



**WHEDA**

**FARM LOAN GUARANTEE  
PROGRAM**

*LENDER MANUAL*

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## **ABOUT THIS MANUAL**

The Wisconsin Housing and Economic Development Authority (WHEDA®) has been providing agricultural financing products since 1985. This Manual contains important details about the products currently offered.

This Manual shall be effective as of January 4<sup>th</sup>, 2016 (the “Effective Date”). On or after the Effective Date, each Lender must submit a new Participating Lender Agreement (Form 1) and an ACH Agreement (Form 8) prior to submitting a FARM Application (Form 2).

We look forward to working with you to promote agricultural development in Wisconsin.

## **WHO TO CONTACT**

WHEDA has Business Development Officers (BDOs) located throughout the state that are available to assist you. Our CDOs work with local lending institutions, local governments and borrowers to provide information on our products.

For the status on an Application in Process or Origination contact or general information:

WHEDA Commercial Lending Group  
P.O. Box 1728  
Madison, WI 53701-1728  
Toll Free: (800) 334-6873  
Fax: (608) 267-1099

For questions pertaining to servicing, workouts or reporting please contact a portfolio risk officer at:

WHEDA Risk & Compliance  
PO Box 1728  
Madison, WI 53701-1728  
Toll Free: (800) 334-6873  
Fax: (608) 267-1099

Website: [www.wheda.com](http://www.wheda.com)  
General E-mail: [info@wheda.com](mailto:info@wheda.com)

# **ELIGIBILITY**

## **A. ELIGIBLE LENDERS**

Any bank, farm credit service (includes production credit association, federal land credit association and agricultural credit association); credit union, savings bank, savings and loan association, or other entity that makes loans for the acquisition or improvement of agricultural assets is eligible to participate in the Farm Asset Reinvestment Management ("FARM") Guarantee.

### **Becoming a Participating Lender**

The Lender must deliver to WHEDA two (2) **Participating Lender Agreements (PLAs)**, signed by Lender and a completed ACH Agreement. WHEDA's acceptance of a Lender as a Participating Lender is conditioned on WHEDA's receipt of such documents in an acceptable form. Upon receipt of the required documents, WHEDA will sign the PLAs and return a fully executed original PLA to the Lender.

*ALL CURRENT PARTICIPATING LENDERS MUST SUBMIT AN UPDATED PLA AND ACH AGREEMENT IN 2016 TO MAINTAIN THEIR STATUS AS PARTICIPATING LENDERS.*

A bank with multiple branches should complete and submit a single PLA together with a Branch Rider. If and when a branch closure or branch addition/expansion occurs, it is the bank's responsibility to submit an updated Branch Rider to WHEDA with a cover letter explaining the circumstances with respect to which the updated Branch Rider is being submitted.

## **B. ELIGIBLE BORROWERS**

A borrower is *required* to meet the following:

1. Intends to be or currently is engaged in a farming operation in Wisconsin;
2. Intends to operate farm premises, maintain the family farmstead on the farm and has experience farming the specific farm.
3. Based on the specific project, the amount of the Project debt, including the FARM loan, may not exceed 85% of the assets being financed.
4. Has proof of Wisconsin residency or, if a partnership, corporation or association, the legal entity must be registered in Wisconsin;
5. Has sufficient collateral to cover the value of the FARM loan;
6. Is not delinquent in making child support, birthing expense or maintenance payments;

7. Is not in default on any WHEDA loans; and

8. If a startup farmer, the individual(s) has no less than 3 years of farming experience including managing the day to day operations of a farm.

In addition, it is the Lender's responsibility to make the following assurances when evaluating a Farmer's application for participation in FARM:

- The Lender will consider the Borrower's assets, cash flow and managerial ability to repay the loan, and in the Lender's judgment, it is reasonably likely that the Borrower's primary and secondary sources of payment are sufficient to preclude a voluntary or involuntary liquidation before the end of the loan term;
- To the Lender's knowledge, the Borrower is not currently in bankruptcy, has not filed for, and does not anticipate filing bankruptcy (Chapter 7, 11, 12 or 13) at the time of applying for or during the term of the FARM loan; and
- To the Lender's knowledge, the Borrower has no outstanding judgments or tax liens.

