

## Department of Resources Recycling and Recovery

### SCOPE OF WORK *California Capital Access Program*

#### I. INTRODUCTION/OBJECTIVES

The California Capital Access Program (CalCAP) was authorized by AB 1496 (Peace, Chapter 1164, Statutes of 1993) and is administered by the California Pollution Control Financing Authority (CPCFA) at the Treasurer's Office. Legislation effective January 1996, codified in Health and Safety Code Section 44559.2(e), allows third-party entities to participate in CalCAP as "Independent Contributors" to CalCAP lenders' loan loss reserve accounts. CPCFA regulations (4 CCR 8070) specify the detailed requirements for this third-party participation. SB 1535 (Killea, Chapter 615, Statutes of 1996) specifically authorized the Department of Resources Recycling, and Recovery (CalRecycle) to participate in on a pilot basis in CalCAP. Subsequent legislation made this participation permanent: as codified in Public Resources Code (PRC) Section 42023.6(a), CalRecycle may participate, in an amount not to exceed five hundred thousand dollars (\$500,000), in the CalCAP program as provided in Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the Health and Safety Code.

CalCAP is a credit enhancement vehicle to encourage financial institutions (lenders) to make loans to California small businesses that have difficulty obtaining capital. When a lender makes a loan, the risk of repayment loss is reduced because a loan loss reserve account (account) is established for each lender. When a loan is enrolled in CalCAP, the borrower, lender and CalCAP contribute a percentage of the loan (a premium) into the account. Under this Scope of Work, CalRecycle will pay the borrower and the lender portions of the premium into the account. This allows all California businesses that have difficulty obtaining capital, and that meet the RMDZ loan program eligibility requirements, assistance in obtaining financing.

In the previous contract, CalRecycle paid only the borrower's portion of the premium. To increase the attractiveness of the CalCAP program, CalRecycle will now pay the lender's portion in addition to the borrower's portion.

CalRecycle's mission is to protect public health, safety, and the environment through waste prevention, waste diversion, and safe waste processing and disposal. One goal of CalRecycle is to assist local jurisdictions in decreasing the disposal of non-hazardous waste materials into California landfills. CalRecycle administers the Recycling Market Development Zone (RMDZ) Loan Program, which promotes recycling-based business development in California through low-interest loans. These loans have increased California's diversion capacity greatly and have created or retained hundreds of jobs. The RMDZ Loan Program originated in Article 2 of SB 1322 (Bergeson, Chapter 1096, Statutes of 1989) and was subsequently amended in Article 3 of AB 1909 (O'Connell, Chapter 733, Statutes of 1993).

CPCFA's mission is to promote investment by private businesses in pollution control technologies, hazardous waste control, resource-recovery and other technologies that benefit California's environment, thus helping businesses meet environmental standards so they can continue operating in California. Specifically, CPCFA seeks to assist the private sector in achieving the economic benefits of tax-exempt bond financing; developing programs to overcome the barriers to obtaining capital for pollution control technologies; and increasing access to capital markets for small businesses.

As stated above, CPCFA administers CalCAP, which encourages banks and other financial institutions to make loans to small businesses. CalCAP is a form of "loan portfolio insurance" that provides up to 100% coverage on certain loan defaults. Funding for CalCAP comes from CPCFA's Small Business Assistance Fund, which has obtained its funds from both state and federal sources. CalCAP relies on decisions made by borrowers and lenders. The lender set all terms and conditions of the loan and decides which loans to cover under the program. There are no third-party credit decisions, and no loan monitoring or servicing requirements. Typically, a loan is processed in this order:

1. Borrower applies for a loan.
2. Lender approves the loan to be domiciled at CPCFA in CalCAP.
3. Loan documents are prepared and signed by the borrower and lender.
4. Lender disburses funds to the borrower.
5. Lender submits a CalCAP Loan Enrollment Form (Enrollment Form) to CPCFA for compliance, showing proof that deposit to the loan loss reserve account has been made.
6. CPCFA accepts the Enrollment Form and enrolls eligible loans into CalCAP.

Costs to participate in CalCAP: The borrower pays a premium of 2 to 3 ½%, the lender pays a premium of 2 to 3½%, and CPCFA pays a matching combined premium of 4 to 7 %. The lender determines the premium to be paid on each loan. Each participating lender has its own CalCAP loan loss reserve account to cover losses from their CalCAP loans. The loss reserve account is funded by the lender, the borrower, and CPCFA each time a loan is approved. Because each lender has its own loss reserve account reserved against its own portfolio, the performance of any participating lender's loan portfolio will not affect other lenders. If one of the loans covered under CalCAP defaults, the lender can file a claim to offset its losses on the loan to the extent of coverage in its own account.

