

Consultant firms that receive Paycheck Protection Program (PPP) loan forgiveness may have to provide credit to government contracts. Federal Acquisition Regulation 48 CFR § 31.201-5, *Credits* (FAR 31.201-5), states, in part, “The applicable portion of any income, rebate, allowance, or other credit relating to any allowable cost and received by or accruing to the contractor shall be credited to the Government either as a cost reduction or by cash refund.”

Firms that did not receive a PPP loan, or are not seeking forgiveness of PPP loan proceeds must complete the **SCDOT Paycheck Protection Program Certification** and ensure appropriate disclosures are noted in its Schedule of Indirect Costs. No additional action is required.

The Federal Highway Administration (FHWA) issued guidance regarding application of forgiven PPP loan proceeds in memorandum HCFB-30: *Treatment of Payroll Protection Program Funds for Architectural and Engineering Consultants Guidance*, dated March 23, 2021.

In addition to following FHWA guidance, the SCDOT recommends firms that receive, or anticipate receiving, PPP loan forgiveness follow the additional guidance below for SCDOT A/E contracts.

I. Adjustment Required for PPP Loans Forgiven by the Small Business Administration

Forgiven PPP loan proceeds should be credited to the indirect cost rate to provide an equitable allocation of the credit across different contract and customer types. The credited rate will only affect contracts estimated/reimbursed using FAR cost principles (48 CFR 31) - i.e. - FAR-based contracts.

The credit for PPP loan forgiveness will be made through a reduction to the A/E firm’s indirect cost rate for the year in which PPP funds were used/expended, or for the year of forgiveness.

Per FHWA guidance, forgiven PPP loan proceeds cannot be used to pay for direct costs on Federal-aid or Federal lands highway program funded contracts. PPP loan funds initially applied to direct costs on SCDOT FAR-based contracts must be reallocated as indirect costs and credited to the indirect cost rate.

The forgiven PPP loan indirect cost rate credit may be reduced for the following items:

- PPP loan funds used to pay for unallowable indirect costs, such as interest.
- PPP loan funds used to pay for direct costs on non-FAR based contracts.

To support an allocation of PPP loan proceeds to direct costs on non-FAR contracts (e.g. – commercial), the consultant must have adequate documentation to identify the specific non-FAR based contract costs that were included in their PPP forgiveness application. For example, direct costs must be supported by job cost and labor distribution reports showing the direct costs including the project number, contract description and customer for each contract.

The consultant must provide evidence to support the distribution of all costs reported on the forgiveness application to all categories including allowable indirect, unallowable indirect, and direct costs of non-FAR based contracts.

Summary of PPP loan proceed uses and application to indirect cost rates:

- Indirect Allowable (must be credited to the indirect cost rate under FAR 31.201-5)
- Indirect Unallowable (does not require a credit to the indirect cost rate under FAR 31.201-5)
- Direct Labor non-FAR based contracts (does not require a credit to the indirect cost rate)
- Direct Labor FAR-based contracts - reallocate to allowable indirect, unallowable indirect, or to direct costs on non-FAR based contracts. Credit indirect cost rate for allowable indirect.

II. Audit Disclosures and SCDOT Paycheck Protection Program Certification

All A/E firms must complete the *SCDOT Paycheck Protection Program Certification* and ensure appropriate disclosures are included in their Schedule of Indirect Costs.

PPP Certification Form and Schedule of Indirect Costs/Audit Disclosures:

- Amount of Loan
- Starting Period of the Loan
- Status of Loan Forgiveness
- Amount of Loan Forgiven
- Covered Period of Loan Forgiven
- What was the method used to allocate loan forgiveness across various categories?
- The amount of loan forgiveness by category:
 - Indirect Allowable
 - Indirect Unallowable
 - Direct Labor non-FAR based
 - Direct Labor FAR-based

III. Application of Indirect Cost Rates Adjusted for PPP Loan Forgiveness to Contracts

Indirect cost rates computed in accordance with the cost principles of FAR Part 31 for the firm's most recently completed fiscal year are used to adjust cost-plus-fixed-fee contract invoices with billable labor occurring during the fiscal year of the indirect cost rate and on current period cost-plus-fixed-fee invoices with billable labor until the actual indirect cost rate for the period is approved. Regardless of any PPP adjustment, firms should continue to apply their approved indirect cost rate in this manner.

For example: The 2020 indirect cost rate will be applied to provisional rate billings from 2020, and to 2021 billings until the 2021 rate is approved. Likewise, the 2021 rate will be used to true-up 2021 invoices and on 2022 billings until approval of the 2022 rate, and so forth.

To ensure fair and reasonable contract prices, annual indirect cost rates, the impact of the pandemic on the rates, and other pertinent information will be considered when estimating overhead costs for new contracts (applies to lump sum, rate-of-pay, and actual-cost-plus-fixed-fee).

IV. SCDOT Office of Contract Assurance Contact

Questions regarding this document should be directed to:

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