



**2016 AGRICULTURAL
PRODUCTION DISASTER
ASSISTANCE
LOAN GUARANTEE
PROGRAM**

LENDER FINANCING MANUAL

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INTRODUCTION

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 current Agricultural Production Disaster Assistance Loan Guarantee Program, and is updated yearly in order to reflect necessary program enhancements.

In preparing this Manual, our intention has been to make it simple and easy to use. It is highly recommended that this manual is read thoroughly prior to originating any Disaster-guaranteed loans for the given calendar year in order to fully understand and comply with program guidelines.

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

WHO TO CONTACT

We have staff in our Madison office to assist you. For Disaster program-related inquiries, please contact:

For the status on an Application in Process or Origination 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
General E-mail: info@wheda.com

All forms referenced in this manual and utilized for the Disaster loan guarantee program can be found on our website at: www.wheda.com

ELIGIBILITY

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 agricultural production disaster assistance loans.

Becoming a Participating Lender

The Lender must submit a signed Participating Lender's Agreement (Form 1) to WHEDA. The Participating Lender's Agreement (PLA) is an agreement executed by the Lender and WHEDA which indicates the Lender's willingness to make loans in accordance with the terms and conditions established in this manual. A Lender wishing to originate Disaster Assistance loans must meet the criteria defined in the PLA. Once approved, WHEDA will sign the PLA and return a copy to the Lender. WHEDA must have a completed PLA on file prior to processing any Disaster Assistance Loan Guarantee applications for the Lender.

Each financial institution will have a "parent branch" which signs the PLA and is assigned a Lender Number specific to that location as a reference for WHEDA. Each associate branch will also have a unique Lender Number, but does not need to sign a separate PLA. Contact information must be provided for each branch/Lender Number.

If the Lender fails to meet any of the criteria defined in the PLA at any time while participating in the Disaster program, the Lender must immediately notify WHEDA.

Farm Supply Cooperatives

A farm supply cooperative wishing to originate Disaster loans must meet the following criteria:

1. Cooperative must be duly organized, validly existing, and registered to operate under the requirements established in Chapter 185 of Wisconsin Statutes
2. Cooperative must have a credit policy in force and have the managerial ability, staff, and procedures to implement the credit policy, including (but not limited to) billing, collection, workouts, and foreclosures
3. Cooperative must operate under the guidance of a board of directors through a general manager
4. Cooperative must be duly authorized by all corporate actions to originate Disaster Assistance loans
5. Cooperative must be financially solvent, not involved in bankruptcy or any other liquidation proceedings for the benefit of creditors, and financially able to clear the risk of a loss of any Disaster Assistance loan

If the farm supply cooperative fails to meet any of these criteria or any of the criteria defined in the PLA at any time while participating in the Disaster Assistance Loan Guarantee program, the farm supply cooperative must immediately notify WHEDA.

ELIGIBLE BORROWERS

At a minimum, a Borrower must meet the following program guidelines in order to be eligible for a Disaster Assistance loan guarantee:

1. Unable to obtain conventional financing at reasonable terms
2. The amount of the farmer's debts related to the production of the agricultural commodity that is the subject of the guaranteed loan totals at least 40% of the amount of the farmer's assets related to the production of the agricultural commodity that is subject of the guaranteed loan
3. Projected Cash Flow Budget through Disaster loan maturity must be positive
4. Has sufficient collateral to cover the value of the Disaster loan
5. Farm is located in and Borrower resides in Wisconsin (or is legally registered in Wisconsin if partnership or corporation)
6. Borrower must be actively engaged in the farming operation
7. Borrower must be current in child support payments and not presently in default or forbearance on any WHEDA loans

In addition, it is the Lender's responsibility to make the following assurances when evaluating a Borrower's application for participation in Disaster Assistance Loan Guarantee:

- The Lender will evaluate the Borrower assets, cash flow, and managerial ability in order to determine that there is sufficient evidence which supports full loan repayment at or before maturity. Sources of payment must be adequate enough to preclude a voluntary or involuntary liquidation before the end of the loan term.
- The Borrower is in good standing with the Lender (or supplier if the Lender is a cooperative) on all loans and monies owed.
- 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 Disaster Loan Guarantee. If Borrower had a previous bankruptcy, the bankruptcy has been discharged.
- To the Lender's knowledge, the Borrower has no outstanding judgments or tax liens.

Eligibility Exception for Dairy Borrower

A dairy borrower who has not been paid for milk provided to a dairy plant because of the bankruptcy or insolvency of the dairy plant is eligible to obtain a Disaster Assistance loan. A borrower is required to meet the eligibility factors listed in Section A except that they do not need to have a project debt-to-asset ratio of at least 40%.

A. ELIGIBLE USES OF PROCEEDS

Disaster Assistance loan proceeds can only be used to pay for eligible services or consumable goods necessary to produce an agricultural commodity or for any extraordinary costs related to any act of nature (see comprehensive list on following page). The loan is for current-year expenses and cannot be used to prepay for the following year's expenses or to refinance existing debt. The agricultural commodity must be planted and harvested for consumption within the term of the loan. Livestock (feeder animals) is eligible if purchased, fed and sold within the term of the loan.

