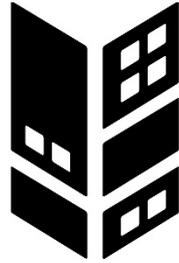


# **ECONOMIC DEVELOPMENT**



# **WEDA**

## **PARTICIPATION LENDING PROGRAM**

### **LOAN MANUAL**

November 18, 2015



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## Introduction

### About This Manual

The Wisconsin Housing and Economic Development Authority (WHEDA®) has been providing small business products since 1985, including industrial revenue bonding and small business loan guarantees. In 2012, WHEDA launched the Participation Lending Program (Participation Lending), partnering with local community lenders, banks, credit unions, economic development corporations, community development financial institutions, small business investment corporations, or other Participating Lenders who provide commercial loans in this state<sup>1</sup>.

WHEDA's Participation Lending program is intended to provide Wisconsin businesses financing that could not otherwise be secured through traditional lending, to create and retain jobs in the State of Wisconsin, and to promote economic development in both rural and urban communities. An emphasis will be placed on participation lending with local and regional lending partners, and will include facility, mezzanine, and gap financing.

In preparing this Manual, our aim has been to make it a simple and easy reference document for Participating Lenders. Please feel free to provide feedback on this Manual or any aspect of our loan product which could be improved. We are working towards constantly improving our products and service.

We look forward to working with you to promote small business development in the State of Wisconsin.

### Who to Contact

WHEDA has a Business Development Group that is available to assist you. Please see the "WHEDA in Your Area" map on our website for a Business Development Officer (BDO) in your area.

Our BDOs work with local lending institutions, local governments, and borrowers to provide product information and training on our products.

We also have Commercial Underwriters and support staff in our Madison office to assist you.

#### General Product Information

(800) 334-6873  
Ask for the Business Development Officer in your county,  
or look on-line at [www.wheda.com](http://www.wheda.com)

#### Status on an Application in Process, Underwriting Questions, Servicing, or Workouts:

(608) 266-7884  
Ask for a Commercial Underwriter

Economic Development Group  
WHEDA  
PO Box 1728  
Madison, WI 53701-1728

Fax: (608) 267-1099  
e-mail: [info@wheda.com](mailto:info@wheda.com)

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<sup>1</sup> Chapter 234.01(5k)

## Eligibility & Program Requirements

Authority for the Participation Lending Program is governed by Wisconsin State Statutes, Chapter 234<sup>2</sup>, and by WHEDA's Members and Members Loan Committee<sup>3</sup>.

Eligibility covers Participating Lender participation requirements, the size of the business, the size of the loan, and the eligible projects that qualify.

### Participation Requirement

WHEDA will participate on an economic development loan<sup>4</sup> that is secured/collateralized<sup>5</sup> and where one or more financial institutions participate<sup>6</sup>. What this means is that WHEDA will require at least 50% participation from another participating lender.

Any local community lenders, banks, credit unions, economic development corporations, community development financial institutions, small business investment corporations, or other Participating Lenders which provide commercial loans in this state are eligible to participate on a loan with WHEDA.

In order to participate, the Participating Lender must enter into a signed Participation Agreement with WHEDA at the time of each loan closing. The Participation Agreement will be a negotiated document which will outline the Participating Lender's and WHEDA's responsibilities, collateral position, and servicing responsibilities for the loan.

### Job Retention and Creation

Job creation and retention is considered when deciding if a loan will be approved. WHEDA will need to determine if the project is expected to eliminate, create, or maintain jobs on the project site and elsewhere in the state and the net number of jobs expected to be eliminated, created, or maintained as a result of the project<sup>7</sup>. Reporting of job numbers, and wage levels, over time to WHEDA will also be required of the Borrower (see Reporting Required of the Business Section below).

### Maximum Size of WHEDA's Loan

The maximum size of a WHEDA economic development loan is \$2 million for its portion of the participation, or 50% of the loan. For example:

Loan Size	WHEDA Participation Max.	Participating Lender
\$2,000,000	\$1,000,000 (50%)	\$1,000,000 (50%)
\$4,000,000	\$2,000,000 (50%)	\$2,000,000 (50%)
\$6,000,000	\$2,000,000 (33%)	\$4,000,000 (67%)

<sup>2</sup> Chapter 234.01 and 234.65 are the primary sections that govern economic development lending.

<sup>3</sup> WHEDA's Loan Policy, as approved by the Members.

<sup>4</sup> Chapter 234.01 (4m) "Economic development loan" means an advance of moneys, supported by a written promise of repayment, to finance an economic development project.

<sup>5</sup> Chapter 234.65(3)(dg), the authority shall not assume unsecured or uncollateralized risk for any economic development loan.

<sup>6</sup> Chapter 234.65(3)(bm), one or more other financial institutions participate in the economic development project.

