

THE SMALL CIDERY AND SMALL DISTILLERY PROGRAM

SMALL CIDERY PROGRAM GUIDELINES 2021-22

Program Overview

The Small Cidery Component of the Ontario Small Cidery and Small Distillery Program (the Program) supports Small Cideries' growth and competitiveness, and helps them scale up into medium and large businesses. The Ontario government is striving to create an environment where agri-food business can thrive and prosper. The Program will provide grants to help eligible cideries invest in growing their businesses and create jobs. The Program will be delivered by Agricorp, an agency of the Ontario government.

Program Definitions

"Affiliated Licensed Cidery" means a cidery in a group of Licensed Cideries that is affiliated as the term "affiliate" is defined in subsection 17 (5) and subject to the rules set out in subsection 17(6) of Part II of the *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996*, namely:

- One of the corporations is the subsidiary of the other; or
- The corporations are both subsidiaries of a third corporation; or
- Each of the corporations is controlled by the same person or persons.

"Alcoholic Cider" means wine that a) is produced from a minimum of 70% Ontario apple content or 100% Ontario pear content, or from the concentrated juice of which are 70% apples from Ontario or 100% pears from Ontario (to which herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario may be added); b) is not Fruit Wine; and c) has an alcohol content that does not exceed 13% absolute alcohol by volume.

"Applicant" means a Small Cidery that applies to the Program for funding.

"By the Glass" means sales of Ontario Cider under a Manufacturer's Limited Liquor Sales Licence (commonly referred to as a By the Glass Licence), as issued by the Alcohol and Gaming Commission of Ontario.

"Cidery Program Cap" means the maximum annual amount of Program funding available to all Recipients cumulatively under the Small Cidery Component of the Ontario Small Cidery and Small Distillery Program.

"Contract Bottling/Canning" means the final bottling, canning, kegging or other packaging of Alcoholic Cider or Other Cider Products by a person other than the Applicant under an agreement or arrangement, including any incidental processes such as final filtration and pasteurization.

“Contract Production” means the production of Alcoholic Cider or Other Cider Products by a person other than the Applicant under an agreement or arrangement.

“Direct Delivery Authorization” means an authorization issued by the LCBO to permit the Recipient to deliver alcohol to Licensees, such as restaurants and bars.

“Fruit Wine” means Ontario wines produced from fruit grown in Ontario other than grapes and does not include Alcoholic Cider.

“Grant Payment” means the amount of Program funding provided to an eligible Applicant in the Program Year.

“Grocery Store” means a grocery store as defined in Ontario Regulation 232/16 (Sale of Liquor in Government Stores) under the *Liquor Control Act*, and means a retail store that satisfies all of the following criteria:

1. The store offers for sale a variety of each of the following types of food products: canned food, dry food, frozen food, fresh fruit, fresh vegetables, fresh meats, prepared meats, fish, poultry, dairy products, baked goods and snack foods;
2. Food products occupy at least 10,000 square feet of retail floor space in the store; and
3. The store is not primarily identified to the public as a pharmacy, even if a pharmacy as defined in the *Drug and Pharmacies Regulation Act* is located within the store.

“LCBO” means the Liquor Control Board of Ontario.

“Licensee” refers to an individual or a corporation licensed under the *Liquor Licence Act* to sell and serve liquor.

“Licensed Cidery” means a cidery with a valid Manufacturer’s Licence.

“Manufacturer’s Licence” means a licence issued by the Registrar of the Alcohol and Gaming Commission of Ontario under section 22 of the *Liquor Licence Act*. A Manufacturer’s Licence is not a licence to manufacture liquor.

“Maximum Available Grant” means the maximum annual grant funding that a Recipient may be entitled to receive per Program Year, calculated in accordance with these Program Guidelines, and cannot exceed \$220,000.00 per Recipient.

“Other Cider Products” means all cider products that contain alcohol but that do not meet the definition of Alcoholic Cider.

“Program” means The Ontario Small Cidery Component of the Ontario Small Cidery and Small Distillery Program established by Order in Council 332/2017, as amended.

“Program Year” means April 1, 2021 to March 31, 2022 and includes the period when Grant Payments are issued.

“Recipient” means a successful eligible Applicant.

