

Consultant Advisory

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Treatment of Paycheck Protection Program (PPP) Loan Forgiveness

On March 24, 2021, the Federal Highway Administration (FHWA) issued guidance on Paycheck Protection Program (PPP) loan forgiveness for Federally funded contracts ([HCFB-30 Memorandum](#)). The FHWA's guidance provided several parameters for use and treatment of forgiven PPP loans. Most notably:

1. Forgiven PPP funds may not be used to pay for direct costs on Federal acquisition Regulation (FAR) based, actual-cost type contracts (FAR Contracts).
2. FAR 31.201-4 requires the applicable portion of any income, rebate, allowance, or other credit relating to any allowable cost to be credited to the Government, either as a cost reduction or by cash refund.
3. Credits for forgiven PPP funds must therefore be allocated via, and be recovered through, a reduction to indirect costs in the year the funds were spent.

In order to comply with the FHWA guidance, and to provide stability in contract pricing and consultant billing, MDOT will require the following:

1. Any consultant receiving forgiveness of PPP loan will calculate the amount, if any, that is ultimately creditable to applicable MDOT *FAR contracts*. **This calculation will not be required unless, or until, a consultant is granted loan forgiveness**, and will comprise two components: 1) Calculating an Indirect Cost Credit and 2) Calculating the Recoverable Amount.
 - MDOT will require consultants to provide documentation supporting a) the allocation of forgiven funds to the consultant's costs during the PPP loan period (e.g. the indirect cost reduction), and b) the allocation of any resulting indirect cost credit to MDOT's *FAR Contracts*.
 - The Indirect Cost Credit and Recoverable Amount shall be calculated and applied to the period*(s) in which forgiven PPP funds were spent. This ensures proper allocation to the affected cost objectives and eliminates the risk of over or under recovery in the event loan forgiveness occurs in future periods.
2. **Consultants will continue to use their MDOT-approved and accepted full indirect cost rates for invoicing and priced proposal, meaning no PPP credit should be reflected in the indirect cost rate(s) submitted to MDOT for use and acceptance at the time of prequalification.** This will mitigate the administrative burdens and the effect of the project-level credits on future contract estimation, negotiation, and billing.

**Period refers to the consultant's fiscal year used for financial reporting purposes in accordance with generally accepted accounting principles.*

Treatment of Paycheck Protection Program (PPP) Loan Forgiveness - (Continued)

Calculating the Indirect Cost Credit

The amount of the forgiven PPP loan will be credited to indirect costs for the period*(s) in which forgiven PPP funds were spent. The amount of the forgiven PPP loan credited to indirect costs can be reduced for the following items:

1. PPP funds spent on unallowable indirect costs, as supported by the forgiveness application.
2. PPP funds spent on direct costs for contracts other than *FAR Contracts*.

MDOT may request detailed support for any figures in this credit calculation.

Calculating the Recoverable Amount

Consultants will allocate the Indirect Cost Credit to its direct labor base for the period in which the forgiven PPP funds were spent. The portion allocable to MDOT's FAR contracts represent the amount recoverable by MDOT.

Step 1:

Using the direct labor base for the applicable-period's indirect cost rate calculation, segregate the base into 1) labor applicable to MDOT's *FAR Contracts*, and 2) all other contracts.

Step 2:

Calculate the percentage of the base represented by MDOT's FAR Contracts.

Step 3:

Multiply the Indirect Cost Credit by the percentage from Step 2. This is the Amount to be Recovered.

MDOT Recovery

The Amount to be Recovered by MDOT (Step 3 above) will be repaid pursuant to an agreement by each firm with MDOT. For example, the firm can make one payment, either through check or through a reduced future invoice, or the firm and MDOT can agree to a payment plan that includes several payments or reductions to several future invoices on any affected contracts until MDOT has collected the entire Amount. To reiterate, the indirect cost *rate* will not be adjusted as part of whatever repayment process is settled upon.

Should the FHWA provide additional guidance, or if regulations are changed or clarified, MDOT will revisit the preceding determination to ensure it is in compliance with any authoritative directives.