<sup>7</sup> Chapter 234.65(3)(am).

## Eligible Business/Project

An economic development project<sup>8</sup> will be eligible for the financing of land, plant, or equipment for any of the following:

1. Facilities for manufacturing or commercial real estate activities.
2. National or regional headquarters facilities.
3. Facilities for the storage or distribution of products of manufacturing activities, materials, components or equipment.
4. Facilities for the retail sale of goods or services.
5. Facilities for research and development activities.
6. Recreational and tourism facilities serving to attract visitors to this state.
7. Facilities for the production, packaging, processing or distribution of raw agricultural commodities.
8. Facilities for engaging in the business of operating a railroad.
9. Facilities for recycling<sup>9</sup>.

Activities of a long-term nature, such as research and development, or long-term working capital may also be eligible.

Finally, equipment, materials or labor used to make an energy-conserving improvement to a commercial or industrial facility would also be eligible.

## Other Conditions

Other conditions that must be met include:

1. The economic development project is or will be located in the State of Wisconsin<sup>10</sup>.
2. One or more other financial institutions participate in the economic development project<sup>11</sup>.
3. The authority shall not assume unsecured or uncollateralized risk for any economic development loan<sup>12</sup>.
4. The economic development loan will not be used to refinance existing debt, unless it is in conjunction with an expansion of the business or job creation<sup>13</sup>.
5. The name of the person receiving the loan does not appear on the statewide support lien docket under s. 49.854 (2) (b) or, if the person's name appears on that docket, the person provides to the authority a payment agreement that has been approved by the county child support agency under s. 59.53 (5) and that is consistent with rules promulgated under s. 49.858 (2) (a)<sup>14</sup>.

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<sup>8</sup> Chapter 234.01 (4n).

<sup>9</sup> As defined by Section 287.13(1)(h).

<sup>10</sup> Section 234.65(3)(c).

<sup>11</sup> Section 234.65(3)(bm).

<sup>12</sup> Section 234.65(3)(dg).

<sup>13</sup> Section 234.65(3)(e). This would not apply to an economic development loan for equipment, materials or labor used to make an energy-conserving improvement to a commercial or industrial facility.

<sup>14</sup> Section 234.65(3)(f).

6. WHEDA has estimated whether the project is expected to eliminate, create or maintain jobs on the project site and elsewhere in this state and the net number of jobs expected to be eliminated, created or maintained as a result of the project<sup>15</sup>.

### **Other Considerations and Preferences**

WHEDA may finance an economic development loan only after considering all of the following<sup>16</sup>:

1. The extent to which an economic development project will maintain or increase employment in this state.
2. Whether an economic development project will be located in an area of high unemployment or low average income.
3. The number of financial institutions participating in the economic development project.
4. The extent to which the activities constituting the economic development project otherwise would not occur.

WHEDA shall also give preference to businesses<sup>17</sup>:

1. Which are more than 50% owned or controlled by women or minorities.
2. That, together with all of their affiliates, subsidiaries and parent companies, have current gross annual sales of \$5,000,000 or less or that employ 250 or fewer persons.
3. That have less than 50% of their ownership held or controlled by another business and have their principal operations in the State of Wisconsin.

### **Reporting Required of the Business**

1. Any economic development loan that a business receives from WHEDA to finance a project shall require the business to submit to WHEDA within 12 months after the project is completed or 2 years after a loan is issued to finance the project, whichever is sooner, the net number of jobs eliminated, created or maintained on the project site and elsewhere in this state as a result of the project<sup>18</sup>.
2. Some projects may involve funds from Federal, State, or local sources. WHEDA does not interpret or provide guidance related to these publicly funded activities. All requirements as to rules and regulations compliance, and specifically as to the Davis-Bacon Act, are the sole responsibility of the Borrower. For additional, specific guidance on the Davis Bacon Act, contact the Wisconsin Department of Workforce Development. Other compliance requirements should be obtained from the funding entity.

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<sup>15</sup> Section 234.65(3r).

<sup>16</sup> Section 234.65(2)(a), but would not apply to an economic development loan for equipment, materials or labor used to make an energy-conserving improvement to a commercial or industrial facility.

<sup>17</sup> Section 234.65(1)(g).

<sup>18</sup> Section 234.65(3r). However, the reporting requirement does not apply to an economic development loan for equipment, materials or labor used to make an energy-conserving improvement to a commercial or industrial facility.

## **Loan Process**

### **Application**

The credit review process **will not begin** until all requested information is received by WHEDA. See the loan checklist in Exhibit A. A non-refundable application fee of \$250 is also required to process and underwrite any Loan. If the Loan closes, the application fee will be credited to the loan closing costs.