### **C. ELIGIBLE USE OF PROCEEDS**

WHEDA's guarantee is valid only on eligible uses of proceeds. Documentation verifying disbursements may be requested at WHEDA's discretion. Eligible uses of proceeds are limited to:

- Acquisition of agricultural assets which are defined as machinery, equipment, buildings, land or livestock to be kept for more than one year.
- Improvements to buildings or land for agricultural purposes.
- Refinance existing debt if farmer is expanding their existing farm operation (the refinanced debt must not exceed 75% of the WHEDA guaranteed loan).
- WHEDA application fee ( this fee may be included in the loan request, but will not be guaranteed).

### **D. INELIGIBLE USE OF PROCEEDS**

Ineligible uses of proceeds include but are not limited to:

- Seller-financed transactions, including land contracts
- Working capital
- Farm residence

- Livestock to be kept for less than one year, specifically, feeder livestock
- Expenses that do not directly increase agricultural production  
Example: A new pickup truck might make a Farmer more efficient, but it usually does not directly contribute to increased production.

If loan proceeds are disbursed for ineligible expenses, those disbursements are not eligible expenses for guarantee payment. Please contact WHEDA before proceeding if you have a questionable expense

# **ORIGINATION PROCEDURES**

## **A. LENDER'S RESPONSIBILITY**

In addition to the eligibility criteria established in the Eligibility Chapter, the Lender will utilize its own prudent underwriting standards when underwriting a FARM loan. The Lender's decision to originate a FARM loan must be supported by the value of the collateral for the FARM loan and the creditworthiness of the Farmer. The Lender is responsible for approving or denying the Farmer's request to obtain the loan.

## **B. LOAN AMOUNT**

Minimum: \$10,000  
Maximum: Unlimited

## **C. GUARANTEE AMOUNT**

WHEDA's guarantee on FARM loans takes effect on the date of the Note and is fixed at the approved guarantee amount throughout the term of the guarantee. It will be the lesser of:

- 25% of the FARM loan; OR
- Borrower's net worth including the FARM loan; OR
- \$100,000 when any other state or federal credit assistance program(s) is tied to the same Note\*; OR
- \$200,000 if no other state or federal credit assistance program(s) is being utilized.\*

\*In order for the Lender to obtain the maximum benefit, WHEDA will allow two separate Notes, one with a FARM guarantee and one with other state or federal credit assistance program(s). The Notes cannot be cross-collateralized.

*Example #1:* Loan amount of \$350,000, Borrower's net worth is \$132,000. Other state or federal loans are being utilized, however, there are two separate Notes and no cross-collateralization is involved.

*The guarantee will be the lesser of:*

25% of the loan amount.....	\$87,500
Borrower's net worth.....	\$132,000
Maximum guarantee allowed.....	\$200,000

Farm guarantee is \$87,500



*Example #2:* Loan amount of \$350,000, Borrower's net worth is \$63,000. No other state or federal loans are being utilized.

*The guarantee will be the lesser of:*

25% of the loan amount.....	\$87,500
Borrower's net worth.....	\$63,000
Maximum guarantee allowed.....	\$200,000

FARM guarantee is \$63,000

#### **D. TERM**

The maximum term of the loan guarantee is:

<u>5 Years</u>	<u>10 Years</u>
Equipment	Land (Acquisition and Improvements)
Machinery	Building (Acquisition and Improvements)
Livestock	

*NOTE:* Separate Notes must be executed for five-year assets versus ten-year assets. For refinanced notes, the term will be determined based on the useful life of the assets financed by the original Note.

#### **E. INTEREST RATE**

The interest rate charged to the Farmer should be the Lender's standard lending rate and is subject to approval by WHEDA.

#### **F. SECURITY FOR THE FARM LOAN**

The Lender will secure each FARM loan in accordance with normal, prudent agricultural lending practices distinct from WHEDA's guarantee. Sufficient collateral must be in place to cover the value of the FARM loan. The security instruments supporting the collateral must be completed correctly and properly filed or recorded.

In the event that a Production Money Security Interest or a Livestock Purchase Money Priority Interest takes priority over the WHEDA FARM loan, notify WHEDA immediately of the change in lien position.

The Lender may not subordinate, release or assign to a third party any collateral securing a FARM loan without written consent from WHEDA.

#### **G. FARM LOAN PACKAGE**

The Lender must submit a complete loan package to WHEDA. WHEDA will review the loan package to determine eligibility and completeness. A complete loan package contains the following:

- Application (FARM Form 2);
- Borrower's Affidavit (FARM Form 3); and
- \$150 non-refundable application fee.

## **H. COMPLETE LOAN PACKAGE**

A complete loan package will be reviewed within one business day of receipt. The review process will not begin until a complete loan package is received by WHEDA.

