

**CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
CALIFORNIA CAPITAL ACCESS PROGRAM (CalCAP)
Meeting Date: May 15, 2012**

***Consideration and Approval of a Collateral Support Program to be Administered by the
California Capital Access Program (CalCAP)***

Prepared by: *Emily Jarrett*

Summary. On February 17, 2011, CPCFA was awarded approximately \$84M in State Small Business Credit Initiative (SSBCI) funds by the U.S. Department of the Treasury (Treasury). SSBCI approved programs help small businesses attain capital. CalCAP is able to utilize the Federal SSBCI funds as an approved participating State program. CPCFA requests board approval of the creation of a Collateral Support Program to function as a SSBCI approved participating State program and utilize a portion of the allotted SSBCI funds. Emphasis in this program will be placed on promoting energy efficiency projects and assisting businesses in “severely affected communities” (as defined in CPCFA statute and CalCAP regulations). On March 29, 2012, CPCFA submitted a request to Treasury to approve an adjustment of the awarded funds to include a Collateral Support Program.

Background. The SSBCI funds awarded to California totaled approximately \$168M and are split between CPCFA and Business, Transportation, and Housing (BT&H). The funds have been approved to facilitate CPCFA’s Capital Access Program (CalCAP or the Program) and BT&H’s Loan Guarantee Program. CPCFA has received the first \$27.8M of its share of the award. Per SSBCI guidelines, 80% of the first disbursement must be utilized prior to the receipt of additional funds. Since CPCFA and BT&H share the total Federal award, this 80% requirement must be met by both before either can receive additional funds. As of December 31, 2011, BT&H has reported using \$5,152,994 of its allotted funds and, as of February 29, 2012, CalCAP has used \$1,825,299 of its allotted funds. Per the SSBCI guidelines, the allocated funds must be used by December of 2016. CalCAP continues to build on the Program’s success through the enrollment of new lenders and expanded Program use by existing lenders. However, some of the large regional and national banks that have indicated an interest have not yet become active in the Program. Without broader participation in the Program, it is uncertain whether CalCAP will be able to use the full allocation.

Program Implementation. Staff is finalizing development of a Collateral Support Program while waiting for Treasury approval. Upon approval of the amended application, Treasury expects implementation of the programs within 90 days. Staff will also continue to develop and refine the parameters of the proposed programs so they will be ready to launch within the 90 day timeline.

Agenda Item 4.A.

A Collateral Support Program would provide up to 40% coverage on: construction loans for energy efficiency/environmental improvement projects; bridge loans needed prior to obtaining permanent financing; and qualified small business loans. An additional 10% coverage may be given to loans where the borrower's business is located in a Severely Affected Community. The exact amount of collateral support for each loan can be requested by the lender along with their collateral assessment of the borrower. The final determination of the support amount would be at the discretion of the CPCFA Executive Director. The collateral support would be pledged, in the form of cash, to cover the collateral shortfall of a loan in order to enable financing that might otherwise be unavailable. This cash collateral will be held at the lending institution where the loan is issued or CPCFA's trustee bank, at the Executive Director's discretion. The funds will be held in an interest bearing demand deposit account, owned by CPCFA, specific to each loan. The interest accrued in each collateral support account will be the property of CPCFA and swept on a periodic basis.

The Program is designed to allow term loans and lines of credit with a maximum term of seven years. The Program will target loans with a principal loan amount of \$5,000,000 or less. However, loans can have a principal balance of \$100,000 to \$20,000,000 and the maximum collateral deposit will be \$5,000,000. The collateral support for each loan will be reduced on an annual basis in conjunction with the reduction in the principal balance of the loan. Collateral support associated with a loan for more than 48 months will be subject to an Incremental Recapture Schedule, where more than aforementioned return in support will be required. These returned support funds will be recycled back into the CPCFA fund to be used for support on future loans. The lender can also request a reduction in support at their discretion if they determine that the current level of support is no longer necessary.

The Program will charge a fee at closing as well as annually, determined by the fee matrix below. Fees collected will become program income for CPCFA use.

	Up to 40% Support with an Additional 10% Contribution for Businesses in a Severely Affected Community (fee will not be charged on the additional 10%)
≤ 24 months	0.50%
24.1 months -36 months	1.00%
36.1 months - 48 months	1.50%
≥48.1 months	2.00%

Agenda Item 4.A.