### **Incomplete Submission**

If incomplete information is received, WHEDA or the Participating Lender will request the missing information. The Borrower will have 30 days to submit the missing information to WHEDA and the Participating Lender. If the information is not received, the application will be considered withdrawn, and the application fee will not be refunded. WHEDA's review of the application is deferred pending receipt of the missing information.

### **Underwriting**

WHEDA's underwriting will include a review of the information package submitted by the Borrower and/or Participating Lender. The Borrower's business will be evaluated against WHEDA's credit criteria.

WHEDA will work closely with the Participating Lender and Borrower to clarify any unclear information and to negotiate and structure a final recommendation. WHEDA may visit the business as part of the review and may also require the Business to present to one of WHEDA's loan committees.

Please see the Underwriting/Credit Criteria Section for further information.

### **Loan Committee**

WHEDA has three loan committees.

The Department Loan Committee is comprised of WHEDA underwriters and management and can approve participation loans, where WHEDA's participation is under \$250,000.

The Internal Loan Committee is comprised of WHEDA management and staff. Approval from the ILC is needed for any loan where WHEDA's participation is \$250,000 or greater. The Members Loan Committee is a subcommittee of WHEDA's Board Members. Approval from both committees is needed for any loan where WHEDA's participation is \$1,000,000 or greater.

WHEDA will notify the Participating Lender and/or Borrower by phone of the committee's decision following the meeting.

### **Terms and Conditions, Including Participation**

A draft of the proposed terms and conditions will be discussed with the Participating Lender before they are presented to the appropriate committee. The Participating Lender and WHEDA must concur with terms and conditions, including loan structure, loan rate, fees, collateral and collateral position, and servicing responsibility prior to the scheduled loan presentation.

### **Loan Commitment Letter**

Upon approval of a loan, WHEDA will send the Participating Lender a Loan Commitment Letter, which outlines the specific terms of WHEDA's participation. To amend any term or condition contained in the Loan Commitment Letter, a written request must be made prior to closing the proposed loan. WHEDA will consider the request, but may require additional information and/or take the request to loan committee for approval.

One half of the loan origination fee is due with the receipt of the signed commitment letter. If the signed commitment letter and fee payment is not received by WHEDA within fifteen (15) days of the date of the Loan Commitment Letter, WHEDA's commitment shall be deemed withdrawn.

**Denial**

The denial of an application will result in written notification to the Participating 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 Participating Lender and/or Borrower can provide information which materially affects the original application and supporting documentation.

**Closing Timeframe**

Loans must close within 45 days from the date of the Loan Commitment Letter. If the Participating Lender is unable to close the loan within 45 days, please contact WHEDA to request an extension. WHEDA will consider extensions on a case-by-case basis. WHEDA reserves the right to review the current financial status of the Borrower to assure that no adverse changes have occurred from the time of the original approval. If there are adverse changes, WHEDA may revise its original Loan Commitment Letter to account for the additional risk or negotiate other changes to the original approval.

If the loan commitment is for permanent financing and the project is in the construction phase, the permanent loan must close within 180 days from the date of the Loan Commitment Letter, with the extension processes outlined above in affect.

**Closing Documents**

Standard Wisconsin Bankers Association (WBA) documents should be used when possible. In situations where the Participating Lender has their own Business Note, it may be used as long as it clearly states the terms of the approved loan. If the Borrower wants to make changes to the terms and conditions, WHEDA will require that the changes be reviewed by a WHEDA approved attorney at the Borrower's expense.

**Closing Costs**

The Borrower is responsible for all costs related to the loan closing, including legal and filing fees.

**Origination Fee**

An origination fee is required in most cases. One half of the origination fee is due with the signed Loan Commitment Letter, with the remainder due at closing. The amount of the origination fee is based on the loan structure, complexity, and risk, but will typically be in the neighborhood of 3%, with a minimum fee of \$3,000.

**Servicing**

The Participation Agreement between WHEDA and the Participation Lender will dictate the party who will have servicing and primary contact responsibilities with the Borrower, including construction draw management responsibilities if applicable. However, both WHEDA and the Participation Lender will be required to maintain a complete loan file on the Borrower. This may include, but may not be limited to, environmental reports, appraisals, market studies, surveys, plans and specifications, financial statements, and borrowing resolutions.

Please see the Servicing Section for further information.

## Underwriting/Credit Criteria

WHEDA reviews up to nine criteria, depending on loan type, when it underwrites a Loan. These criteria make the underwriting process more objective and predictable for WHEDA, Participating Lenders, and Borrowers. A Quick Reference to Underwriting Guidelines is outlined at the end of this chapter.

If some of the criteria do not meet established guidelines, but can be offset or mitigated to reduce the loan's risk, the loan can still be approved. However, any exceptions to underwriting guidelines will be scrutinized.

