



TO: All Architectural and Engineering Consultant Firms with Colorado Department of Transportation (CDOT) Master Pricing Agreements
FROM: CDOT Audit Division
cc: CDOT Engineering Contracts Services
DATE: May 3, 2021
SUBJECT: Guidance for Crediting Indirect Cost Rates (ICR) for Paycheck Protection Program (PPP) Loan Forgiveness

This memorandum establishes the CDOT Audit Division's position on the treatment of architectural and engineering consultant firms' PPP loans received from and forgiven by the Small Business Administration. Our position is in compliance with the attached Federal Highway Administration (FHWA) Memorandum dated March 24, 2021. CDOT requires all firms with a Master Pricing Agreement (MPA) and Federal Acquisition Regulation (FAR)-compliant ICR to account for any portion of PPP loans that were forgiven using the following guidelines. Any portion of PPP funds that were not forgiven and will be repaid are not subject to this guidance and should be accounted for as any other loan.

- Credit for forgiven PPP funds will be made through an adjustment to the firm's ICR per 48 CFR 31.201-5 and the attached FHWA Memorandum. CDOT will not accept a direct credit to individual projects.
- The firm may apply the credit either in the year the funds were received or the year in which forgiveness was granted, if different.
- If the adjustment is split over multiple ICR accounts (e.g., indirect labor, rent, etc.), the firm must provide a reconciliation calculation verifying that the full forgiven PPP amount was credited.
- If the credited amount is less than the total forgiven amount, the firm must provide an explanation and detailed supporting documentation for the reduced credit.
- The firm must provide a completed PPP Questionnaire (attached) and all supporting documentation with their annual MPA or ICR renewal package.

The Audit Division recommends that firms use this same guidance for other COVID-19 related Federal funding that requires a credit to the Federal government.

For questions regarding this guidance, please contact Josh Gosenca, Audit Lead, at 303-512-4369 or josh.gosenca@state.co.us or Robyn Lamb, Audit Supervisor, at 303-757-9363 or robyn.lamb@state.co.us.

Attachments:

1. FHWA Memorandum: Treatment of Paycheck Protection Program Funds for Architectural and Engineering Consultants Guidance March 24, 2021
2. CDOT Paycheck Protection Program (PPP) Questionnaire





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) services¹ 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),² the PPP provides loans to allow businesses to continue operating during this period of economic emergency. The Consolidated Appropriations Act, 2021³ 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.

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

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

³ 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.

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



PAYCHECK PROTECTION PROGRAM (PPP) QUESTIONNAIRE

FIRM NAME:

DATE OF ICR:

1. Did your firm receive PPP funds?

If not, skip to the bottom of the questionnaire and add your name, title, and the date. If you did receive PPP funds, continue.

2. a. Total amount received?

b. Date received?

3. Have any of the funds received been forgiven and will not be paid back?

a. If so:

i. Amount forgiven

ii. Date forgiven

b. If not, are you expecting any to be forgiven and not paid back?

i. Expected forgiveness amount

ii. Expected date of forgiveness

If you have paid back or are planning to pay back 100 percent of the PPP funds received, skip to the signature section at the bottom of the questionnaire and add your name, title, and the date. If ANY amount of your PPP funds were forgiven, or are expected to be forgiven, continue.

4. Approximately what percentage of the funds were used for the following expenses?

% Payroll-related expenses (wages, health insurance, etc.)

% Facilities-related expenses (mortgage, rent, utilities, etc.)

% Other expenses (describe)

5. How have you addressed the PPP funds on your indirect cost rate schedule?

Fully removed from indirect costs

Which accounts?

A portion was removed from indirect costs

Which accounts?

How was the amount determined?

No adjustment was made (explain)

Name and Title:

Date: