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## **America's Engineers Testify on the Unintended Consequences of the Paycheck Protection Program**

*Washington, DC* – Owners of small engineering companies briefed lawmakers today on federal regulations that could deny them critical assistance under the Paycheck Protection Program as part of a hearing before the House Small Business Committee's Subcommittee on Contracting and Infrastructure.

The hearing put a spotlight on an unintended consequence of the Federal Acquisition Regulation (FAR) and PPP loans for engineering firms working with state DOTs and other government clients, which could jeopardize small businesses. The American Council of Engineering Companies' Chair-elect, Robin Greenleaf, P.E., LEED, AP, FACEC, CEO of Architectural Engineers, Inc., of Boston, MA, and Carlos A. Penin, P.E., President of ACEC member firm CAP Engineering of Coral Gables, FL, testified at the hearing to provide their experiences with the program and the potential industry impact.

"The PPP program was created to help small businesses like mine stay afloat during the early days of the COVID shutdown. Our loan allowed us to keep our entire staff on the payroll, even in the face of significant revenue loss, and allowed us some time to regroup our business plan as we adjusted to working remotely," said **Robin Greenleaf**. "Now, a little-known clause in the FAR is threatening to do us what the pandemic didn't."

"As a small, minority-owned business, we applied for and received assistance from the PPP program. Having survived multiple hurricanes during our company's history, the devastation from this pandemic has been far worse. The interpretation of the FAR clause would reverse the benefits received from the PPP and could have a negative impact for years to come," said **Carlos A. Penin, PE, President of CAP Engineering in Coral Gables, FL**.

"Congress is starting to work on an infrastructure bill to help America recover from the pandemic. There is no infrastructure unless an engineer designs it first. We need our small engineering firms working with their public sector clients now more than ever, but this policy could force them to walk away or work at a loss," added **Linda Bauer Darr, ACEC's President and CEO**.

The FAR "credits" clause (FAR 31.201-5) is being interpreted to apply to forgiven PPP loans, which would require a refund or a cost reduction in the amount of the PPP loans that are allocable to contract costs. For most engineering companies, this will result in a reduction in

their future billing rates. Depending on how this credit is applied, some firms could lose more than the loan amount, especially in the case of multi-year contracts.

This policy's impact will fall heavily on small, minority, and women-owned firms that sought PPP relief during the pandemic-driven economic shutdown. A continuation of this policy is a disincentive for engineering firms to compete for work with public agencies – depriving the government of qualified engineering services while hampering DOT efforts to expand small business and W/MBE contracting opportunities when it's needed the most.

"There's a real sense of urgency to get this issue resolved because small business owners need to make critical business decisions about what to do with their loans," **Greenleaf** added. "Firms that already received PPP loan forgiveness are starting the annual audit process. Those that have not yet applied are coming up on the 10-month deadline to start repaying their PPP loans. Banks are pressuring them to decide whether to apply for forgiveness. PPP was emergency relief to support employers, and our businesses ought to be able to take full advantage of the program."

Key points in ACEC's testimony, specifically on the need for better implementation guidance by FHWA, were acknowledged by two other experts who testified at the hearing, Greg Gingham, a partner with HKA and Ms. Susan Moser, a Partner with Cherry Bekaert.

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#### **About ACEC:**

*The American Council of Engineering Companies (ACEC) is the business association of the nation's engineering industry. Founded in 1906, ACEC is a national federation of 52 state and regional organizations representing more than 5,500 engineering firms and nearly 600,000 engineers, surveyors, architects, and other specialists nationwide. ACEC member firms drive the design of America's infrastructure and built environment.*