The underwriting is also subject to a quantitative risk rating system to assist in making the credit decision and in setting the risk based pricing of the loan.

For startup businesses<sup>19</sup>, the guidelines are different for owner's equity, market, management and business tenure than they are for existing businesses. Refer to the appropriate guidelines below.

### Criteria Defined

#### Debt Service Coverage:

The ratio between net operating cash flow and proforma debt service. Net operating cash flow is defined as net sales minus cost of goods sold and cash operating expenses (excluding interest expense). Proforma debt service includes the principal and interest payments on all term debt.

Guideline: The minimum projected debt service coverage is 1.2x based on all of the Borrower's debt as an average over two years where no single year is below 1.0x. For commercial developers, minimum projected debt service coverage of 1.2x after lease-up is achieved (interest reserves will be required to maintain minimum DCR levels during lease-up/stabilization). For all Borrower's, global debt service coverage will be established and must meet a minimum 1.3x.

#### Collateral Coverage:

The ratio of net available collateral after applying standard liquidation factors and subtracting liens to the amount of the proposed loan. This ratio will also be calculated using the collateral's estimated market value.

Guideline: This criteria's minimum guideline is 110% using estimated market values and 80% using standard liquidation factors. The value of any personal assets securing a personal guarantee can be included when calculating coverage.

#### Loan to Value:

The ratio between the loan amount and the property value.

Guideline for Commercial Developers: Lesser of 85% loan-to-appraised value or loan-to-cost. A third party appraisal is required. WHEDA or the Participating Lender must select the Appraiser.

#### Mission:

The economic development project must retain and create jobs in Wisconsin, demonstrate strong community support and meet all eligibility requirements of the program.

Guideline: The Borrower must meet all eligibility requirements.

#### Owner's Equity:

The amount of cash or non-cash contribution made by the owner to the project.

Guideline for Existing: The guideline is for a cash or non-cash contribution of no less than 10%.

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<sup>19</sup> A startup business is defined as having less than 12 months operating history to review.

Businesses: Non-cash equity may include items such as land, equipment, or complete standby debt. Cash contributions may also be in the form of gifts or home equity loans.

Guideline for Commercial Developers: The guideline is for a cash and non-cash contribution of no less than 15%, with the cash portion being no less than 10%. Cash portion must be in the form of cash or grants.

Guideline for Startup Businesses: The guideline is for a cash contribution of no less than 15%.

**Debt to Worth Ratio:**

The ratio of all business term debt to business net worth. All intangible assets should be subtracted from net worth.

Guideline: The debt to tangible net worth ratio must not exceed 4:1 unless the Borrower operates in an industry where the average ratio is higher than 4:1. WHEDA uses RMA (Robert Morris Associates) median industry standards.

WHEDA focuses on business debt when it reviews this criterion. Personal debt will be evaluated as part of the management review.

**Liquidity Ratio:**

The ratio of current assets to current liabilities.

Guideline: The established guideline is for a ratio of at least 1.2:1.

All proforma working capital must be included when calculating this ratio. Current liabilities must include items that are due within 12 months, including the current portion of long term debt.

**Market/Business Plan:**

Where the Borrower's product or service is sold and to whom it is sold.

Guideline for Existing Businesses: The Borrower must be able to show that a market exists for the products offered and that they operate in a stable industry. The Borrower's competition must be identified and the Borrower must discuss how it will differentiate itself from competitors.

Guideline for Commercial Developers: Market demand for commercial space is demonstrated by a detailed written market analysis completed by a third party.

Guideline for Startup Businesses: The Borrower must be able to show that a market exists for the products offered based upon a detailed market analysis. The Borrower's competition must be identified and the Borrower must discuss how it will differentiate itself from competitors.

The market analysis should provide written documentation and support for the Borrower's claims, which may be identified in the Borrower's business plan. Examples of written documentation may include surveys, questionnaires, and letters of support from community officials, traffic count studies, demographic and statistical data.

**Management Review:**

The key individuals or officers that execute the business plan.

Guideline for Existing Businesses: The proposed or existing management team must have a minimum two years of experience in the field they are/will be operating in or they must be able to show that other work experience has prepared them to be successful in their business. Global cash flow, personal debt, and credit scores will also be evaluated.

Guideline for Commercial Developers: The key individuals involved in the development project must have at least two successful projects completed, leased-up, and have demonstrated positive cash flow for the last 12 months. Global cash flow, personal debt, and credit scores will also be evaluated.

Guideline for Startup Businesses: The proposed management team must have a minimum two years of management level experience in the industry that the Borrower wishes to pursue. Global cash flows, personal debt, and credit scores will also be evaluated.

**Business Tenure:**

The length of time the business has operated.

Guideline for Existing Businesses: When the loan request involves the purchase of an existing business, the acquired business must have been in operation for at least one full fiscal year (twelve months).

