

AgBiz Drought Loan Guidelines

Loans for drought-affected small
businesses

July 2022



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1 Summary

The Regional Investment Corporation (RIC) is offering **AgBiz Drought loans** to help eligible drought-affected small businesses that supply primary production related goods or services to farm businesses in affected areas to mitigate the effects of drought on their businesses.

AgBiz Drought loans are available to provide:

- working capital required to help manage essential operating costs
- refinance (restructure existing commercial debt)

To qualify for a loan, you must meet eligibility criteria (see sections 3.1 to 3.6 below).

AgBiz Drought loans are for up to \$500,000 (see section 5.1). The loan term is 10 years with interest-only repayments for the first five (5) years and principal and interest repayments for the final five (5) years (see section 5.2).

A variable interest rate applies to the loans (see section 5.3).

After reading these Guidelines you may wish to contact us to discuss your individual circumstances before deciding whether to apply. You can contact us on 1800 875 675, via email to loans@service.ric.gov.au or visit ric.gov.au. When you are ready to apply, visit our website www.ric.gov.au/agbiz-drought to commence the application process (see section 7).

2 About the AgBiz Drought loan

The Australian Government, through the RIC, is providing **AgBiz Drought loans** to eligible drought-affected small businesses. The loans are available to small businesses that supply primary production related goods or services to farm businesses in affected areas, to improve their strength, resilience and profitability in the long term.

Small businesses that supply primary production related goods or services to farm businesses in affected areas may suffer financial hardship due to the effects of drought causing a reduced demand and income from farm businesses for the small business's goods or services. This loan is to help ensure their profitability and productivity into the future.

For all our loans, applicants must demonstrate that they are in need of financial assistance (see section 3.2 and 3.5) and have sound prospects of long-term financial viability (see section 3.6).

3 Who can apply

3.1 Who are loans available to?

You may be eligible for an **AgBiz Drought loan** if:

- Your business has fewer than 20 employees other than casual employees; and
- Your business is not a farm business; and
- A substantial part of the turnover of your business is or has been from supplying, to farm businesses in affected areas, goods or services relating to primary production by those farm businesses; and
- As a consequence of drought affecting farm businesses in affected areas, there has been a:
 - (a) material reduction in the turnover of your business; or
 - (b) a material increase in unsecured debt to your business by farm businesses.

Section 3.3 outlines what it means for a farm business to be in an affected area.

3.2 Small business eligibility criteria

To be eligible for an **AgBiz Drought loan**:

- (1) Your small business must:
 - a) be in financial need of a concessional loan as a consequence of drought affecting farm businesses in an affected area (see section 3.5). There must have been:
 - i) a material reduction in the turnover of the small business; or
 - ii) a material increase in unsecured debts to the small business by farm businesses
 - b) owe commercial debt
 - c) throughout the 6 months before applying for the loan have fewer than 20 employees other than casual employees
 - d) be assessed by us as financially viable, or having sound prospects of a return to financial viability within the term of the loan (see section 3.6)
 - e) be assessed by us as having the capacity to repay the loan
 - f) provide sufficient security for the loan

- g) be carried on by:
 - i) a sole trader who is an Australian citizen or permanent resident; or
 - ii) a partnership, where at least one of the partners is an Australian citizen or permanent resident; or
 - iii) a trust, where at least one of whose beneficiaries or unit-holders is an Australian citizen or permanent resident; or
 - iv) a corporation (within the meaning of the *Corporations Act 2001*(Cth)) other than a public company (within the meaning of that Act), at least one of whose members is an Australian citizen or permanent resident
- h) have at least one member of your small business, under normal circumstances, contributing at least 75 per cent of their labour and derives at least 50 per cent of their income from the small business
- i) be registered for tax purposes in Australia with an ABN and be registered for GST
- j) not be under external administration or bankruptcy.

