COVID-19 Relief and Consolidated Appropriations Act

Summary of Key Provisions

January 8, 2021

Paycheck Protection Program (PPP)

* The legislation corrects an IRS ruling from the spring and clarifies that expenses covered by PPP loan forgiveness are tax deductible business expenses. This correction was a top priority for ACEC.
* Businesses that did not receive a PPP loan in 2020, or that returned a PPP loan, can apply for a first draw PPP loan through March 31, 2021.
* The law also provides a second draw PPP forgivable loan for businesses with 300 or fewer employees and that can demonstrate a loss of 25% of gross receipts in any quarter during 2020 when compared to the same quarter in 2019.
* The Small Business Administration has released an updated [interim final rule](https://www.sba.gov/sites/default/files/2021-01/PPP%20--%20IFR%20--%20Paycheck%20Protection%20Program%20as%20Amended%20by%20Economic%20Aid%20Act%20%281.6.2021%29.pdf) with details on the changes to PPP loans, as well as another [interim final rule](https://www.sba.gov/sites/default/files/2021-01/PPP%20--%20IFR%20--%20Second%20Draw%20Loans%20%281.6.2021%29.pdf) on PPP second draw loans.
* SBA announced that the PPP will re-open the week of January 11 for new borrowers and certain existing PPP borrowers. To promote access to capital, initially only community financial institutions will be able to make First Draw PPP Loans on Monday, January 11, and Second Draw PPP Loans on Wednesday, January 13.  The PPP will open to all participating lenders shortly thereafter.
* The law allows 501(c)6 organizations (such as trade associations) to apply for a PPP loan if the following conditions are met:
* The organization does not receive more than 15 percent of receipts from lobbying;
* The lobbying activities do not comprise more than 15 percent of activities;
* The cost of lobbying activities of the organization did not exceed $1,000,000 during the most recent tax year that ended prior to February 15, 2020.

Employee Retention Tax Credit (ERTC)

* The bill extends and expands the refundable ERTC, which was established in the CARES Act, from January 1, 2021 through June 30, 2021, and does the following:
* Increases the credit rate, from 50% to 70%;
* Raises the limit on per-employee creditable wages from $10,000 for the year, to $10,000 for each quarter;
* Expands eligibility for the credit by reducing the required year-over-year decline in gross receipts from 50% to 20%; and
* Modifies the threshold for treatment as a ‘large employer’ by increasing the 100-employee delineation for determining the relevant qualified wage base to employers with 500 or fewer employees.

PPP and ERTC

* The CARES Act included a provision that prevented employers that took out PPP loans from also using the ERTC.
* Due to the duration of the pandemic and the economic downturn, the new law provides that employers that receive PPP loans may still qualify for the ERTC with respect to wages that are not paid for with forgiven PPP proceeds. In other words, an employer may be able to claim the ERTC for a time period that is different than the firm’s PPP covered period.

Transportation funding

* The bill includes $14 billion in supplemental funding for transit agencies, $10 billion in highway funding for State DOTs, $2 billion for airports, and $1 billion for Amtrak.

WRDA

* The Water Resources Development Act (WRDA) was also rolled into the bill, authorizing $9.9 billion in federal funds for 46 Army Corps of Engineers flood control, environmental restoration, coastal protection, and other projects. A last-minute deal modified the spending levels from the Harbor Maintenance Trust Fund for dredging projects, starting at $500 million and ramping up in future years.

Energy tax extenders

* The Section 179D energy-efficient commercial buildings tax deduction was made permanent. The amount of the deduction ($1.80 per square foot) is indexed to inflation starting in 2020, and the energy-efficiency standard is updated to 50% above the ASHRAE standard in effect two years before construction begins. ACEC has long advocated for a permanent Section 179D deduction.
* The tax credit for wind energy is extended for an additional year with the phaseout.
* The solar energy tax credit is extended for two additional years with the phaseout.
* The Section 45 production tax credit for other renewable resources is extended for one year.

Employer Participation in Repayment Act (ERPA)

* The CARES Act included, for 2020, the EPRA, which allows employers to provide up to $5,250 in student loan payments without it being a taxable benefit to the employee.
* The legislation extends this provision through the end of 2025.
* This has been a key advocacy priority for ACEC.