Attachment A is a draft of the program description that will be provided on the Authority's website for lenders who are interested in the program.

Staff Recommendation. Staff recommends the approval of a Collateral Support Program, consistent with SSBCI standards and CPCFA statute, in an effort to utilize the Federal funds prior to the deadline.

Attachment A

California Pollution Control Financing Authority

Collateral Support Program (CalCollateralSupport)

The California Collateral Support Program (CalCollateralSupport) encourages banks and other financial institutions to make loans to small businesses that have difficulty obtaining financing. CalCollateralSupport pledges cash to cover the collateral shortfall of a loan in order to enable financing that might otherwise be unavailable to a small business.

Eligible Uses of Loan Proceeds

Collateral support can be requested by lenders for energy efficiency/environmental improvement projects; bridge loans needed prior to obtaining permanent financing (including 504 bridge loans); and qualified small business loans.

Ineligible Uses of Loan Proceeds

CalCollateralSupport prohibits financing of passive real estate, residential real estate, any portion of a SBA loan, and those uses prohibited by State Small Business Credit Initiative ([SSBCI guidelines](#)).

Terms

CalCollateralSupport provides up to 40% coverage with an additional 10% coverage given to loans where the borrower's business is located in a Severely Affected Community. The maximum loan amount is \$20 million and the maximum support amount is \$5 million. Lenders set all the terms and conditions of the loans. Loans can be short- or long-term, have fixed or variable rates, and bear any type of amortization schedule. However, CalCollateralSupport will only provide support for a maximum of 7 years on any one loan.

Program Flexibility

CalCollateralSupport will provide support for loans for almost any small business, with a few exceptions. Lenders are free to determine the amount of collateral support they wish to request and may also choose to reduce their collateral coverage at any time for any reason.

Eligible Lenders

Any federal or state-chartered bank, savings association, federally certified Community Development Financial Institution (CDFI), or credit union is eligible to participate in CalCollateralSupport. A lender must certify that it is in good standing with its regulatory body (Federal Reserve, Federal Deposit Insurance Corporation (FDIC), Comptroller of Currency, Thrift Supervision, National Credit Union Administration (NCUA), or state banking authority).

A Qualified Lender must sign the [Certification to Participate in Federal Fund](#) to participate in any Federally funded program and is required to abide by the assurances.

Attachment A

Eligible Small Businesses

An eligible borrower's business must be in one of the industries listed in the qualified Standard Industry Classification (SIC) or the North American Industry Classification System (NAICS) codes list. The small business must be classified as a small business under U.S. Small Business Administration guidelines (Title 13 of the Code of Federal Regulations) and have fewer than 750 employees.

The business activity resulting from the bank's loan must be created and retained in California.

How to Request Collateral Support for a Loan

Prior to the issuance of a loan, a lender must submit Collateral Support Request. Once the preliminary request has been approved by the CPCFA Executive Director, it will be resent to the lender and will include the determination of the fees associated with the collateral support and the final support amount. This commitment can be called upon for up to 90 days after issuance. The approved preliminary request will include instruction from CalCollateralSupport that loss reserve account be opened. This collateral loss reserve account is owned by CPCFA. A separate account will need to be opened for every loan that is enrolled in the Program.

Upon closing, the lender will resubmit the Collateral Support Request within 10 days, notifying CalCollateralSupport that the loan has been funded. This notification must be accompanied by evidence the support account has been opened and applicable fees deposited. In turn, CalCollateralSupport's trustee bank will wire the collateral support into the loan's support account. The lender is required to provide a confirmation of receipt of funds.

The lender and the borrower will be required to sign their respective assurances for each loan and submit to CalCollateralSupport at the time of closing. (Link to assurance doc to be created).

Fees

	<u>Construction for Energy Efficiency or Environmental Improvement</u> Up to 40% Support with an Additional 10% Contribution for Businesses in a Severely Affected Community (fee will not be charged on the additional 10%)	<u>Bridge Loan</u> Up to 40% Support with an Additional 10% Contribution for Businesses in a Severely Affected Community (fee will not be charged on the additional 10%)
≤ 24 months	0.50%	0.50%
24.1 months -36 months	1.00%	1.00%
36.1 months - 48 months	1.50%	1.50%
≥48.1 months	2.00%	2.00%
Fees are charged at closing and annually on the loan anniversary date. For requests for renewal beyond the original maturity date, at the discretion of the Executive Director, a fee of 2% will be charged at renewal. Renewals will not exceed 12 months at a time or 7 years total. There is a minimum fee of \$1,000.00.		