3.3 Affected area

To be eligible for an **AgBiz Drought loan**, your small business must be, or have been, supplying goods or services relating to primary production to farm businesses located in an affected area. You can check the location of farm businesses in affected areas by entering their address or GPS coordinates into the eligible area map www.ric.gov.au/agbiz-drought

3.4 Small business supplying goods or services relating to primary production to farm businesses

To be eligible for an **AgBiz Drought loan**, your small business must be, or have been, supplying goods or services relating to primary production to farm businesses in affected areas. Examples could include harvesting and fencing contractors, carriers, stock and station agents and businesses dealing in agricultural equipment and repairs.

Businesses not directly linked to supplying goods or services related to primary production to farm businesses in affected areas would not be eligible. For example, local cafes, hairdressers, hotels. Similarly, AgBiz Drought loans are not available to customers of farmers. For example, meat, grain and fibre processors.

3.9 Small businesses that are in financial need of a loan

To be eligible for an **AgBiz Drought loan**, your small business must be in financial need of a loan. There must be a material reduction in the turnover of the small business or a material increase in unsecured debts to the small business as a consequence of supplying to farm businesses in affected areas.

You must be able to demonstrate that your small business is in need of a concessional loan. For example, by supplying the small business's financial statements and taxation returns to support the assessment of this criterion.

3.10 Sound prospects of long-term financial viability

To be eligible for an **AgBiz Drought loan** your small business must be financially viable or have sound prospects of a return to financial viability within the term of the loan.

A small business is considered financially viable when the business generates sufficient net profit after fixed and variable expenses to:

- service borrowings at commercial interest rates
- provide an adequate standard of living for relevant members of the small business
- allow investment to maintain the business's productive assets
- provide funds for investment that increases long-term productivity.

3.11 Gathering evidence and supporting documentation

As part of your application process, you may be asked to provide evidence that your small business meets the eligibility criteria. The types of evidence required will depend on the individual circumstances of your small business. Contact us if you would like to discuss your application before compiling supporting documentation.

4 Loan uses

4.1 Eligible loan uses

AgBiz Drought loans are available for:

- (a) working capital required to help small businesses manage their businesses through the drought (see section 4.2)
- (b) refinancing (restructuring existing commercial debt) (see section 4.3), or
- (c) a combination of (a) and (b)

For a list of non-eligible loan uses see section 4.4

4.2 Working Capital

AgBiz Drought loans are available for the amount required to continue the small business's operations for the next 12 months or until the next major income is received. Examples of eligible uses may include, but are not limited to, paying:

- suppliers
- salaries and wages
- rent and rates
- current liabilities
- interest and other financial related costs
- fuel and other supplies essential to the business operation.

4.3 Refinancing

AgBiz Drought loans are available to refinance existing commercial debt including equipment finance facilities. We consider commercial debt as debt that has been established upon commercial interest rates, terms and conditions.

Debt that is not considered to be commercial debt includes, but is not limited to:

- private debt or family debt not provided at arm's length and at commercial interest rates and terms and conditions
- non-balance sheet loans
- funding of normal or additional working capital
- debt that was not established upon commercial interest rates, terms and conditions (such as debt established at a concessional interest rate under Commonwealth and state or territory government schemes).

4.4 Non-eligible loan uses

Examples of non-eligible loan uses may include, but are not limited to:

- purchase of private and domestic assets
- payment of private and domestic expenses
- capital expenditure
- purchase of and/or investment in non-small business assets and expenses
- payment of tax and statutory payments
- your own labour costs
- reimbursement for depreciation of assets

- payment of dividends or other distributions of equity to owners
- activities funded under other Commonwealth and state or territory government programs.

Contact us if you are not sure whether the activities you would like to undertake are eligible.

5 Loan features

5.1 Loan amount

Eligible small businesses can apply for a loan of up to \$500,000. There is no minimum loan value.

The maximum loan amount is the lesser of:

- an amount that would result in the small business having 50% of its total debt in concessional loans; or
- \$500,000 in total.

Small businesses may apply for debt up to the amount already held as commercial debt.