“Requirements of Law” means all applicable statutes, regulations, by-laws, ordinances, codes, official plans, rules, approvals, permits, licenses, authorizations, orders, decrees,

injunctions, directions, agreements, the Program Order in Council 332/2017, as amended, and these Program Guidelines,

“Small Cidery” means an Alcoholic Cider producer (including its Affiliated Licensed Cideries) with production of less than 3 million litres of Alcoholic Cider and Other Alcoholic Cider Products annually available for sale in Ontario, including Contract Production but not Contract Bottling/Canning.

“Tied House” means a restaurant / establishment located at a manufacturing site that holds a Tied House licence from the Alcohol and Gaming Commission of Ontario.

“Wine Boutique” means a wine boutique as defined in Ontario Regulation 232/16 (Sale of Liquor in Government Stores) under the *Liquor Control Act*, and means a winery retail store that is located inside the shopping area of a Grocery Store, and at which the winery is authorized to sell wine to the public under a supplementary wine authorization described in Part III.1 of that regulation.

“Wine Retail Store” means a wine retail store as defined in Ontario Regulation 232/16 (Sale of Liquor in Government Stores) under the *Liquor Control Act*, and means a private wine store owned and operated by a winery at which the winery is authorized under clause 3 (1) (e) of the Act to sell wine to the public.

“Worldwide Alcoholic Cider Production” means the total volume (in litres) of Alcoholic Cider and all Other Alcoholic Cider Products that an Applicant produces worldwide including in Ontario), including but not limited to all products: produced by all Affiliated Licensed Cideries; produced under contract for another Alcoholic Cider producer or for another Other Cider Products producer; and produced by another Alcoholic Cider producer or by another producer of Other Cider Products under contract for the Applicant or any of its affiliates.

Applicant Eligibility

To be eligible for funding under the Program, Applicants are required to meet all of the following criteria:

- Be a legal entity that is a sole proprietor, corporation, partnership or an unincorporated association. Articles of Incorporation or other acceptable proof of the Applicant’s legal name and status must be made available to Agricorp upon request;
- Be a Licensed Cidery;
- Hold a valid LCBO Direct Delivery Authorization if direct delivery sales of Alcoholic Cider are made in the previous calendar year;
- Produce Alcoholic Cider;
- Meet the definition of a Small Cidery based on production in the previous calendar year prior to applying to the Program;
- Have less than 4.5 million litres of Worldwide Alcoholic Cider Production (including Alcoholic Cider and Other Alcoholic Cider Products) in the previous calendar year prior

to applying to the Program, including production by Affiliated Licensed Cideries and Contract Production, but not including Contract Bottling/Canning;

- Have appropriate governance structures, accountability and control processes in place to administer and manage the grant funds;
- Submit a completed application form by the date and time indicated in these Guidelines;
- Agree to comply with the terms and conditions of the Program as set out in these Guidelines; and
- Be in compliance with and remain in compliance with all Requirements of Law.

Affiliated Licensed Cideries

Only one Affiliated Licensed Cidery in a group of Affiliated Licensed Cideries may apply to the Program in a Program Year.

Application Process

Application deadline: **May 14, 2021 no later than 11:59 p.m.**

Agricorp will send application forms to potentially eligible Small Cideries. Applicants must complete and submit the application form by the application deadline in order to be eligible.

The completed application will be reviewed by Agricorp to determine if the Program eligibility criteria have been met. If the application submitted is incomplete, Agricorp reserves the right to deem it ineligible.

How Grant Payments are Calculated

Determination of Eligible Alcoholic Cider Sales Volumes

The volume of Alcoholic Cider that is eligible for a Grant Payment under the Program is the volume of Alcoholic Cider made by an eligible Licensed Cidery (including its Affiliated Licensed Cideries) and sold by the LCBO and to Licensees between **January 1, 2020 and December 31, 2020**. The volume includes those sales of Alcoholic Cider made by Direct Delivery Authorization to Licensees, through Grocery Stores, and through Tied House and By the Glass licences. Sales through Wine Retail Stores, or Wine Boutiques and Other Cider Products are not included. For greater clarity, the volumes of Alcoholic Cider used in the determination of Grant Payments are based on Ontario sales only.

NOTE: In order to be included in the eligible Alcoholic Cider sales volume, any outstanding 2020 calendar year direct delivery sales volumes reported through the Winery Reporting Template (“J-10”) must have been submitted to the LCBO no later than **February 28, 2021**. Any 2020 sales volume data submitted after February 28, 2021 will not be used for payment calculations. As a reminder, R.R.O. 1990, Regulation 717 (General) under the

Liquor Control Act requires all cideries to report sales for the preceding month by the tenth day of every month.