Loans will be guaranteed by WHEDA on a first-come, first-served basis up to the maximum total principal amount of loans allowed under Wisconsin Statutes.

## **I. INCOMPLETE LOAN PACKAGE**

If an incomplete loan package is received, WHEDA will contact the Lender to request the missing information. The loan package will be placed in an incomplete status for 30 days. If the missing information is not received within that time frame, the loan package will be considered withdrawn.

## **J. DENIAL**

If an application is denied by WHEDA, written notification will be mailed to the Lender. The notification will clearly detail the basis upon which the decision was made. WHEDA will consider a request to re-evaluate an application within 30 days of denial if the Lender can provide information which materially affects the original loan package.

## **K. LOAN APPROVAL AND LOAN AUTHORIZATION**

If the FARM loan package is determined eligible, WHEDA will send the Lender two Loan Authorizations which establish the conditions under which the loan will be guaranteed, such as term, loan amount, guarantee amount, interest rate, etc.

The Loan Authorizations must be signed and dated by the Lender and returned to WHEDA when the loan closes.

## **L. AMENDING TERMS**

To amend any term or condition contained in the Loan Authorization, a written request must be made prior to closing the FARM loan.

To amend a loan guarantee after closing, please see , Section D, Page 15.

## **M. CLOSING TIME FRAME**

Loans that do not involve construction must close within 45 days from the date of the Loan Authorization. For construction loans, 180 days will be allowed.

## **N. EXTENSIONS**

If closing does not occur within the specified time frame, a written request must be forwarded to WHEDA specifying the reason for the delay, the anticipated closing date and certification that there have been no adverse changes in the Farmer's financial condition. Extensions are granted on a case-by-case basis.

## **O. CHANGES TO LOAN AMOUNT**

If the amount of the FARM loan needs to be changed prior to closing, the Lender must submit a new Application (FARM Form 2) to WHEDA. No additional application fee is required. WHEDA will review the request and if the loan is still eligible, WHEDA will issue amended Loan Authorizations.

## **P. INTERIM FINANCING**

When a loan involves construction or installation of specialized equipment, the Lender is required to provide interim financing until the construction or installation is complete. WHEDA's guarantee is not in effect while the interim Note is outstanding. The guaranteed Note may not close until all construction or installation is complete.

## **Q. CLOSING DOCUMENTS**

The documentation to close the loan originates with the Lender and it is the responsibility of the Lender to file and record all necessary financing statements and mortgages. WHEDA will not review any closing documents but will request a copy of the final executed Note. All loans, including the collateralization and the guarantees, must be evidenced by documents which are satisfactory to the Lender, comply with the terms and conditions of the Loan Authorization, and are appropriate for the loan.

Standard Wisconsin Bankers Association (WBA) or Farm Credit Service (FCS) documents should be used. In situations where the lending institution has their own agricultural Note, it may be used as long as it clearly states the terms and conditions of the approved loan.

When completing the loan documents, list the Lender, not WHEDA, as the Lender and secured party to the loan.

## **R. CLOSING PACKAGE**

The Lender must close the loan according to normal lending practices. After closing, the following documents must be forwarded to WHEDA within 15 business days:

1. Signed Loan Authorizations (2);
2. Copy of Note; and

Upon review of all closing documentation, WHEDA will

1. Sign and return one Loan Authorization to the Lender. This signifies your guarantee is in effect.
2. Initiate an ACH of the closing fee, equal to 1% of the guaranteed portion of the loan, from the Lender's account in accordance with the Lender's ACH Agreement.

## **S. ENVIRONMENTAL CONSIDERATIONS**

### **General Environmental Considerations**

When evaluating a loan application, Lenders must be alert to the consequences of hazardous substance contamination at Borrower-owned and/or operated sites. The Lender may be held liable for site restoration costs and any third-party damage claims arising from the contamination if the Lender takes title to contaminated property or if it is determined the Lender "operated" the site either directly or by virtue of exercising a significant degree of management and/or control.

### **Environmental Effects on Collateral**

A lien may be placed on a property for the cost incurred for "cleaning up" the property when a federal or state environmental government agency must intervene to clean up a site. This lien may also take precedence over other liens on the property diminishing any value the collateral has to prior lienholders such as the Lender.

### **Environmental Responsibility**

The Lender bears absolute responsibility for assuring itself that no environmental issues exist which would cause impairment to the collateral offered. Guarantee payment requests may be reduced or denied if environmental issues are present.

