

FENNEMORE CRAIG

2394 East Camelback Road, Suite 600, Phoenix, AZ 85016-3429
T: 602.916.5488 | F: 602.916.5688

How to get up to a 100% forgivable loan from the SBA to keep your business going

Arizona small businesses now have the opportunity to receive an up to 100 percent forgivable loan to keep their businesses afloat and employees working. Under the new \$2+ trillion [Coronavirus Aid, Relief and, Economic Security \(CARES Act\)](#) "Paycheck Protection Plan", businesses with less than 500 employees can receive a loan from the Small Business Association (SBA) to cover payroll, healthcare, mortgage, rent, utilities, and interest on debt, with user-friendly and very attractive loan forgiveness features. These loans, capped at \$10 million dollars, will come directly from local banks. Contact your existing bank to see if they are an approved lender.

<https://www.congress.gov/bill/116th-congress/senate-bill/3548/text>

Is your business eligible?

Eligible borrowers include the following:

- Small businesses as defined by the greater of SBA size standards or 500 employees.
- Businesses in the Accommodation and Food Services Sector (North American Industry Classification System (NAICS) Code 72) with up to 500 employees at each location.
- Non-profits with fewer than 500 employees who are 501(c)3s and do not receive Medicaid funding.
- Sole proprietors, the self-employed, and independent contractors.

Determining the maximum amount of the loan

The maximum PPP loan amount is solely based on the eligible PPP payroll expenses. Working with an approved SBA lender, divide up your use of PPP loan proceeds into two categories: a) eligible PPP "payroll" expenses; and b) eligible PPP "other" expenses. The eligible PPP payroll expenses include compensation to employees (capped at \$100,000, including commissions and tips) payments for vacation, parental, family, medical or sick leave; severance payments; payments required for group health care benefits (including insurance premiums), retirement benefits, and state and local employment taxes. Other rules apply for season employees.

The loan amount is calculated by taking the borrower's average total monthly eligible PPP payroll expenses during the one-year period leading up to loan origination, multiplying it by 2.5 and then adding any outstanding amount from a borrower's economic injury disaster loan (EIDL). The loan amount is capped at \$10 million.

Steps to organize your business documents to apply for the PPP loan

Since the PPP loan provides small businesses a flexible unsecured, non-recourse loan and an opportunity for generous loan forgiveness terms, it is important that businesses understand how to efficiently and properly apply for one.

The eligible PPP other expenses include interest payments on any mortgage obligations or other debt obligations incurred before February 15, 2020 (but not any payments or prepayments of principal), rent pursuant to lease agreements that were entered into on or before February 15, 2020, and utilities.

Loan use and forgiveness

A borrower may use the loan for payroll “other” costs, such as continued group health care benefits, salaries/commissions, mortgage interest payments, rent, utilities and interest (not principal) on other debt obligations incurred prior to February 15, 2020.

CARES Act loans may be mostly-to-completely forgiven if the requirements are satisfied. The amount of the PPP loan forgiveness is based on both the eligible PPP payroll expenses and the eligible PPP other expenses.

Loan deferment and terms

All loan payments (principal, interest and fees) are deferred for at least six months, and up to one year. Loans will not have any prepayment penalties. Other loan features include a 2-year term, no administrative fees, and only a 0.5% interest rate on the PPP loan.

The PPP loans are unsecured, so the borrower does not need to provide any collateral or personal guarantee during the “covered period.” The loan proceeds are also not taxable.

Once approved, it is recommended that the borrower create a separate bank account to deposit the PPP loan proceeds and to use for all loan disbursements from the PPP loan. This will make it easier to track the uses of loan proceeds to provide documentation and certification to later seek to secure loan forgiveness at the end of the year.

The SBA’s website indicates that the [PPP loan application](#) should be available by Friday April 3, 2020. Borrowers can apply through any existing SBA (7(a) lender.

Alexis Glascock is an attorney at Fennemore Craig and oversees Government Relations in Arizona. She represents companies at the Legislature, Governor’s Office, state agencies and municipal governing bodies. She can be reached at aglascock@fclaw.com. Jon Hall is CFO of DreamBrands, a consumer products company that has been selected for the Inc 500 list of the nation’s fastest growing companies. He is a graduate of Harvard University and Stanford Graduate School of Business.