeking a CalCAP loan because you elect to choose option B, we hope that you would inquire about the CalCAP program in advance so that loan time is not taken up in that 120-day schedule. So you can try to secure a little bit of your financing before or at least concurrently while you are hiring your CASp.

And a CASp who inspects your property will inspect to the applicable standards. It is important to understand that there's an applicable federal standard and there's an applicable state building code standard, which determines the compliance to your facility. What's really important is that most complaints that are cited to violations are to current standards. But current standards may not be applicable to your facility. So you may not actually have a violation. It's just that individuals who file complaints may seek sometimes to quote a current standard to imply that you have one.

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And that's why a CASp report is very important, because a CASp will tell you that standard is not applicable to you because it is a current standard. It is not applicable to your facility. So compliance of your facility, by law, is based on applicable standards.

And also what's important, while state and federal standards may be updated periodically, the applicable standards of your facilities do not change unless you make physical improvements to your facility. Any time you do make physical improvements to your facility the current standard does come into play.

And so based on this, and the legal benefit -- the CASp report and the legal benefit from the CASp report do not expire at any time. Unless you actually make improvements to any area that's been inspected and then we request that you have another inspection to reinstate those legal benefits for you.

When a CASp inspects your property you will receive a record of inspection and the certificate. This is not a compliant certificate indicating you are compliant. This is a record of inspection. And this is the public document that you can share with others to prove that you have had a CASp inspection.

So before hiring a CASp, be ready. If you know the original date of the construction of your facility, know any improvement history, and understand the public accommodation areas of your facility; that means any areas the public has access to. Those are important to know.

You should also read your lease agreements and ask your landlord if your landlord has had a CASp inspection on any exterior property. And then also understand that access is based on use and how you use the facilities. So review your operational

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policies and maintenance policies to see where you're vulnerable. Perhaps you are introducing the public into employee areas which then makes them open as a public accommodations area.

And based on that, if you have any questions let me know on the CASp website. My e-mail is Ida.clair@dgs.ca.gov. I can answer any questions about the certified access specialist program to you. Now, I will pass you on to Renee.

>> RENEE WEBSTER-HAWKINS: Thank you Ida. We have covered a lot of detail about what complying with the American with Disabilities Act and the California building code means, what the CASp report is, and why it is important to obtain a quality inspection, as well as some technical rules of the CalCAP program.

What we know is there are many reasons why small businesses may have some access violations that they haven't addressed already. One important reason is that you don't know exactly what those violations may be, if any. A second important reason is you may not have the cash on hand to pay for the retrofits.

What this program will do is help you obtain your answers as to whether or not you have any violations and what they are, and will also help you unlock access to a private loan that you may not have known was available to you. Let's show with you the pathway showing how you can participate effectively in this program.

This slide shows two tracks. The disability access track on the left and the loan track on the right. As the small business owner, you will be accomplishing both tasks simultaneously; ideally, to put you into the position to take advantage of the CalCAP ADA loan program. So let's start with the disability access track.

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Regardless of whether or not you were going to participate in the CalCAP ADA program, if you wanted to answer the first question, do I have any violations and what are they? This is what you would do. Ida has gone into detail about how you can do that but this kind of condenses it for you. First, you'll get three bids for a CASp inspection. You'll get the inspection. And then based on the inspection you'll get some cost estimates for any of the violations identified in the report. The cost estimate may be in the report, or you may be getting those from another architectural or construction contractor, and obtaining bids on the job.

Meanwhile, to effectively participate in our program, we recommend that at the same time that you're getting bids for the CASp inspection you're also contacting your business lender, your bank that you do business with, to see whether or not they have a commercial loan that would be available for you, as well as whether or not they participate in our program.

As I mentioned earlier, if you have a relationship with a bank and they're not currently participating in our program, it's easy for them to participate. And by contacting them early at this point, this gives them the time to reach out to us and we can get them started in our program.

In the meantime, you're going to be applying for the loan, providing the financials to the lender that they would normally require for any commercial loan. Ideally you'll be receiving the CASp inspection report as well as any cost estimates for violations. And you'll be getting all of your financials to the lender at the same time. So the middle line on this slide shows that there's a point in time where you've done your work on both tracks and they converge to the point at which you need to officially apply

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for the CalCAP ADA loan.

You're going to be submitting your CASp inspection and cost estimate to the lender. And at that point the lender takes care of validating whether or not the cost in your cost estimates and the CASp inspection report are eligible under our program. And the lender will take care of applying to us for your loan.

So essentially, for a small business enrolling in our program, it takes no more work than you would engage in anyways to answer those two questions. Do I have any violations? And how can I get a loan to pay for the retrofit?

What is the benefit then for you as the borrower? Under this program you are more likely to get a loan for this purpose. You may get more favorable terms from your lender because lenders like our program and it reduces the risk to them associated with these loans. Additionally, as a small business owner, you may have had the experience of asking a lender for a business loan before, and they may have replied to you that you may not be eligible because you couldn't demonstrate a clear return on the investment. In other words, you may not have been able to show that your revenue associated with the activities supported by the loan could overcome the costs of the loan and the monthly payments. Under this program lenders are given more comfort in that regard and that element of a loan underwriting will be less important to the lender.

So it makes it more likely for the lender to say yes to underwriting your loan and giving you more favorable terms. And therefore, you can carry out the retrofits and engage in the activities that are smart business for you.

At this point I'd like to turn it over to Bianca who is going to share with you the

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next steps in our program development and implementation.

>> BIANCA SMITH: Thank you Renee. First I want to thank my colleagues and our guest speakers for the excellent overview of the CalCAP ADA program.