Figure 1 provides examples of the maximum value of a loan for 'refinancing' and 'new debt' if a small business held \$1,000,000 in commercial debt before applying for an **AgBiz Drought Loan**.

Figure 1 Maximum value of RIC loan if commercial debt of \$1,000,000



Figure 2 provides examples of the maximum value of a loan for ‘refinancing’ and ‘new debt’ if a small business held \$500,000 in commercial debt before applying for an **AgBiz Drought Loan**.

Figure 2 Maximum value of RIC loan if commercial debt of \$500,000



5.2 Loan term and repayments

The term of an **AgBiz Drought loan** is 10 years.

For the first five (5) years of the loan term, loan recipients make interest-only repayments and for the last five (5) years, they make principal and interest repayments. The structure of principal repayments will be dependent upon a number of key factors, including the loan amount and the purpose of the funding. The principal of the loan may be repaid (wholly or partly) at any time during the term of the loan without incurring a fee.

We will determine the repayment amounts and frequency offered to successful applicants and this will be detailed in the loan agreement.

Under no circumstances can a small business redraw on repaid **AgBiz Drought loan** amounts.

5.3 Interest rate

The current variable interest rate is published on our website. We will review and revise the interest rate if necessary, in accordance with material changes to the Commonwealth 10 year bond rate, where a material change is a movement of more than 10 basis points (0.1 per cent).

Any interest rate change will be effective from 1 February and/or 1 August each year, as applicable. We will give loan recipients advance notice of any changes in writing and on our website.

We will determine how interest is calculated and charged and outline this in the loan agreement.

5.4 Loan draw down

Successful applicants must fully draw down their **AgBiz Drought loan** from us within six months of signing the loan agreement or as otherwise agreed with us.

We will specify details for repayment of the loan in the loan agreement.

We will pay loans to the Australian bank account owned by the small business and nominated by the applicant or relevant third parties at the time of settlement.

5.5 Applying for more than one loan with us

If you have applied for and received a loan from us, you may still be eligible to apply again. This will be subject to meeting the eligibility criteria at the time of application.

6 Loan security

If your loan application is successful, you must provide us with sufficient and satisfactory security that meets our security requirements. The security you provide can include one or a combination of:

- a registered mortgage over land or other assets satisfactory to the RIC
- any other security that we consider necessary.

We will consider possible loan securities on a case-by-case basis. We will settle mortgage priority arrangements through mutual agreement with the applicant and your small business's commercial lender (if applicable). We will decide what constitutes sufficient and satisfactory security based on the individual circumstances of an applicant and the small business.

Where applicable, assets you provide as security must be insured to the level we require. For example, against fire or flood.

We reserve the right to act under our securities if you do not comply with the terms and conditions of the loan or you default on loan repayments.

7 How to apply

To ensure your application has addressed all the necessary requirements, please:

- read these guidelines
- discuss your individual circumstances with us

- consider discussing your application with, or seeking assistance from, a trusted advisor or your local Rural Financial Counsellor.

When you're ready, there are 2 ways to apply for a **AgBiz Drought Loan**:

1. Using our online application form
 - complete the online [application form](#) and compile all supporting documents identified in the [AgBiz Drought Loan Document Checklist](#) in the application form
 - submit your application and all required information online. We can't start assessing your application until we get all the information we ask for, including attachments.

2. Using our PDF application form

If using the PDF application form, submit your application and all required information to us at loans@service.RIC.gov.au or send to Regional Investment Corporation, PO Box 796, Bendigo, VIC 3552.

Further information on how to address each of the eligibility criteria can be found in the application form.

If you require assistance, contact us on 1800 875 675 or via email at loans@service.RIC.gov.au.

8 How applications are assessed

We will assess applications in accordance with these Guidelines, the *Regional Investment Corporation Act 2018* (Cth) and any additional ministerial direction made under the Act. The eligibility and assessment criteria may change from time to time.