## **T. LENDER'S FILE**

The Lender must ensure that all loan documentation is fully and accurately completed, and that appropriate records are kept. Failure to accurately and completely document the FARM loan and properly perfect the Lender's security interest in collateral for that loan may result, at WHEDA's discretion, in termination or reduction in the amount of the guarantee, if a guarantee payment is requested.

The Lender is expected to maintain a complete file on the Borrower. The file must include the original Note and all security documents.

WHEDA reserves the right to audit the Lender's file as it deems necessary.

# **SERVICING**

## **A. SERVICING DEFINITION**

Servicing is the ongoing responsibility of the Lender to maintain and handle the closed FARM loan. Servicing continues until the loan is paid-in-full or, in the case of problem/default loans, until all collateral and guarantee options have occurred.

## **B. GENERAL RESPONSIBILITIES OF THE LENDER**

The Lender is responsible for monitoring and servicing the FARM loan in the same manner that it would monitor and service its portfolio of conventional loans and consistent with the Lender's responsibilities pursuant to this Manual, Participating Lender's Agreement and the loan documents.

### **Access to Files**

Provide WHEDA with access to the Borrower's loan file, as well as other records relative to the Borrower's loan file, if requested.

### **Prompt Notification**

Notify WHEDA within 30 days if there are adverse changes in a Borrower's financial situation or if there is an occurrence or likelihood of an occurrence that would result in the default of the FARM loan.

Prior to taking any action against the Borrower, the Lender must notify WHEDA of the situation. WHEDA understands that on some rare occasions, time is of the essence and prior notification may not always be possible. The Lender is expected, however, to act expeditiously when informing WHEDA of the actions taken. If timely notification is not followed and WHEDA discovers that action, or inaction, of the Lender jeopardized WHEDA's interest in the loan, WHEDA reserves the right to terminate or reduce the level of the guarantee. Actions which require immediate notification to WHEDA include, but are not limited to:

1. Making or consenting to any alteration in the terms of any loan document(s), including accelerating the maturity of the Note
2. Making or consenting to release(s) of collateral
3. Taking legal action necessary to enforce any loan document(s)
4. Waiving any claim against the Farmer, guarantor, obligor or standby creditor arising out of any loan document(s)
5. Assigning Lender's or Farmer's rights or obligations under the loan document(s)
6. Knowledge of any misrepresentations or fraudulent acts committed by the Borrower or guarantor relative to the FARM loan

## **C. SERVICING RESPONSIBILITIES**

Servicing tasks required of the Lender will include, but are not limited to:

- Creating and maintaining a loan file for each FARM loan
- Create, properly complete, and maintain all loan documents
- Keep written records of loan servicing activities, including: repayment records, financial reviews, site visits and inspections, and conversations and correspondence with Borrower
- Maintain valid and current security including, but not limited to: timely UCC filings, continuous insurance coverage and payment of real estate taxes, if applicable
- Collecting payments and appropriately applying to principal and interest and other obligations under the Note
- Performing periodic and/or annual site visits of the Borrower's operations
- Monitoring inventory and collateral. This includes an annual inspection of the collateral and a report to WHEDA on any adverse change(s) in the collateral
- Following up on all loan exceptions (i.e., covenant defaults)
- Monitoring loan for actual and potential default occurrences
- Reviewing and complying with terms of the FARM loan documents on a continuous basis

## **D. AMENDING TERMS AFTER LOAN CLOSE**

### **Terms and Conditions of the Loan Authorization**

To amend any term or condition contained in the Loan Authorization, a written request explaining the reason for amending the term or condition must be submitted to WHEDA. Additional information may be required.

### **Subordination**

The Lender may not subordinate, release or assign to a third party any collateral securing a FARM loan without written consent from WHEDA. The request to subordinate a FARM loan must state why you are requesting the subordination and how it affects the FARM loan and the collateral position.

## **E. ASSUMPTION OF GUARANTEES**

WHEDA will allow a Lender, other than the originating Lender, to assume an existing FARM loan. Contact WHEDA if you are interested in assuming a FARM loan.

After contacting WHEDA, the following steps must be completed:

- 1.
2. A hold harmless agreement must be executed between the existing and proposed Lender. This agreement must absolve the current Lender of all liabilities related to the assigned loan;
3. The existing Note must be assigned in its entirety to the new Lender; and
4. All collateral documents related to the loan must be assigned to the new Lender.

After steps 1-3 are completed, forward all documents to WHEDA. The original Loan Authorization will be amended by WHEDA and a copy of the amendment will be forwarded to the new Lender.