Second, I want to mention that we have worked diligently in strengthening our partnership with the Division of State Architects, the California Commission on Disability Access, and other various state agencies. We have made significant progress in our outreach and marketing efforts. And have established new connections with agencies whose members can benefit either from the CalCAP ADA financing program, or from the other financing program CPCFA currently offers.

And we will continue our outreach efforts throughout the program development, and now the timeline for our program development. Coming up is CPCFA's board meeting on June 21st. We plan to update our board members on the program status before we start the statewide marketing. Details regarding the board meeting will be available on our Website after June 10th. We are welcoming your participation, so please check our Website for more details.

In early July we are planning a second webinar directed once again at the financial lenders. We are striving to draw a high number of commercial lenders to participate in our program. We do have an existing lender pool, but we to want enroll also new lenders. So if you are currently working with a lender that does not participate in our CalCAP program, you can either tell them to contact us or we can contact them for you if you provide us with their contact information.

Next steps are stakeholder meetings. We are anticipating scheduling

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stakeholder meetings in early to mid-July. We are planning meetings in Sacramento, the Bay Area, Central Valley, and Southern California. Exact times and locations will be posted on our website as soon as this information is available.

At these public meetings we will outline the areas addressed by the proposed regulations for the CalCAP ADA program. This program will be structured similar to the existing CalCAP program. Certain technical issues unique to the ADA program will be hammered out as we work closely with our stakeholders. So feedback from all the stakeholders is greatly appreciated.

Also, in July we will work on solicitations for a third party technical validator. As Renee mentioned, the CASp inspection report will help identify ADA deficiencies and the validator will provide expertise in certifying eligible costs for CalCAP ADA financing. Solicitations for a third-party technical validator will be done through the regular request for proposal process.

Next steps are emergency regulations. The input we receive at the public meetings will help us refine the regulations before filing with OAL. That's short for Office of Administrative Law. We are planning to file emergency regulations with OAL in late August. For those of you who are not familiar with this process, after the emergency regulations are filed, OAL has ten days to look at it and make the recommendations. Once the emergency regulations are approved and filed with the Secretary of State, we are ready to start enrollment.

So just to give you a time frame on this one, green light for enrollment should probably be around September. As most of you already know, a dedicated ADA program web page is currently available. This presentation and any new information on

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the CalCAP ADA program development will be available on the Website. So please check it out regularly.

As mentioned before, please stay in contact with us and send us any questions you might have. We want to keep you apprised of any changes as we move forward. I know we are all excited and hopeful to enroll the first loan. And with this we will open the question and answer session. Thank you.

>> MODERATOR: Our first question is what agency or resources can enforce ADA claims?

>> ANGELA JEMMOTT: This is Angela. In regards to that question, typically CCDA may receive a call with hopes that a state agency could assist in a claim. But the reality is that this is a legal civil right that one may or could assess on their own if there's a public facility. If there is a demand letter that was submitted to you that you felt was in violation of law, the state bar has the authority to review it and actually take action on that particular claim from the demand letters. They have that authority to respond to and directly respond to a legal counsel in different forms of penalty.

But in terms of just a public claim, the only other area would be, I would say, that is in the area of a public facility, such as state buildings, city buildings, then you may go to the Department of Justice in support of requests of escalating, because that is a program violation. And you may go to the Department of Justice in that particular area.

But if it's a public facility like a restaurant or hotel, those instances there are currently not a state agency that you would submit that claim to, but rather you go directly to that particular area or that particular company and submit a demand letter.

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Or go directly to them with your lawsuit -- potentially lawsuit in violation.

We also always, as in our law, have suggested beginning with a direct communication with that business scenario. Because many times we have found that businesses did not know they are in violation. But you have always the full right to go and use the court system. But we always suggest that you go directly to the business and then share with them your concerns. Potentially they could correct it just by that conversation.

I hope that answered your question.

>> MODERATOR: Do we have any more questions at this time? So there's a question. Are architectural and engineering design fees for the CASp report based compliance eligible for inclusion in the loan funds?

>> JASON BRADLEY: Yes, and fees associated with design, permitting. Fees associated with compliance activities to make your business compliant with the ADA law are eligible for the program.

>> MODERATOR: We have a question. Is there a hard limit of 10,000 square feet for participation in the program? My building is larger than that.

>> JASON BRADLEY: Yes, it is a hard limit of 10,000 square feet. That limitation was approved by the legislature. It is in our statute. So unfortunately, there is no flexibility to go beyond that at this point.

>> MODERATOR: Another question. I'm a lender in Fresno; I'd like the contact information for the ADA attorney from Fresno. We can provide that to you. We'll send you a follow-up e-mail after the webinar. Do we have any additional questions?

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>> JANAЕ DAVIS: Okay. Hearing no further questions, I'd like to again reiterate that we do have our contact sheet. There is the CalCAP inbox, which is an e-mail address that we can accept questions. Any questions that you have any time of the day we can receive those. And we have the contact information for the three managers that are working on the program here at CPCFA; Jason, Bianca, and me, Janae Davis.

Call us or e-mail us, either way. And we will work together to get those questions answered. We encourage you to keep checking back on our web page for updates. We will continue to use that as our way to communicate. We're also hoping to use the list of the participants today to spread information. We may come up with a listserv application and we will use your names to build that from.

We'd like to thank you for your time. And we're here to help in any way we can. And we appreciate your input. And we appreciate your questions and your time. Also, finally, I'd like to thank Angela and Ida, and I'm sorry that Rachelle isn't on the phone for us to thank. But thank you all for participating today and being able to be our ADA specialists to help small businesses become ADA compliant. Thank you for your time.

[Webinar concluded approx. 11:02 a.m]