In conducting our loan assessments, we will refer to information provided by the applicant as well as information gathered following our own independent investigations and background checks, such as inquiries about the applicant's credit history from credit reporting agencies, as required.

We will assess applications through a non-competitive priority process based on the order of receipt. To be eligible applicants and a small business must meet the requirements of the program as summarised in these Guidelines.

Loan offers will be subject to the availability of funds and will be made at our discretion. Lodging an application does not guarantee that an applicant will receive an **AgBiz Drought loan**.

When assessing applications, we will verify the information provided by applicants. We may liaise with the applicant, their bankers and professional advisors as required to confirm and verify documentary evidence and information provided.

If an incomplete application is lodged, we will contact the applicant to advise of any required information. Applicants can submit the missing information without lodging a new application provided it is received within the timeframe that we specify. If the applicant is unable to meet this requirement, their application may be declined.

Before applying for an **AgBiz Drought loan** or making a decision about whether to enter into a loan agreement, applicants should seek advice from their legal, business and financial advisors. Applicants are responsible for all costs incurred in the preparation and lodgement of their application.

9 Loan funding availability

The availability of loans is subject to the availability of funds. If the funding allocation is fully committed, no further applications will be considered. If this happens, notification of the early closure will be published on our website and those who have already lodged an application will be advised in writing.

10 Notifying applicants of loan decisions

We will provide formal written notification of the assessment outcome. If your loan application is declined, we will give you the reasons for the decision.

If your application is accepted, you must sign a loan agreement with us in order to receive an **AgBiz Drought loan**. This will set out the terms and conditions of the loan, including the requirement for the successful applicant to provide sufficient and satisfactory security. You must pay any actual costs of establishing the loan. Costs might include title searches, mortgage registration, Personal Property Securities Register searches and registrations and personal and corporate background checks.

11 Decision review process

If you disagree with our decision on your loan application, you can request a review of that decision. You must submit the request for a review in writing to us within 30 business days of receipt of the decision notification.

The request should be as specific as possible and you should ensure you provide us with sufficient new information to undertake the review.

Outline the reasons you disagree with the decision and address the issues identified in the decision notification. In your review request, you should:

- explain why you disagree with our assessment that you did not meet the eligibility criteria
- outline the factors you believe may have been overlooked by us in determining your eligibility
- provide additional relevant information not included in your original application that you believe may alter the assessment outcome.

Requests to review a decision can be lodged online at: [Decision Review Request](#)

Or posted to:

Loans Review Officer

Regional Investment Corporation
PO Box 653
Orange NSW 2800

Within 30 business days of receiving a request for a review, the Chief Executive Officer or delegate, will review the decision, make a Determination and advise you of the outcome. The reviewer will be a person not involved in the making of the original decision.

A Determination is a final decision. There is no further appeal against the Chief Executive Officer or delegate's Determination. We will advise, that determinations made by RIC are final and our Complaints and Feedback procedure cannot be used as a review mechanism.

There is no provision in the *Regional Investment Corporation Act 2018* for review by the Administrative Appeals Tribunal to approve or not approve a loan. Additionally, it is outside the jurisdiction of the Commonwealth Ombudsman, as it is not an Australian Federal Government agency within the meaning of the *Ombudsman Act 1976* (Cth).

12 Loan conditions

12.1 Contracting arrangement

If we accept your loan application, you will be required to enter into a loan agreement with us before we can give you any loan funds. The loan agreement will be for the term of the loan (10 years unless terminated earlier) and sets out the full details of the individual loan terms and conditions.

If you do not sign your loan agreement within the time frame provided, your loan offer may lapse. No contractual arrangement will exist until you sign a loan agreement with us. However, a loan agreement is binding once entered, and we may take action against you if you breach its terms.

12.2 Loan reviews

Every year we will conduct a loan review to monitor your compliance with the terms and conditions of the loan agreement as well as the ongoing capacity of your small business to meet those terms and conditions. During the review we may consult with your commercial lender.