If the Borrower is an existing business, it must be able to show satisfactory historical financial performance. Satisfactory performance means that the company can show steady growing revenues and profitability, and an ability to service its existing and proposed debt. If the Borrower's performance has not been satisfactory, a detailed explanation must be included in the application.

## Quick Reference to Underwriting Guidelines

Criteria	Guideline
Debt Service Coverage	Minimum projected debt service coverage of 1.2x based on all the Borrower's debt as an average over two years and where no single year is below 1.0x. <u>For Commercial Developers:</u> Minimum projected debt service of 1.2x after lease-up is achieved.
Collateral Coverage	Minimum collateral coverage of 110% using estimated market values. Minimum collateral coverage of 80% using standard liquidation values.
Loan to Value	<u>For Commercial Developers:</u> The lesser of 85% loan-to-appraised value or loan-to-cost. A third-party appraisal is required.
Mission	The project retains and creates jobs, has demonstrated community support and meets the eligibility requirements of the program.
Owner's Equity	<u>For Existing Businesses:</u> Cash or non-cash equivalent equity of no less than 10% of total project costs. <u>For Startup Businesses:</u> Cash equity of no less than 15% of total project costs. <u>For Commercial Developers:</u> Cash equity of no less than 10%, with a combined cash and non-cash contribution of 15%.
Leverage (Debt/Worth)	Debt to tangible net worth ratio of 4:1 or less. The acceptable ratio may vary based on published RMA (Robert Morris Associates) median industry standards.
Liquidity (Current Ratio)	Current ratio of 1.2:1 or better.
Market	<u>For Existing Businesses:</u> The Borrower is in an industry experiencing stable trends and/or the Borrower has a favorable competitive position and there is demonstrated market demand for the Borrower's product or service. <u>For Startup Businesses:</u> The proposed business will have a favorable competitive position and can demonstrate market demand for the Borrower's product or service based upon a detailed written market analysis. <u>For Commercial Developers:</u> Market demand for commercial space is demonstrated by a detailed written market analysis completed by a third party.
Management	<u>For Existing Businesses:</u> Management has a minimum of two years experience in related business ventures. <u>For Startup Businesses:</u> Management has a minimum of two years management level experience in the industry that Borrower wishes to pursue. <u>For Commercial Developers:</u> The key individuals involved in the development project must have at least two successful projects completed, leased-up, and have demonstrated positive cash flow.
Business Tenure	<u>For Existing Businesses:</u> a) The business has been in operation for at least one full fiscal year. b) The business can document satisfactory historical performance.

## **Servicing**

Servicing is the continual responsibility of either the Participating Lender or WHEDA, based on the negotiated terms in the Participation Agreement (the Servicer). Servicing continues until the loan is paid-in-full, or, in the case of problem/default loans, until all collateral and workout options have been exhausted.

### **General Responsibilities of the Servicer**

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

### **Access to Files**

The Servicer must provide access to the Borrower's loan file, as well as other records relative to the Borrower's loan file, to the parties listed on the Participation Agreement, if requested.

### **Prompt Notification**

The Servicer must notify the parties listed on the Participation Agreement within thirty (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 Loan.

Prior to taking any action against the Borrower, the Servicer must notify the parties listed on the Participation Agreement of the situation.

Actions which require immediate notification to the parties listed on the Participation Agreement include, but are not limited to:

1. Borrower is prohibited from incurring outside business debt, except for those payables accrued in the normal course of business, without the written consent of the Participating Lenders and WHEDA.
2. Deferral of payment.
3. Making or consenting to any alteration in the terms of any loan document.
4. Making or consenting to release(s) of collateral.
5. Accelerating the maturity of the Note.
6. Taking legal action necessary to enforce the documents.
7. Waiving any claim against the Borrower, guarantor, obligor or standby creditor arising out of any loan document.
8. Assigning Participating Lender's or Borrower's rights or obligations under the Loan Document(s).
9. Knowledge of any misrepresentations or fraudulent acts committed by the Borrower or any guarantor relative to the loan.

### **Servicing Responsibilities**

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

1. Creating and maintaining a loan file for each loan.
2. Creating, properly completing, and maintaining all loan documents.