## **F. ANNUAL STATUS REPORT**

In January of each year, WHEDA will send each Lender an Annual Loan Status Report showing all outstanding FARM guarantees. The Lender must report the status and the outstanding principal balance of the loan and return to WHEDA. Failure to return the Annual Loan Status Report could put the guarantee at risk.

## **G. DELINQUENT/IN DEFAULT LOANS**

The Lender is responsible for monitoring the FARM loan in the same manner that it would service its portfolio of conventional loans.

In the event of delinquency/default, the Lender is responsible for notifying WHEDA, using the Monthly Default Loan Status Report (FARM Form 4) within 30 days. Failure by the Lender to provide WHEDA notice on a timely basis may result in termination of WHEDA's guarantee. The Lender is responsible for taking all steps necessary in protecting collateral, rights or other interest of WHEDA's portion of the FARM loan. This includes, but is not limited to, declaring defaults, commencing foreclosure or pursuing other legal action on the collateral and otherwise taking prompt action to ensure maximum recovery from the disposition of the collateral.

In the event that Lender's actions or inactions (including, but not limited to, Lender's negligence) are responsible for, or contribute to, an impairment of the collateral, or in the event that the Lender had actual knowledge of such impairment of collateral and failed to take reasonable steps to prevent or correct it, then WHEDA may be entitled to terminate or refuse to pay the guarantee. It is the Lender's responsibility to keep WHEDA informed



of any action, pending or future, necessary to protect the interest of the Lender and WHEDA.

## **H. NON-ACCRUAL LOANS**

If a FARM loan is delinquent by more than 90 days, it is expected that the Lender will put the loan on a nonaccrual status.

Be aware that WHEDA will only participate in up to 90 days of accrued interest as part of the guarantee payment. See section K, Expense Participation, for additional details.

## **I. WHEN TO REQUEST A GUARANTEE PAYMENT**

WHEDA will not accept a Request for Guarantee Payment (FARM Form 6) prior to the Lender pursuing all liquidation options.

## **J. REQUEST FOR GUARANTEE PAYMENT**

To request a guarantee payment, the Lender must provide the following:

- Request For Guarantee Payment (FARM Form 6);
- A copy of the deficiency judgment;
- A copy of the demand letter, if applicable;
- Statement detailing the final disposition of collateral;
- An accounting of all liquidation costs;
- Copies of closing documentation;
- Current financial statement of the Borrower and/or guarantor;
- Loan Disbursement Record (FARM Form 5) or bank generated computer printout showing disbursements; and
- Bank generated payment history on the FARM loan (including shadow or dummy Notes).

Before WHEDA approves a Request for Guarantee Payment, other information may also be required.

## **K. EXPENSE PARTICIPATION**

In addition to the Guarantee payment, WHEDA will agree to participate in the expenses which were preapproved by WHEDA and related to workout, litigation and/or liquidation. (For purposes of calculating expense participation, up to 90 days of interest will be defined as "expense"). However, WHEDA's exposure will be limited to the lesser of:

- 10% of the original guarantee amount; or
- The guarantee percentage applied against actual expenses.

In no event will the aggregate payment of expenses plus guarantee percentage exceed the original guaranteed amount.

## **L. WHEDA'S REVIEW OF REQUEST FOR GUARANTEE PAYMENT**

WHEDA will process the Request for Guarantee Payment (FARM Form 6) after receipt of all supporting documentation, and determine the final loss within 30 days. The Lender will be expected to show that they have performed in a timely fashion those servicing functions which the Lender would perform in servicing its portfolio of conventional loans, and has complied with all program requirements including those set out or incorporated in the Participating Lender's Agreement, the Loan Authorization and the Manual, as each of those may be modified or supplemented from time to time.

Using its sole discretion, WHEDA must be satisfied that the Lender has made every effort to collect the FARM Loan and obtain any deficiency judgment against the Farmer. If WHEDA is satisfied that these conditions have been met by the Lender, WHEDA will then forward to the Lender the appropriate guarantee payment, as set forth in the Loan documents agreed upon by WHEDA and the Lender.

## **Forms**

FARM 1	Participating Lender's Agreement and Branch Rider (PLA)
FARM 2	Application
FARM 3	Borrower's Affidavit
FARM 4	Monthly Default Loan Status Report
FARM 5	Loan Disbursement Record
FARM 6	Request for Guarantee Payment
FARM 7	Lender Change Form
FARM 8	Authorization Agreement for Automated Clearing House (ACH) Transfer