We will give you at least two months notice of a loan review. You must give us evidence of expenditure of the **AgBiz Drought loan** funds when requested. These requirements will be contained in your loan agreement and are not imposed by the Guidelines themselves. Evidence of expenditure includes all tax invoices, official receipts, bank statements or other similar records of amounts paid.

When we assess whether a small business has complied with the terms and conditions of the loan agreement in its expenditure and the activities it has undertaken, we will consider the expenditure and activities originally identified in the application form.

12.3 Reporting requirements

If your application has been accepted and you enter into a loan agreement, the loan agreement will require you to provide us with information throughout the term of the loan. Your reporting requirements and the types of information you must give us will be set out in the loan agreement.

13 Conflict of interest

We will take all reasonable measures to ensure that those involved in assessing and making decisions about applications do not have any conflicts of interest.

14 False or misleading information

If we find that any information you have given us in your application is false or misleading, we may take action to recover any funds advanced. We may also refer the matter to the law enforcement authorities of the relevant Australian, state or territory governments.

If you give false or misleading information in your application you may have committed an offence under the *Criminal Code Act 1995* (Cth).

15 Onus on the applicant

When you apply for an **AgBiz Drought loan**, you are responsible for ensuring that:

- you have read and understood these Guidelines and all the documents referred to in these Guidelines
- all information in your application is true and correct to the best of your knowledge.

You are responsible for ensuring that you have read and understood all aspects of:

- the loan agreement and its terms and conditions
- any other documents that we provide.

You should seek advice from your legal and financial advisors before you apply for an **AgBiz Drought loan**. In some circumstances, we may require you to obtain such advice as a condition of approval. If you have questions about business tax, you can contact the Australian Taxation Office call centre on 13 28 66.

16 Privacy

The RIC and the Australian Government may use your personal information to assess your application and administer **AgBiz Drought loans**.

The application form will require you to consent to the RIC and the Australian Government collecting, using and disclosing their personal information to assess your application and administer AgBiz Drought loans, and for any other incidental or related purpose. For example, conducting annual loan reviews.

The RIC and the Australian Government may disclose an applicant's personal information to any party engaged in the assessment or evaluation of the **AgBiz Drought loans**. Disclosure of information may also occur where authorised or required by an Australian law.

The RIC and the Australian Government will store personal information collected through the application form, supporting documents, the loan agreement and any monitoring and evaluation activities in compliance with the *Privacy Act 1988* (Cth).

Your personal information will not be disclosed overseas.

See our privacy policy and the Australian Government's privacy policy to learn more about accessing and correcting personal information or making a complaint. Alternatively, call us on 1800 875 675.

17 Disclaimer

Neither the RIC nor the Australian Government accept any common law duty of care towards applicants in relation to **AgBiz Drought loans** or any information provided about the loans.

Also, the RIC and the Australian Government will not be liable for any loss or damage regardless of how it is caused. This includes:

- damage that results from the negligence of the RIC and the Australian Government
- damage that applicants suffer or incur in relation to **AgBiz Drought loans**
- damage suffered as a result of any information the RIC and the Australian Government provide about the loans.

18 Evaluation

We may conduct periodic evaluations to determine the contribution **AgBiz Drought loans** are making to Australian Government policy objectives. You may be requested to give us information to help us with those evaluations.

19 Review of the guidelines

We may amend or revoke these Guidelines at any time. We will publish revised guidelines on our website.

Glossary

Term	Definition
ABN	An Australian Business Number issued in accordance with the <i>A New Tax System (Australian Business Number) Act 1999</i> (Cth).
adequate standard of living	<p>Small businesses will be assessed as to whether there is sufficient cash surplus from operations to provide adequate living expenses for members who are dependent on the small business (including their relevant family members).</p> <p>Adequate living expenses will be determined based on information provided by the loan applicant. We will consider whether living expenses are reasonable given the particular circumstances of individual households with reference to the Household Expenditure Measure (as a guide), plus adjustments for other expenses as relevant, including housing costs. For example, rent.</p> <p>The Household Expenditure Measure is developed by the Melbourne Institute.</p>
affected area	<p>'Affected areas' as defined in the <i>United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification</i>, done at Paris on 17 June 1994, as shown on the eligible area map</p>