Determination of Grant Payment

Agricorp will determine an Applicant's Grant Payment based on its eligible Alcoholic Cider sales volume, within the limits of the Cidery Program Cap (annual Program budget). Each eligible Applicant may be eligible to receive up to \$0.74 per litre of Alcoholic Cider sold, up to a maximum of \$220,000.00 per Program Year, subject to the following:

1. If an eligible Applicant's volume of eligible Alcoholic Cider sales exceeds 1.5 million litres per calendar year, the Applicant will receive less than the Maximum Available Grant. Specifically, the Applicant's Grant Payment will be reduced, or phased-out, proportionate to the volume above 1.5 million litres that the Applicant has in eligible Alcoholic Cider sales, based on the following formula:

Grant Payment = Maximum Available Grant - ((Applicant's total eligible Alcoholic Cider sales volume - 1,500,000) x by the phase-out rate of 0.147); in other words:

Grant Payment = \$220,000 - (Applicant's total eligible Alcoholic Cider sales volume - 1,500,000) x 0.147

Phase-out rate = Maximum Available Grant divided by (phase-out end volume minus phase-out beginning volume); in other words

Phase-out rate = \$220,000 ÷ (3,000,000 - 1,500,000) = **0.147**

2. If an Applicant sells more than 3 million litres per calendar year of eligible Alcoholic Cider in Ontario, the Applicant is no longer eligible to receive any Grant Payment in the Program Year; and
3. If total potential payments to all eligible Recipient under the Program exceed the annual Cidery Program Cap, a proration rate will apply. The proration rate will reduce proportionally each Recipient's Grant Payment until the total payments to all eligible Recipients are within the annual Cidery Program Cap.

For greater clarity, this would result in each Recipient's payments being reduced below the amount that the eligible Recipient was originally calculated to receive, and therefore below the maximum \$0.74/litre rate. The formula for the proration rate is:

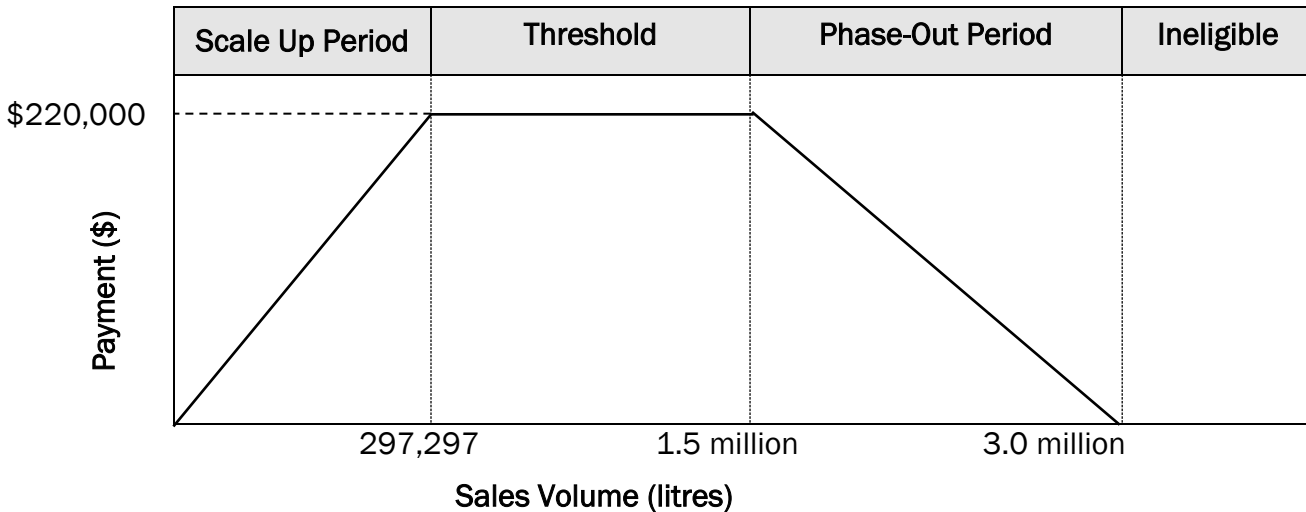
Proration rate = Cidery Program Cap ÷ total payments to all eligible Recipients

The formula for the Grant Payment in this scenario would be:

Grant Payment = Original grant payment - (original grant payment x proration rate)

The payment calculation method is illustrated in the graph below:

Graph Illustrating Grant Payments at Different Eligible Sales Volumes (where the Cidery Program Cap is Not Exceeded) (not to scale):



Note: Scale Up Period reaches threshold at 297,297 litres = ($\$220,000 \div \0.74 per litre)

Example scenarios to show how Grant Payments are calculated *

SCENARIO 1 (Scale-up example): Eligible Applicant with less than 297,297 litres of eligible Alcoholic Cider sold

The eligible Applicant has an eligible Alcoholic Cider sales volume of 150,000 litres. If total payments to all eligible Recipients under the Program have not exceeded the annual Cidery Program Cap, the Recipient would receive a Grant Payment of \$111,000.

$$\text{Grant Payment} = 150,000 \times 0.74 = \$111,000$$

SCENARIO 2 (Threshold example): Eligible Applicant with more than 297,297 but less than 1.5 million litres of eligible Alcoholic Cider sold – i.e. sales within the threshold range and therefore payment reaching the Maximum Available Grant

The eligible Applicant has an eligible Alcoholic Cider sales volume of 1 million litres. If total payments to all eligible Recipients under the Program are within the annual Cidery Program Cap, the eligible Recipient would receive a Grant Payment of \$220,000, as the Maximum Available Grant has been reached.

$$\text{Grant Payment} = \$220,000$$

SCENARIO 3 (Phase-out example): Eligible Applicant with more than 1.5 million litres of eligible Alcoholic Cider sold

The eligible Applicant has an eligible Alcoholic Cider sales volume of 1.750 million litres. If total payments to all eligible Recipients under the Program are within the annual Cidery Program Cap, and with a phase out rate of 0.147, the eligible Recipient would receive a Grant Payment of \$183,250.

$$\text{Grant Payment} = \$220,000 - (1,750,000 - 1,500,000) \times 0.147 = \$183,250$$

SCENARIO 4 (Ineligible example): Applicant with more than 3.0 million litres of eligible Alcoholic Cider sold

The Applicant has an Alcoholic Cider sales volume of 3.5 million litres. Because that volume exceeds the eligibility limit, the Applicant is not eligible to receive a Grant Payment.

$$\text{Grant Payment} = \$0$$

SCENARIO 5 (Proration example): Eligible Applicant whose payment is reduced because the Cidery Program Cap has been exceeded

The eligible Applicant has an eligible Alcoholic Cider sales volume of 150,000 litres. Although the eligible Recipient would have received a Grant Payment of \$111,000 as in Scenario 1, total possible Grant Payments have exceeded the Cidery Program Cap, and therefore all payments must be reduced, or prorated. The Recipient, therefore, receives less than \$111,000.

If the Cidery Program Cap has been exceeded and payments need to be reduced by 15% so as not to exceed it, then the proration rate is 15% and all eligible Recipients have their Grant Payments reduced by 15%. The eligible Recipient, therefore, receives \$94,350.

$$\text{Grant Payment} = \$111,000 - (\$111,000 \times 0.15) = \$94,350$$

SCENARIO 6 (Phase out example with proration): Applicant with more than 1.5 million litres of eligible Alcoholic Cider sold and whose payment is reduced because the Cidery Program Cap has been exceeded

The eligible Applicant has an eligible Alcoholic Cider sales volume of 1.750 million litres. Although the Recipient would have received a Grant Payment of \$183,250 with a phase out rate of 0.147, as in Scenario 3, total possible Grant Payments have exceeded the Cidery Program Cap, and therefore all payments must be reduced. The eligible Recipient, therefore, receives less than \$183,250.

If the proration rate is 15%, as in Scenario 5, and all eligible Recipients have their payments reduced by 15%, then the eligible Recipient receives \$155,762.

$$\text{Grant Payment} = [\$220,000 - (1,750,000 - 1,500,000) \times 0.147] \times (1.0 - 0.15) = \$155,762$$

* Example scenarios are for information and illustration purposes only, and are *not* intended to be binding upon Agricorp, the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) or the Crown. Example scenarios assume eligibility for funding under the Program in every regard.