3. Keeping written records of loan servicing activities including: repayment records, financial reviews, site visits and inspections, and conversations and correspondence with Borrower and Participating Lenders.
4. Maintaining valid and current security including, but not limited to, timely UCC filings, continuous insurance coverage and payment of real estate taxes, if applicable.
5. Collecting payments and appropriately applying to principal and interest and other obligations under the Note.
6. Monitoring construction draws, if any, including verification through physical inspection that the applicable work has been completed prior to distribution of the funds.
7. Receiving, analyzing, and forwarding to the parties listed on the Participation Agreement financial statements according to the terms of the Loan Document(s).
8. Performing periodic and/or annual site visits of the Borrower's operations.
9. Monitoring collateral.
10. Following up on all loan exceptions (i.e., covenant defaults).
11. Monitoring the loan for actual and potential default occurrences.
12. Reviewing and complying with terms of the loan documents on a continuous basis.
13. Collecting employment data from the borrower within 12 months after the project is completed or 2 years after a loan is issued to finance the project, whichever is sooner. The employment information will include the net number of jobs eliminated, created or maintained on the project site and elsewhere in this state as a result of the project<sup>20</sup>.

### **Delinquent/Defaulted Loans**

The Servicer is responsible for monitoring the loan. This includes, but is not limited to, sending out timely past due, Right to Cure and demand notices to bring the loan current.

The Servicer must also take all steps necessary to protect the collateral, rights or other interest of the loan. These actions may include 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.

A loan delinquency/default may be either monetary or non-monetary as defined below.

#### **Monetary Delinquency/Default**

WHEDA defines a monetary delinquency/default to be the failure to receive a complete principal and interest payment on a loan within thirty (30) days of its due date.

In the event of a monetary delinquency/default, the Servicer is responsible for notifying the parties listed on the Participation Agreement within thirty (30) days after payment is due. Monthly reports must be provided as long as the delinquency continues.

#### **Non-Monetary Delinquency/Default**

A non-monetary delinquency/default occurs when a Borrower or Participating Lender has violated any of the terms and conditions of the loan documents and agreements.

Some examples of a non-monetary delinquency/default include:

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<sup>20</sup> Section 234.65(3r). However, the reporting requirement does not apply to an economic development loan for equipment, materials or labor used to make an energy-conserving improvement to a commercial or industrial facility.

1. Releasing guarantors.
2. Releasing or substituting collateral without consent.
3. Failing to maintain required insurance policies.
4. Incurring additional borrowings without consent.
5. Modifying terms of the Note.

In the event of a non-monetary delinquency/default, the Servicer must immediately notify the parties listed on the Participation Agreement in writing. A Commercial Underwriting Officer will be assigned to the delinquent or non-performing loan. Contact should be maintained with this Commercial Underwriting Officer. Courses of action may include, but are not limited to:

1. Modifying the terms of the loan.
2. Refinancing the loan.
3. Beginning to liquidate the collateral and applying the proceeds per the Participation Agreement requirements.

#### **Collateral**

The Servicer must obtain a security interest in the physical plant, equipment, machinery, or other assets of the business and/or owner(s). In addition, personal guarantees will usually be required.

#### **Other Terms and Conditions**

WHEDA reserves the right to require additional terms and conditions that may include: limitations on owner draws, salary, capital expenditures, dividends, etc.

## Term Sheet – WHEDA Participation Lending

Purpose	WHEDA's participation lending program will provide Wisconsin businesses financing that could not otherwise be secured through traditional lending, to create and retain jobs in the State of Wisconsin, and to promote economic development in both rural and urban communities. WHEDA will participate with local and regional lending partners, and will include collateralized facility, mezzanine, and gap financing.
Eligible Borrowers	For-Profit, non-profits, cooperatives, or other entities meeting criteria established by WHEDA.
Eligible Projects	<p>Projects demonstrating job retention/creation, strong community support, and which qualify under 1), 2), or 3) below.</p> <p>1) Land, plant or equipment for any of the following:</p> <ol style="list-style-type: none"> <li>a. Facilities for manufacturing or commercial real estate activities.</li> <li>b. National or regional headquarters facilities.</li> <li>c. Facilities for the storage or distribution of products of manufacturing activities, materials, components, or equipment.</li> <li>d. Facilities for the retail sale of goods or services.</li> <li>e. Facilities for research and development activities.</li> <li>f. Recreational and tourism facilities serving to attract visitors to this state.</li> <li>g. Facilities for the production, packaging, processing or distribution of raw agricultural commodities.</li> <li>h. Facilities for engaging in the business of operating a railroad.</li> <li>i. Facilities for recycling.</li> </ol> <p>2) Activities of a long-term nature, such as research and development, or long-term working capital.</p> <p>3) Equipment, materials, or labor used to make an energy-conserving improvement to a commercial or industrial facility.</p>
Rate	Risk based: Expected Range is 10-Year Treasury plus 2.5% - 6%
Term	Fixed Assets – up to 10 years. Real Estate – up to 15 years.
Participation Requirement	A minimum of 50% of the total project lending to be made by a Participating Lender(s).
Loan Size	Maximum WHEDA participation is \$2 million.
Collateral	Subordinate lien positions may be considered on a case by case basis.
Loan-to-Value	Maximum 85% LTV on a project basis.
Debt Coverage Ratio	1.20 – minimum
Collateral Coverage	110% of market value, 80% of liquidation value - minimum
Loan Guarantees	Personal guarantees will be requested.
WHEDA Origination Fee	Up to 3%. One half due upon loan approval and one half due at closing.
Application Fee	\$250, non-refundable but will be credited at closing.
Loan Closing Fees	Borrower to pay all loan closing fees.
Repayment Provision	To match Participating Lender's requirement.