Term	Definition
AgBiz Drought loan	Means a loan of not more than \$500,000 by the Regional Investment Corporation (RIC) to a drought-affected small business, for the purpose of providing working capital for the business or refinancing existing commercial debt owed by the business. This loan program is established by the Regional Investment Corporation (Small Business Drought Loans) Rules 2020.
applicant	The member/s of the small business who lodged an application for a AgBiz Drought loan.
application	Means the application form and associated documentation that an applicant must complete and lodge with the RIC to apply for an AgBiz Drought loan.
drought-affected small businesses	A small business where: <ul style="list-style-type: none"> a) A substantial part of the turnover of the business must be, or have been, from the business supplying, to farm businesses in affected areas, goods or services relating to primary production by those farm businesses b) As a consequence of drought affecting farm businesses in affected areas, there must have been: <ul style="list-style-type: none"> i) A material reduction in the turnover of the business; or ii) A material increase in unsecured debts to the business by farm businesses c) The business must have fewer than 20 employees other than casual employees d) The business must not be a farm business.
external administration	Means, in respect of a body corporate, that an administrator has been appointed in accordance with the <i>Corporations Act 2001</i> (Cth).
farm business	A business that is involved within the agricultural, horticultural, pastoral, beekeeping (apicultural) or aquacultural industries. A farm business must be engaged in primary production activities described under the Australia and New Zealand Standard Industrial Classification 2006 (ANZSIC) 1292.0 (Revision 2.0) Codes 01 Agriculture and 02 Aquaculture, with some exceptions.
GST	Goods and Services tax that is payable under <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth)
loan	Means loans offered by the RIC to help drought-affected small businesses, that supply farm businesses to mitigate the effects of drought on their business and, improve their strength, resilience and profitability in the long term.
loan agreement	A loan agreement between the RIC and a loan recipient in respect of an AgBiz Drought loan.
non-small business assets	The net value of any asset not essential to the effective running of the small business, including: land or property - residential (not used as the primary place of residence) or business, for the applicant or any member of the small business (as applicable). An identifiable non-monetary asset which is without physical substance includes: <ul style="list-style-type: none"> - goodwill, copyright, patents and licences - patented technology, computer software, databases and trade secrets - trademarks, trade dress, newspaper mastheads, internet domains - customer lists - franchise agreements - marketing rights. Life insurance policies and superannuation, provided the superannuation is in a complying superannuation fund for the purposes of the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth) are excluded.

Term	Definition
permanent resident	<p>A permanent resident, for the purpose of the RIC's AgBiz Drought loans, is considered to be:</p> <ul style="list-style-type: none"> • a permanent resident as defined by the <i>Australian Citizenship Act 2007</i> (Cth) or • a New Zealand Citizen who holds a special category visa.
tax and statutory payments	<p>Compulsory monetary contributions demanded by a government and levied on incomes, property, goods purchased or other payments prescribed or authorised by legislation. Examples include:</p> <ul style="list-style-type: none"> • federal taxes • state government taxes • government imposed fines and penalties • court ordered payments. <p>State government taxes</p> <p>For the purpose of AgBiz Drought loans, 'state government payroll tax' is excluded from the definition of tax and statutory payments. Loan funding may be applied to the payment of state government payroll tax as an operating expense (subject to the terms and conditions of individual loan agreements).</p> <p>Council rates</p> <p>For the purpose of AgBiz Drought loans, 'council rates' are excluded from the definition of tax and statutory payments. Loan funding may be applied to the payment of council rates as an operating expense (subject to the terms and conditions of individual loan agreements).</p>
unsecured debt	<p>Means debt that is not collateralised by a valuable asset such as real estate, inventory or plant and equipment, that can be seized (and sold) in the event of non-repayment.</p>