Information the Applicant Must Provide in the Application Form

The Applicant must provide the following information in the application form, in addition to the other information requested in the application form:

- Worldwide Alcoholic Cider Production volume (including Alcoholic Cider and Other Cider Products production volume) from January 1, 2020 to December 31, 2020, including production by Affiliated Licensed Cideries, and Contract Production sales, but not Contract Bottling/Canning sales;
- Ontario production volume of Alcoholic Cider and Other Alcoholic Cider Products from January 1, 2020 to December 31, 2020, including Affiliated Licensed Cideries, and Contract Production sales, but not Contract Bottling/Canning sales;
- The Applicant's full legal name and listing the business names of the Applicant's Affiliated Licensed Cideries; and
- Affirmation that the Applicant's cider meets the definition of Alcoholic Cider.

The Applicant will be asked to sign an attestation confirming the accuracy of all information that the Applicant provides in the application.

In addition to the information that the Applicant provides in the application, the Applicant will be required to submit any additional information that is requested by Agricorp in order to assess or determine the Applicant's eligibility and, if eligible, any Grant Payments.

Additional Requirements for Applicants and Grant Payment Recipients

The following are additional conditions for funding:

Applicants and Recipients must provide accurate, timely and complete information to Agricorp when requested, including, without limitation, supporting documentation as required to verify the eligibility of the Applicant or to verify the accuracy of the Grant Payment to the Applicant. Any Applicant who provides false or misleading information to Agricorp and/or its authorized representative(s) may be disqualified and required to repay any Grant Payments received under the Program.

The Recipient may be asked to complete a survey at the end of the Program Year in which any Grant Payment under the Program is received. The satisfactory completion of any survey will be a condition for receiving Program funding in any subsequent years of the Program.

Recipients must acknowledge that Agricorp, OMAFRA and the LCBO may share reported Alcoholic Cider sales information for the purpose of determining Grant Payments under the Program.

Grant Payment Recipients must agree to OMAFRA publicizing or otherwise publishing information such as their names and addresses and the amount of the Grant Payment.

Further, the information provided under the Program may be subject to disclosure under the *Freedom of Information and Protection of Privacy Act* (Ontario) or by order of a court, tribunal or otherwise by law.

Other Considerations for Applicant and Grant Payment Recipients Including Compliance

Agricorp, OMAFRA or their authorized representatives may conduct an audit or investigation of any Applicant or Grant Payment Recipient in respect of their eligibility and the Applicant/Grant Payment Recipient must cooperate with the audit or investigation including by providing information or access to a person, place or thing. Grant Payment Recipients must retain information relating to and supporting their eligibility for a period of seven years from the end of the Program Year.

If it is determined that the Recipient has received a Grant Payment that the Recipient was not eligible to receive, through administrative error or otherwise, the Recipient will repay the Grant Payment. Agricorp reserves the right to recover any debts to Her Majesty the Queen in Right of Ontario, including any debts to the LCBO. Any overpayments and other Program debt will be recovered in a manner consistent with Her Majesty the Queen in Right of Ontario's collections practices and in consideration of applicable legislation and directives. Should a Recipient have any pre-existing debts owing to Her Majesty the Queen in Right of Ontario, Agricorp may recover against that pre-existing debt through a set-off against any Grant Payments a Recipient may be eligible to receive under the Program.

As a condition of funding, Recipients are responsible for complying with all Requirements of Law.

The Government of Ontario, including Agricorp and OMAFRA, takes no responsibility for bringing a Program Applicant or Recipient into compliance with the Requirements of Law or for the consequences if the Program Applicant or Recipient fails to comply with the Requirements of Law.

Failure to comply with the Requirements of Law may result in the Applicant being ineligible to receive a Grant Payment under the Program and may require the repayment of any Grant Payments received by a Recipient under the Program. In addition to the rights set out above, Agricorp reserves the right to require repayment of funds provided pursuant to the Program that were obtained by ineligible, including non-compliant Applicants.

OMAFRA and Agricorp reserve the right to revise these Guidelines from time to time. Applicants have the onus of confirming that they are following the most recent version of the Guidelines prior to making an application.

The Program is a discretionary non-entitlement program. OMAFRA and Agricorp make no guarantees that all or any eligible Applicants will receive a Grant Payment under the Program. Applying to the Program does not create any legal or other right to a Grant Payment under the Program.

In the event of a conflict between anything set out in these Guidelines, and Order in Council 332/2017, as amended, the latter prevails. Please note that, without limitation, Ontario reserves the right to adjust its proposed funding allocations, calculations and assumptions, as well as any persons or costs that may or may not be eligible for funding.

Contact Information

For more information about the Program contact Agricorp:

Telephone: 1-888-247-4999

Email: cidery.distillery@Agricorp.com

Website: Agricorp.com

Également disponible en français