



# Memorandum

Subject: **INFORMATION:** Treatment of Paycheck Protection Program  
Funds for Architectural and Engineering Consultants Guidance

Date: March 24, 2021

From: Brian R. Bezio  
Chief Financial Officer

In Reply Refer To:  
HCFB-30

To: Division Administrators  
Federal Lands Highway Division Directors

This memorandum clarifies the requirements for the treatment of Paycheck Protection Program (PPP) loans received by consultants providing architectural and engineering (A&E) services<sup>1</sup> under Federal-aid or Federal lands highway program funded contracts, and particularly regarding PPP loans by engineering consultant firms that seek loan forgiveness. Direct and indirect costs on federally funded contracts will not require the adjustments described in this memorandum should an A&E consultant completely pay back PPP loans received.

Authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act),<sup>2</sup> the PPP provides loans to allow businesses to continue operating during this period of economic emergency. The Consolidated Appropriations Act, 2021<sup>3</sup> subsequently allocated additional PPP funds and updated certain requirements for eligible borrowers. Section 1102 of the CARES Act temporarily permits the Small Business Administration (SBA) to guarantee 100 percent of Section 7(a) SBA loans under the PPP. Section 1106 of the CARES Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the PPP.

Funds provided by a PPP loan allow businesses to maintain payroll costs, keep employees from loss of work during the coronavirus disease 2019 (COVID-19) pandemic, and cover necessary overhead to continue business operations. While the PPP was enacted to permit an impacted employer to retain its employees on the payroll, it was not enacted to provide an economic windfall to the employer (e.g., where costs are reimbursed by the Federal government under a federally funded contract and the PPP loan is also forgiven by the SBA).

A&E consultants providing services under Federal-aid or Federal lands highway program funded contracts, and receiving a PPP loan, should continue to allocate and invoice both direct and indirect costs in accordance with contract terms and as prescribed in 48 CFR part 31. However, should the PPP loan proceeds be applied to costs (direct or indirect) within the scope of a federally funded contract and the PPP loan is forgiven, appropriate adjustments to consultant accounting records become necessary to comply with 48 CFR part 31.

<sup>1</sup> As defined in 40 U.S.C. § 1102(2) or 23 CFR § 172.3.

<sup>2</sup> Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136, enacted on March 27, 2020.

<sup>3</sup> Consolidated Appropriations Act, 2021 (Public Law 116-260), enacted on December 27, 2020.

The following applies when an A&E consultant's PPP loan is partially or completely forgiven:

- A&E consultants cannot use PPP loan proceeds to pay for the direct costs on a Federal-aid or Federal lands highway program funded contract.
  - A&E consultants cannot bill direct costs and use PPP loan proceeds to fund the compensation costs of direct labor and other direct costs dedicated to federally funded contracts. This practice results in an improper payment for billing the Federal government twice. A consultant may use the PPP loan as a working capital loan to pay the direct costs of a contract, but must submit a timely claim for reimbursement to the contracting agency, and complete the proper and necessary adjustments to their accounting records once the reimbursement is received.
  - PPP loan proceeds cannot be used to pay the direct project costs even if those costs are not billed to the federally funded contract. This action has the effect of a donation to the project, which was not authorized and conflicts with the terms and conditions of the contract. A&E consultants should continue to allocate and invoice both direct and indirect costs in accordance with contract terms.
- A&E consultants may use PPP loan proceeds to pay for indirect costs, but an adjustment to the indirect cost rate is required in accordance with 48 CFR § 31.201-5.
  - A&E consultants must adjust their indirect cost rates for PPP funds forgiven to provide the corresponding credit to the Federal government. All credits to indirect costs should be reflected in the subsequent adjusted indirect cost rate. If an A&E consultant can apply the appropriate indirect cost credit on existing contracts, the contracting agency may allow the consultant to do so.
  - All applicable credits (or loan recoveries) are to be applied based on an equitable allocation to all benefiting costs objectives in accordance with 48 CFR § 31.201-4. The indirect cost rate credit should only be applied until the credit is recovered fully. If adjustments to an A&E consultant's indirect cost rate has no bearing on the award or contract type (e.g., firm fixed price or lump sum contract), adjustment to that contract would not be required.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way except to the extent that specific statutory and regulatory provisions mandate actions pertaining to the treatment of costs for A&E services under a Federal-aid or Federal lands highway program funded contract. This document is intended only to provide clarity to the public regarding existing requirements under the law.

For additional questions on PPP loan forgiveness and the impact to Federal-aid or Federal lands highway program funded contracts, contact Dan Parker from the Office of Financial and Management Programs at 801-955-3518 or by email at [daniel.parker@dot.gov](mailto:daniel.parker@dot.gov).

cc: Directors of Field Services  
Associate Administrator for Federal Lands Highway