Attachment A

Collateral Support Loan Loss Reserve Account

The Collateral Support Loan Loss Reserve Accounts are Interest Bearing Demand Deposit Accounts, owned by CPCFA, held at the lending institution issuing the loan, and specific to each loan. The CPCFA Executive Director may require this account be held at the CalCollateralSupport's trustee bank.

The collateral support for each loan will be reduced on an annual basis in conjunction with the reduction in the principal balance of the loan. Collateral support associated with longer term loans may be subject to an Incremental Recapture Schedule, where more than aforementioned return in support will be required. These returned support funds will be recycled back into the CPCFA to be used for support on future loans. The lender can also request a reduction in support at their discretion if they determine that the current level of support is no longer necessary.

CalCollateralSupport will periodically sweep the interest accrued in the account.

Loan Categories that Qualify for Collateral Support

Category I

Bridge loans needed prior to obtaining permanent financing for property related business where the business will create or retain jobs. Often, there is a gap period after a borrower identifies and agrees to purchase, renovate or build a property—but, before lenders will fund certain commercial real estate loans. While the bridge loans can be up to several million dollars, the bridge loans are typically needed for a very short term. However, because the building construction or renovation needs to take place prior to the business being able to conduct its operations from the location, the interim bridge loan may not have sufficient collateral associated with it to meet bank requirements.

Category II

Construction loans for commercial energy efficiency or environmental improvement projects. These will be relatively short term loans for the construction phase of a project designed to improve the energy and/or environmental efficiency of a commercial building. It is expected that loans would most often be for a small business contractor who is performing the work of a small business building owner who meets the SSBCI program requirements.

Default

When claims are filed, CalCollateralSupport will require a claim request form, history of the account payments, a short narrative of the loan, collection history, and information about the sale of proceeds or justification for failed attempts to liquidate. CalCollateralSupport will evaluate the claim and authorize the lender to disburse funds accordingly. A lender will receive only the proportionate ratio of collateral support to the original principal on the outstanding principal amount. The lender must return recoveries from the borrower, less expenses, to the loss reserve account. ([Link to claim form to be created](#)).

Reporting

Participating lending institutions shall be required to make periodic reports to the Program.

Lenders are required to send monthly bank statements to CalCollateralSupport by the 15th of the following month for all of their collateral support loss reserve accounts.

**RESOLUTION OF THE
CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
APPROVING THE DEVELOPMENT AND IMPLEMENTATION OF A
COLLATERAL SUPPORT PROGRAM**

May 15, 2012

WHEREAS, the California Pollution Control Financing Authority (the "Authority") is authorized by California Health and Safety Code Sections 44520(a) and 44559.5(f) to adopt regulations to implement and make specific the statutory provisions governing the Authority; and

WHEREAS, the Authority is authorized by California Health and Safety Code Section 44520(b) to adopt regulations relating to small business as emergency regulations; and

WHEREAS, the Authority has determined that the development of a Collateral Support Program is necessary to be adopted at this time.

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority as follows:

Section 1. The proposed program description presented at the May 15, 2012, meeting is hereby approved in substantially the form submitted. The Chair, Executive Director, or Deputy Executive Director is hereby authorized, for and on behalf of the Authority, to proceed with the implementation of a Collateral Support Program, upon approval from the U. S. Department of the Treasury, with the supporting documentation required by law.

Section 2. The Chair, Executive Director, or Deputy Executive Director of the Authority are hereby authorized and directed to take such actions, including making or causing to be made such changes to the regulations as may be required for approval thereof by the Office of Administrative Law, and to execute and deliver any and all documents that they may deem necessary or advisable in order to effectuate the purposes of this resolution.

Section 3. The Chair, Executive Director, or Deputy Executive Director of the Authority are hereby authorized and directed to take such actions, including making or causing to be made such changes to the regulations as may be required to address comments made after the date of this resolution and to execute and deliver any and all documents with the Office of Administrative Law for the purposes of adopting any such changes in the form of emergency regulations and later as permanent regulations.

Section 4. This resolution shall take effect immediately upon its approval.