

Are You Prepared for an Audit? SBA Challenges PPP Loan Forgiveness for A/E/C Firms

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The Paycheck Protection Program (PPP), initiated during the pandemic's height, has been a critical support mechanism for many businesses, notably within the Architecture, Engineering, and Construction (A/E/C) services sector. Having successfully navigated the complex process of loan forgiveness by the Small Business Association (SBA), companies within this sector might understandably feel a sense of relief and conclusion. However, the sense of finality may be premature as the SBA holds the authority to audit the documentation related to these loans up to a decade post-forgiveness, instating a prolonged period of accountability for businesses.

The legal changes, encompassing both the [PPP and Bank Fraud Enforcement Harmonization Act of 2022](#) and the [COVID-19 Economic Injury Disaster Loan \(EIDL\) Fraud Statute of Limitations Act of 2022](#), underscore the federal government's intensified efforts to combat pandemic relief fraud and recover funds from fraudulent activities. According to the Pandemic Response Accountability Committee ([PRAC](#)), and the SBA Office of Inspector General are actively conducting over 650 investigations into PPP and EIDL loan fraud, resulting in more than 700 indictments related to fraud, with losses totaling over \$1.2 billion.

A/E/C firms must remain vigilant, ensuring their documentation and use of PPP funds are beyond reproach. The industry, known for its project-based work, complex transactions, and significant operational costs, has unique challenges and

implications regarding PPP loan calculation and forgiveness. For instance, an engineering firm that rapidly adapted its operations to remote work might have utilized PPP funds primarily for payroll to retain its skilled workforce. On the surface, this straightforward loan application towards payroll expenses aligns with the PPP's forgiveness criteria. Yet, the SBA's meticulous audit process can uncover discrepancies in payroll calculations or costs misclassified, leading to a challenge in the forgiveness amount.

Consider the case of a small architecture firm that utilized PPP funds for rent, utilities, and payroll. If this firm inadvertently included late fees in its rent calculations or misinterpreted utility payments eligibility, it could face scrutiny and potential denial of forgiveness for those portions of the loan.

Construction companies face unique challenges, involving fluctuating staff levels and subcontractor expenses that complicate the forgiveness application process. A construction company might allocate PPP funds towards subcontractor costs, mistakenly believing them to be forgivable expenses, only to later find that only employee payments qualify.

In addition to loan forgiveness, the SBA and DOJ have been actively investigating the PPP loan application calculations and loan eligibility. Construction companies may have union pension and welfare as significant costs that make up the PPP loan calculation. Some construction companies may have inadvertently included union costs that do not meet the criteria of a welfare (health) or pension cost causing the PPP loan to be overstated. These miscalculations can also cause these firms to repay portions of the loan.

This evolving legal landscape necessitates a proactive approach to compliance and documentation for A/E/C businesses. Understanding the scope of permissible PPP loan uses, accurately tracking and reporting expenditures, and preparing for the possibility of SBA audits are critical steps in ensuring long-term compliance. As the oversight community aggressively pursues fraud within pandemic relief efforts, A/E/C firms must navigate this extended scrutiny with caution and diligence, ensuring their operations and financial reporting withstand potential federal audits.