



AMERICAN COUNCIL OF ENGINEERING COMPANIES

May 27, 2020

Dear Representative:

On behalf of the American Council of Engineering Companies – the business association of the nation’s engineering industry – we wish to express our support for the Paycheck Protection Program Flexibility Act of 2020 and highlight additional areas of concern with program implementation.

Founded in 1906, ACEC is a national federation of 52 state and regional organizations representing more than 5,600 engineering firms and 600,000+ engineers, surveyors, architects, and other specialists nationwide. ACEC member firms drive the design of America’s infrastructure and built environment. ACEC and our member firms commend Congress for acting swiftly to address the COVID-19 pandemic.

A significant percentage of engineering firms successfully applied for PPP loans. The loans have played a critical role in helping engineering firms to maintain liquidity, retain their employees, and prepare for challenging times ahead, particularly those that contract with state and local governments that are facing enormous revenue declines. Many State DOTs and municipalities have or are considering postponing infrastructure projects because of revenue shortfalls that will impose severe cuts in their capital plans for 2020 and beyond.

Language in the Paycheck Protection Program Flexibility Act to extend the eight-week PPP loan forgiveness period to 24 weeks would make it easier for engineering firms to use the funds and qualify for forgiveness. ACEC also supports the bill’s provision allowing firms to use the original eight-week period if preferred. For firms that are not eligible for loan forgiveness, we support the legislation’s extension of the repayment period from two to five years.

We urge Congress to support this legislation, and we wish to draw your attention to additional problem areas that may require congressional action. First, ACEC is strongly opposed to the IRS ruling that business expenses covered by PPP loan forgiveness are not tax deductible, as they would normally be. That restriction significantly reduces the value of loan forgiveness to eligible businesses, undercuts the intent of Congress with respect to the PPP program and should be reversed.

Second, we are concerned over efforts by government agencies to invalidate loan forgiveness for qualifying firms by seeking a credit on contracts for the amount of a PPP loan, as suggested in guidance published by the Department of Defense. A contractor who performs primarily government contracts could see almost all of the loan forgiveness rescinded through the application of the credit to their direct costs or indirect cost rate, resulting in a lower

reimbursement on government contracts performed in the current or future years. If that same small business is unable to deduct the funded expenses from their taxable income, they will essentially be taxed on the loan forgiveness. The sum of the impact of the credit to direct and indirect costs and the tax on the loan forgiveness could easily exceed the amount of loan forgiveness, putting them in a worse position than if they had not taken the loan at all.

ACEC is seeking clarification from OMB and DOD to resolve this issue, and we respectfully urge Congress to take action to ensure that all firms which qualify for loan forgiveness are not put at risk by these misguided tax and procurement rules.

If the program is modified and clarified with these changes, PPP loans will help engineering firms to continue supporting our most critical resource – our people – as well as to remain viable and operational as we weather this crisis. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "Linda Bauer Darr". The signature is written in a cursive, flowing style.

Linda Bauer Darr
President & CEO