

Testimony of Mr. Carlos A. Penin, PE

My name is Carlos A. Penin, PE. I arrived from Cuba in 1962 at the age of 6. I am a proud Cuban American who pursued a career in engineering and ended up fulfilling my "American Dream" of starting my own business. The company that I started, C.A.P. Engineering, Inc. (CAP) is a minority owned small business. We are based in the City of Coral Gables, Florida, where we started our operations thirty-two (32) years ago, in 1989.

The resiliency and perseverance that my generation witnessed and learned from our parents helped us survive every blow of nature and the economic downturns outside of our control. In 2020, unlike any other country in the world, the federal government stepped up and came to the assistance of the private sector by offering multiple legislative responses, most importantly the Paycheck Protection Program (PPP) under the Coronavirus Aid, Relief, & Economic Security Act the CARES Act. In part, the Paycheck Protection Program helped us maintain our employees, pay their salaries, protect them from the Coronavirus, and on a limited basis, allowed us to continue to provide services to our clients.

As a small, minority-owned business, we applied for and received assistance from the PPP program. CAP obtained approximately \$130,000 in PPP funding, which was utilized one hundred percent for its intended purpose of paying our employees. There were no layoffs.

Having survived multiple hurricanes during our company's history, including Hurricane Andrew in 1992, the devastation from this pandemic has been far worse. The interpretation of the Federal Acquisition Regulations (FAR), Credits Clause (under FAR 31.201-5) would reverse the benefits received from the PPP and could have a negative impact for years to come.

Due to this interpretation, engineering companies like mine that work for the government and help provide essential services of designing and inspecting for our country's vital infrastructure are now faced with an unintended consequence.

According to the proposed guidance of the Federal government and therefore applied to all DOT contracts the overhead rate will be reduced by the same amount of the PPP loan forgiveness given to the engineering firms. For many engineering firms, including mine, this will result in a reduction in future billing rate and a net loss greater than the PPP assistance I received. If this goes into effect as FHWA has proposed, it could jeopardize the very employees in my firm the loan was intended to save.

This will be the case for many small minority and women owned businesses, which needed the help and that the Paycheck Protection Program was intended to assist but could actually be hurt. This can also lead engineering firms to be disincentivized to compete for work for government agencies, and thereby hamper DOTs efforts to expand the use of small businesses.

The proposed guidance of the FAR, as currently being applied, negates the main purpose for the PPP loans and unintentionally penalizes the small business and people it intended to help.

The PPP loan forgiveness program was intended to provide much needed help to all companies who applied, qualified and received these monies. This Program was never intended to provide a benefit to the Government agencies that we contract with.

Please consider a clarification to the law to ensure that all firms that received the PPP are allowed to keep this critical assistance as originally intended so that together we can continue to assist in the rebuilding and recovery of our great Country.