

# Construction Executive

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## **Pandemic Relief Programs for Contractors**

By Robert Mercado and James Wiedemann | Wednesday, March 31, 2021

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During the pandemic, the U.S. government provided various programs that contractors should understand to ensure they are receiving the full benefit of these relief efforts. These programs have changed drastically over the past year in a way that provides a greater ability for entities to access the funding and support they need. The Payroll Protection Programs (PPP) and the Employer Retention Tax Credit (ERTC) can be vital to contractor survival.

### **SBA PAYROLL PROTECTION PROGRAM NO. 1 (PPP1)**

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) enacted on March 27, 2020, provided forgivable loans of up to \$10 million for entities meeting certain criteria. The amount of each loan was based on average monthly payroll and certain payroll-related costs multiplied by 2.5. Entities had up to 24 weeks to spend the funds on allowable items. Those items included gross wages up to \$100,000, retirement benefits, employer-level state taxes for unemployment, and insurance payments for health, dental, vision, life and disability plans.

Additionally, the CARES Act allowed for non-payroll-related items of rent or leases and interest on mortgages in place prior to Feb. 15, 2020, as well as utilities. If an entity rents a facility from a related party, the amount of rent allowable for forgiveness is limited to the interest paid by the related party during the mortgage period. The forgiveness rules allow for payroll costs equivalent to 60% to 100% of the total forgivable amount, leaving between 0% and 40% of the forgivable amount to be applied against non-payroll related items.

### **SBA PAYROLL PROTECTION PROGRAM NO. 2 (PPP2)**

The Consolidated Appropriations Act, 2021 (CAA), enacted on Dec. 27, 2020, provided for a second round of PPP loans. The main requirements for an entity to apply for PPP2 funding are as follows:

- The entity has 300 or fewer employees;
- Gross receipts declined at least 25% during a quarter in 2020 as compared to the same quarter in 2019;

- The entity is not owned by or is not itself a publicly traded company; and
- Foreign-owned entities are subject to certain restrictions.

For contractors that meet the above criteria, the PPP2 loan application is based on the same criteria as PPP1; however, the maximum amount of the loan has been reduced from \$10 million to \$2 million. All requirements for forgiveness in PPP1 have been carried forward. New costs have also been added to the non-payroll forgivable items, including certain operations costs, property damage costs, supplier costs and worker protection costs.

## **LOAN FORGIVENESS**

Many entities have deferred the application for forgiveness on PPP1 loans. The main reason for this has been the uncertainty that surrounded a good amount of the program. One major item was uncertainty about the taxability of forgiveness. This issue was resolved in the CAA, which made forgiveness of PPP1 and PPP2 loans non-taxable as relates to income and allows for the deduction of expenses relating to forgiveness. It's important to note that certain states are currently not following federal rules pertaining to the non-taxability of forgiveness, which could significantly impact entities doing business in those states.

## **EMPLOYEE RETENTION TAX CREDIT**

The federal government has put into place another mechanism to assist employers with the cost of labor, known as the Employer Retention Tax Credit (ERTC). The ERTC allows entities to receive money back on their payroll tax filing if they meet certain criteria. For an entity with fewer than 100 employees to be allowed to take advantage of the ERTC, the entity must have a reduction of 50% or more in gross receipts in a quarter in 2020 as compared to the same quarter in 2019. Once this happens, an entity is allowed to take advantage of the ERTC on wages incurred in that quarter or any following quarters in 2020 compared to the same quarters of 2019, if those subsequent quarters have a reduction of gross receipts by 20% or more. In 2020, the credit is calculated as 50% of an employee's wages up to a gross wage of \$10,000 per employee, amounting to a maximum of \$5,000 per employee for 2020. For entities exceeding 100 employees, the ERTC would be taken against wages paid to employees if they were out sick or had to quarantine due to COVID-19.

For 2021, the requirements have changed, which could result in a significant number of entities that meet the criteria, compared to the ERTC of 2020. For 2021, all entities with fewer than 500 employees and have a reduction in gross receipts in excess of 20% for any quarter in 2021 compared to the same quarter in 2019 can take the ERTC. The calculation of the ERTC for each quarter is a credit of 70% of gross wages plus health care costs per employee, up to a maximum of \$10,000, amounting to \$7,000 of tax credit per employee per quarter.

It's important to note that entities can apply for forgiveness of PPP1 and PPP2 loans and receive the ERTC, but cannot use the same payroll costs for more than one application.

## CONCLUSION

The federal government has put numerous programs in place to help entities get through these troubling times. It's important to understand what programs are available to maximize the access to funding and support. Seek legal and accounting assistance to ensure maximization of these programs.



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