## **II. SCOPE OF WORK TERMS AND CONDITONS**

The parties, CPCFA and CalRecycle, hereby agree to the following terms and conditions:

1. The term of this Agreement is three years, commencing on the date this Agreement is approved by the Department of General Services, unless terminated sooner by either party giving 30 days written notice, anticipated to be from June 1, 2012, to June 1, 2015.
2. CalRecycle will provide a total of \$500,000 to CPCFA for deposit with the CalCAP Program Trustee; \$430,000 will be provided in Fiscal Year 2011/2012 and \$70,000 will be provided in Fiscal Year 2012/2013. This account will be designated as a CalRecycle account (Trustee Account), bearing interest. CalRecycle is responsible for all trustee costs related to the management of this account. The interest may be used to offset any

- account fees, and any remaining interest may remain in the Trustee Account and may become part of a designated loan loss reserve account. The Trustee must provide CalRecycle with a quarterly account statement.
3. CalRecycle funds will be used to pay the borrower and lender premiums into a loan loss reserve account.
  4. CalRecycle will market CalCAP to targeted recycling-based businesses and to lending institutions.
  5. CPCFA requires that the Borrower Project Eligibility Criteria and Certification form, ("CalRecycle Certification Form), be submitted by a lender before approving the transfer of CalRecycle funds to a loss reserve account. A Lender shall obtain CalRecycle approval for each loan using the CalRecycle Certification Form in Attachment A. CalRecycle shall respond to a Lender's request within five working days after receipt. CalRecycle reserves the right to update the CalRecycle Certification Form if changes are made to the RMDZ Loan Program Project Eligibility Criteria.
  6. During CalRecycle's participation in CalCAP under this Agreement, CalRecycle's liability to any person or entity shall not exceed the premiums paid on behalf of CPCFA into any single lender's loan loss reserve account. During CalRecycle's participation in CalCAP under this Agreement, CalRecycle's entire liability shall not exceed the total amount paid into all loan loss reserve accounts over the course of this agreement or \$500,000, whichever is less.
  7. CPCFA agrees to return all unused funds, i.e. the balance and interest earned in the CalRecycle Trustee Account, to CalRecycle within 45 days upon termination of this Agreement or when requested to do so by CalRecycle.
  8. CalRecycle agrees that deposits made to a lender's loan loss reserve account on behalf of the borrower or lender cannot be returned to CalRecycle.
  9. After a loan is approved, CPCFA will transmit a copy of the CalCAP Enrollment Form and the CalRecycle Certification Form to CalRecycle.
  10. CPCFA will pay its portion of the CalCAP premium.
  11. CPCFA will provide quarterly reports to CalRecycle listing cumulative activity under this Agreement, which must include a reconciliation of the Trustee account and funds advanced.

### **III. TASKS TO ENROLL A LOAN**

#### **Task 1: Business Role**

- A. A business becomes aware of CalCAP and desires to obtain a loan from a lender. The program website is <http://www.treasurer.ca.gov/cpcf/calcap/index.asp>
- B. The business reviews the list of lenders on the CalCAP website to determine which ones are in close proximity. The list of participating lenders is available at <http://www.treasurer.ca.gov/cpcf/calcap/institutions.pdf>. If the business is not familiar with any of the lenders on the list, the business may contact CalRecycle loan staff to discuss financing needs and referral to a lender.
- C. The business contacts the lender of its choice and applies for a loan.

#### **Task 2: Lender's Role**

- A. The lender receives a loan application from a business and determines that the loan is eligible for enrollment in CalCAP.

- B. The lender and the business prepare a CalRecycle Borrower Project Eligibility Criteria and Certification Form (CalRecycle Certification Form).
- C. The lender electronically submits the CalRecycle Certification Form to CalRecycle loan staff for consideration.

**Task 3: CalRecycle Role**

- A. CalRecycle loan staff determines if the business project meets the Recycling Market Development Revolving Loan Program Project Eligibility Criteria. This is accomplished by review of the borrower information on the form, the business website, and by contacting the lender and/or the business for additional project information as necessary.
- B. If the business project is eligible, then CalRecycle loan staff signs the CalRecycle Certification Form and electronically returns it to the lender. If the business project is not eligible, then the CalRecycle loan staff will call the lender to explain why and follow-up with an e-mail to decline the request.

**Task 4: CalCAP Role**

- A. If the lender approves the loan, it submits the CalCAP Enrollment Form and CalRecycle Certification Form to CalCAP for final approval.
- B. CalCAP remits the participation premiums to the lender loan loss reserve account.
- C. CalCAP provides quarterly reports to CalRecycle.

**IV. DELIVERABLES/TASK TIME FRAME**

This Agreement shall begin on the date this Agreement is approved by the Department of General Services. The deliverables are successful enrollment of CalRecycle eligible loans in CalCAP. This is to be performed on an ongoing basis as businesses apply for and obtain loans from lenders. This Agreement shall end three years after commencement, unless terminated sooner by either party giving 30 days written notice.

**V. BUDGET**

The budget for this Scope of Work is \$500,000, to be paid from the Recycling Market Development Revolving Loan Program Subaccount (Subaccount). All unutilized funds and interest earnings shall be returned to CalRecycle within 45 days of the end of the Agreement to be deposited back into the Subaccount.