# Exhibit A: Loan Checklist



## Participation Loan Program Loan Checklist

<b>BORROWER /CONTACT</b> _____	<b>NAME OF BUSINESS</b> _____
<b>BORROWER ADDRESS</b> _____	<b>CITY, STATE, COUNTY</b> _____
<b>BORROWER EMAIL</b> _____	<b>BORROWER PHONE #</b> _____
<b>PARTICIPATING LENDER</b> _____	<b>LOAN OFFICER/CONTACT</b> _____
<b>LENDER ADDRESS</b> _____	<b>CITY, STATE, COUNTY</b> _____
<b>LENDER EMAIL</b> _____	<b>LENDER PHONE #</b> _____

**PART I: PROJECT AND BORROWER INFORMATION:**

- \_\_\_\_\_ 1. Non-refundable Application Fee of \$250
- \_\_\_\_\_ 2. Completed Borrower Application Form with Participating Lender, if required. If the Participating Lender Application includes any of the information being requested below, please reference the Application
- \_\_\_\_\_ 3. Business Plan
- \_\_\_\_\_ 4. Sources and Uses of Funds for the project
- \_\_\_\_\_ 5. Number of full time jobs being created/retained with salaries above and below \$23,000/year
- \_\_\_\_\_ 6. List of all owners with their Social Security number and percent ownership in the business
- \_\_\_\_\_ 7. Description of the business and proposed project
- \_\_\_\_\_ 8. Resumes of key management and any owners with 20% or more ownership in the business
- \_\_\_\_\_ 9. Bylaws/Operating Agreement/Partnership Agreement
- \_\_\_\_\_ 10. Articles of Incorporation/Organization
- \_\_\_\_\_ 11. Community Support Letters (if any)
- \_\_\_\_\_ 12. Copies of Commitment Letters from other project funding sources
- \_\_\_\_\_ 13. Other Project Documentation **as applicable to the project**
  - ✓ Offers to Purchase
  - ✓ Bids or Estimates on Construction Costs
  - ✓ Evidence of Site Control
  - ✓ Purchase Agreement
  - ✓ Cost Breakdown of Equipment and Machinery
  - ✓ Market Study Analysis
  - ✓ Property Survey



# Participation Loan Program Loan Checklist

BORROWER /CONTACT	_____	NAME OF BUSINESS	_____
BORROWER ADDRESS	_____	CITY, STATE, COUNTY	_____
BORROWER EMAIL	_____	BORROWER PHONE #	_____
PARTICIPATING LENDER	_____	LOAN OFFICER/CONTACT	_____
LENDER ADDRESS	_____	CITY, STATE, COUNTY	_____
LENDER EMAIL	_____	LENDER PHONE #	_____

**PART I: PROJECT AND BORROWER INFORMATION:**

- \_\_\_\_\_ 1. Non-refundable Application Fee of \$250
- \_\_\_\_\_ 2. Completed Borrower Application Form with Participating Lender, if required. If the Participating Lender Application includes any of the information being requested below, please reference the Application
- \_\_\_\_\_ 3. Business Plan
- \_\_\_\_\_ 4. Sources and Uses of Funds for the project
- \_\_\_\_\_ 5. Number of full time jobs being created/retained with salaries above and below \$23,000/year
- \_\_\_\_\_ 6. List of all owners with their Social Security number and percent ownership in the business
- \_\_\_\_\_ 7. Description of the business and proposed project
- \_\_\_\_\_ 8. Resumes of key management and any owners with 20% or more ownership in the business
- \_\_\_\_\_ 9. Bylaws/Operating Agreement/Partnership Agreement
- \_\_\_\_\_ 10. Articles of Incorporation/Organization
- \_\_\_\_\_ 11. Community Support Letters (if any)
- \_\_\_\_\_ 12. Copies of Commitment Letters from other project funding sources
- \_\_\_\_\_ 13. Other Project Documentation **as applicable to the project**
  - ✓ Offers to Purchase
  - ✓ Bids or Estimates on Construction Costs
  - ✓ Evidence of Site Control
  - ✓ Purchase Agreement
  - ✓ Cost Breakdown of Equipment and Machinery
  - ✓ Market Study Analysis
  - ✓ Property Survey

