

CalCAP for Small Business Program

Lender Certification

Capital Programs & Climate Financing Authority (CPCFA)

California Capital Access Program (CalCAP)

CalCAP@treasurer.ca.gov

(916) 654-5610

Mailing Address: P.O. Box 942809

Sacramento, CA 94209-0001

Fax (916) 589-2805

Borrower Name:

Lender Loan Number:

Enrolling a loan in CalCAP for Small Business requires the Participating Financial Institution to certify to each of the following program rules and requirements.

* All capitalized terms are defined in 4 CCR §8070 of the California Code of Regulations.

- 1) The loan is a Qualified Loan as defined in 4 CCR §8070(u) of the California Code of Regulations.
- 2) The business receiving the Qualified Loan is a Qualified Business, as defined in 4 CCR §8070(t) of the California Code of Regulations.
- 3) The Qualified Loan is for a business activity that has its Primary Economic Effect in California as defined in 4 CCR §8070(q) of the CPCFA Regulations.
- 4) The Participating Financial Institution will provide information from financial records of the Borrower upon request of the Executive Director of the CPCFA, and the Participating Financial Institution has obtained the consent of the Borrower to such disclosure.
- 5) The Participating Financial Institution has obtained a written representation from the Borrower that the Borrower has no legal, beneficial or equitable, interest in the Fees or the Contribution.
- 6) The enrolled amount of the loan does not exceed \$2,500,000.
- 7) The Participating Financial Institution has notified the Borrower if the Participating Financial Institution's share of the Fees for the Qualified Loan has been paid by the Borrower.
- 8) The Participating Financial Institution acknowledges that its lending activities are subject to safety and soundness standards as set forth in any applicable federal banking regulations.

CalCAP for Small Business Program Lender Certification

- 9) The Participating Financial Institution has validated that the Borrower has secured or made application for all applicable licenses or permits needed to conduct its business.
- 10) The Participating Financial Institution has not, and will not, enroll any portion of the same loan in any other government program substantially similar to the Program.
- 11) The loan is not a refinance of a loan previously made to that borrower by the lender or an affiliate of the lender and not enrolled in the program.
- 12) If the loan includes the purchase of commercial real estate, the business will occupy at least 51 percent of the space in an existing building and at least 67 percent of the space in a newly constructed building.
- 13) The Borrower has received the CPCFA/CalCAP Privacy Notice.
- 14) The Participating Financial Institution will make available to the Authority all records related to the use of the funds in the Loss Reserve Account.

For participation in the Federal fund, the Participating Financial Institution must obtain the following assurances from the Borrower per 4 CCR §8078.1 of the California Code of Regulations:

- 15) The loan is used for a business purpose allowed by the U.S. Treasury.
- 16) The loan will not be used for purposes prohibited by the U.S. Treasury.
- 17) The loan will not be used to finance ineligible businesses prohibited by the U.S. Treasury.

For participation in the Federal fund, the Lender hereby certifies to the State the following:

- 18) The loan has not been made in order to place under the protection of the state program prior debt that is not covered under the state program and that is or was owed by the borrower to the financial institution lender or to an affiliate of the financial institution lender.
- 19) If the SSBCI-supported loan is a refinancing, it complies with all applicable SSBCI restrictions and requirements in Sections VII.f and VIII.f of the SSBCI Capital Program Policy Guidelines regarding refinancing and new extensions of credit, including that the SSBCI-supported loan is not a refinancing of a loan previously made to the borrower by the lender or an affiliate of the lender.
- 20) The financial institution lender is not attempting to enroll the unguaranteed portions of SBA-guaranteed loans.
- 21) The interest rate for each individual loan, at the time of obligation and throughout the term of the

CalCAP for Small Business Program Lender Certification

loan, may not exceed the National Credit Union Administration's (NCUA) interest rate ceiling for loans made by federal credit unions as described in 12 U.S.C. § 1757(5)(A)(vi)(I) and set by the NCUA board. The NCUA's permissible interest rate ceiling supports its mission to protect credit unions and its consumers. In choosing to adopt the NCUA interest rate ceiling, Treasury aims to ensure that small businesses that participate in SSBCI receive loans that are economically beneficial to them.

22) No principal of the financial institution lender has been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender 7 Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this certification, "principal" is defined as "if a sole proprietorship, the proprietor; if a partnership, each partner; if a corporation, limited liability company, association or a development company, each director, each corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers, or employees of the entity, and each direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity."

23) Exclusion of Certain Features:

(1) Confessions of judgment.

(2) "Double-dipping" fees.

(3) Prepayment fees:

- For loans with an original principal amount under \$100,000, lenders may not include prepayment fees.
- For loans with an original principal amount of \$100,000 or more, lenders may include prepayment fees so long as any such fees are reasonable, customary, and clearly disclosed to the borrower.

(4) Upfront fees or charges paid by the small business, excluding fees to the jurisdiction program, that exceed 3 percent for loans greater than \$25,000 or \$750 for loans \$25,000 and under.

By signing below and enrolling this loan, the Participating Financial Institution certifies, based in part on information provided by the Borrower, that each of the above assurances are true and accurate.

CalCAP for Small Business Program Lender Certification

Authorized Lender Signature:

Printed Name of Authorized Signer:

Title:

Date:

CalCAP Use Only				
CalCAP Loan Number:	Analyst's Initials:	Date:	Reviewer's Initials:	Date:
Fund:	Fund:		Fund:	
Percentage (%):	Percentage (%):		Percentage (%):	
Contribution Amount (\$):	Contribution Amount (\$):		Contribution Amount (\$):	
Authorized Signature:			Date:	

When complete, please send to: CalCAP@treasurer.ca.gov