## Exhibit B: Borrower Declarations



### Loan Participation Program Borrower Attestations

*To be completed by borrower*

BORROWER /CONTACT \_\_\_\_\_

NAME OF BUSINESS \_\_\_\_\_

BORROWER ADDRESS \_\_\_\_\_

CITY, STATE, COUNTY \_\_\_\_\_

BORROWER EMAIL \_\_\_\_\_

BORROWER PHONE # \_\_\_\_\_

BORROWER FAX # \_\_\_\_\_

PARTICIPATING LENDER \_\_\_\_\_

LOAN OFFICER/CONTACT \_\_\_\_\_

LENDER ADDRESS \_\_\_\_\_

CITY, STATE, COUNTY \_\_\_\_\_

LENDER EMAIL \_\_\_\_\_

<b>BORROWER DECLARATIONS</b>
------------------------------

- |   |                              |                             |  |
|---|------------------------------|-----------------------------|--|
| <p>1. Are all of the ownership parties U.S. Citizens?<br/>If no, attach copy of Alien Registration Card (Form I 688 or I 551)</p>   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
| <p>2. Have any of the parties ever been convicted of any criminal offense<br/><u>other</u> than minor motor vehicle violations?<sup>2</sup></p>   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
| <p>3. Do any unsatisfied judgments exist against any ownership parties, principal(s)<br/><u>or</u> any related party?<sup>2</sup></p>   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
| <p>4. Have any of the parties ever been involved in any litigation, including<br/><u>real</u> estate foreclosure or bankruptcy within the past 7 years?<sup>2</sup></p>   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
| <p>5. Are any of the parties delinquent in child support or maintenance payments?<sup>2</sup></p>   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
| <p>6. Are any of the parties delinquent on any of the following taxes:<br/>Federal Income, State Income, FICA, Unemployment, Real Estate,<br/>Personal Property, Sales &amp; Withholdings?<sup>2</sup></p>  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |
| <p>7. Does the proposed loan provide financing for any of the following?</p> <ul style="list-style-type: none"> <li>• Facilities for manufacturing activities</li> <li>• National or regional headquarters facilities</li> <li>• Facilities for the storage or distribution of products of manufacturing activities, materials, components or equipment</li> <li>• Facilities for the retail sale of goods or services to consumers</li> <li>• Facilities for research and development activities relating to productions of tangible products</li> <li>• Recreational and tourism facilities serving to attract visitors to this state</li> <li>• Facilities for the production, packaging, processing or distribution of raw agricultural commodities</li> <li>• Facilities for engaging in the business of operating a railroad</li> <li>• Facilities for recycling</li> </ul> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |  |

\*If any of the questions 2-6 or 10-11 were answered "Yes", attach a detailed explanation signed and dated by the borrower(s).



# Loan Participation Program Borrower Attestations

- 8. Is the project financed by the proposed loan located in the State of Wisconsin?  Yes  No
- 9. If the proposed loan being used to refinance debt not in conjunction with job creation or business expansion?  Yes  No

The undersigned, on behalf of the borrower, hereby certifies that:

1. The information presented in this application and the accompanying supporting information is true and accurate and has been prepared with due diligence. The borrower understands that submitting false or misleading information in connection with this application may result in the borrower being found ineligible for financial assistance. The borrower further understands that the legal implication of receiving public or private funds or other property as a consequence of false representations and the use of such funds for any purposes other than those stated constitutes an act of fraud.
2. The borrower further acknowledges that this information is being submitted to the Wisconsin Housing and Economic Development Authority ("WHEDA") to assist in determining whether to provide the proposed loan. The borrower acknowledges that WHEDA reserves the right to request additional information it deems necessary in making its decision.
3. The borrower agrees to provide WHEDA within 12 months after the project is completed or two years after a loan is issued to finance the project, whichever is sooner, the net number of jobs eliminated, created, or maintained on the project site and elsewhere in this state as a result of the project.
4. The borrower agrees to indemnify and hold harmless WHEDA, its members, officers, employees and agents, from and against any and all claims, suits, damages, costs and expenses arising out of WHEDA's review of and decisions with regard to the application. WHEDA's analysis and review of the application and related documentation is for their own purposes. The borrower is not entitled to rely on such analysis and review. WHEDA is not responsible for any actions taken by the borrower in reliance on a prospective loan commitment from WHEDA. WHEDA is not liable for damages resulting directly or indirectly from such actions. A financing commitment does not exist until WHEDA has issued a Loan Authorization.
5. The borrower, by initialing the line below, grants permission to WHEDA to issue a press release of the Loan Approval.  
\_\_\_\_\_ Owner/Borrower Initials

If borrower is a sole proprietorship or partnership, sign below:

By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

If borrower is a corporation, sign below:

Corporation Name: \_\_\_\_\_  
 By President: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Mail to: Economic Development  
 WHEDA  
 201 West Washington Ave.  
 Suite 700  
 Madison WI 53703