Outstanding bills and invoices due which are paid with Disaster Assistance loan proceeds must be in good standing and cannot be considered delinquent. Expenses incurred prior to Disaster

Assistance loan origination must be disclosed on a Disbursement Record (Form 3) and submitted along with the Disaster application package.

WHEDA's guarantee is valid only on eligible uses of proceeds. The Lender must make payments directly to the supplier/payee on behalf of the Borrower (see DISBURSEMENT OF DISASTER LOAN PROCEEDS Section). Documentation verifying expenses may be requested at WHEDA's discretion and will be required for any expenses paid directly by borrower, as well as for any expenses paid to the same entity which originated the Disaster Assistance loan (*example*: farm cooperative). Eligible uses of proceeds are limited to the following:

- Fertilizer
- Seed
- Fuel
- Land rent
- Water
- Put Options
- Feeder animals purchased and sold within the term of the loan
- Utility bills pertaining solely to the production of the agricultural commodity
- Labor costs directly related to planting and harvesting the agricultural commodity, excluding costs paid to the Farmer and spouse
- Hedging
- UCC filing charges
- Equipment rental
- Equipment repair
- Animal feed
- Custom hire
- CROP insurance
- Pesticides and herbicides
- Tillage service

B. INELIGIBLE USES OF PROCEEDS

Ineligible uses of proceeds include, but are not limited to:

- Property taxes
- Mortgage payments
- Accounting services
- Payments on existing loans
- WHEDA application fee
- Utility bills pertaining to the farm home
- Expenses not incurred during current calendar year
- Labor costs paid directly to the Farmer and/or spouse
- Capital improvements or purchases (i.e. building repair, milking equipment)
- Refinancing existing debt
- Payroll-related taxes
- Interest or lender fees
- Insurance other than for CROPs
- Attorney or other legal fees
- Veterinary expenses

Ineligible expenses cannot be paid with loan proceeds and may invalidate the guarantee depending on the nature, intent, and amount of the expense. If loan proceeds are disbursed for ineligible expenses, those disbursements will not qualify 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 previous chapter, the Lender will utilize its own prudent underwriting standards when evaluating a Disaster Assistance loan. The Lender's decision to originate a Disaster Assistance loan must be supported by the value of the collateral for the Disaster loan, the repayment capacity, and the creditworthiness of the Borrower. The Lender is responsible for approving or denying the Borrower's request to obtain the loan.

Lender acknowledges and agrees that if any representation or warranty made on any Disaster loan proves to be materially incorrect, or if Lender defaults on the observance of any condition or term of the Participating Lenders Agreement or the Disaster Assistance Loan Guarantee Manual, WHEDA shall cancel its agreement to guarantee the Disaster Assistance loan.

The Disaster program (including this manual and forms) is revised yearly, or as needed. The most up-to-date forms must be used at all times and are available at www.wheda.com.

B. GUARANTEE APPLICATION PROCESS

The Lender must initially verify Borrower and loan eligibility criteria in order to determine whether the project qualifies for a Disaster Assistance loan guarantee. The loan is then closed in accordance with program requirements in this chapter prior to submitting the guarantee application package, as pre-approvals are not provided by WHEDA. If there is concern over the potential non-approval of a Disaster guarantee after issuing the loan, the Lender is encouraged to include verbiage on the note which indicates that the loan is subject to guarantee approval by WHEDA. The Lender must also use the utmost discretion in making any loan disbursements prior to obtaining the guarantee commitment. It should be noted that WHEDA reviews the application package for adherence to program guidelines, and analyzes supporting documentation to verify information presented, but does not subjectively underwrite each application beyond the guideline requirements set forth.

Loan Package Due Dates

Within 30 days of the loan closing, a Disaster Assistance loan guarantee application (Form 2) must be completed and submitted along with all other required documentation listed on the application in order to request a guarantee approval. Packages submitted later than 30 days after the loan closing will not be accepted for review. Applications are not accepted prior to January 1 for the designated Disaster Assistance loan guarantee program year, and will be accepted no later than noon on the last business day of the year.

Guarantee Review Timeframe

WHEDA will process the application package within 5 business days of receipt. Provided that the application package is complete and meets all program criteria, a formal Guarantee Commitment Letter will be mailed or emailed in a PDF to the contact person listed on the application.

All application packages, requests, and correspondence are handled in order of receipt. 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 or as otherwise decided internally.

Incomplete Applications

Should any documentation be missing or inconsistent with program guidelines, review of the package will be deferred. **A representative will notify the Lender, who then has 30 days to submit the remaining items or the request will be automatically considered withdrawn or denied.** It is the Lender's responsibility to ensure that all missing items requested by WHEDA

have been submitted within the 30-day allotment. All additional information must be submitted to WHEDA together in one correspondence. If WHEDA requires modifications to the note, an amendment or loan modification agreement signed by the Borrower(s) must be submitted.

Upon receipt of the additional information, WHEDA will continue processing the application within 5 business days and issue a formal Guarantee Commitment Letter, provided that all pending issues have been addressed.

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 may 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. WHEDA may refund the application fee depending on the reason for denial (see APPLICATION FEE section).

C. LOAN AMOUNT

Maximum: Any amount but the guarantee is limited to \$25,000.

The Disaster loan cannot be treated as a revolving line of credit. Total disbursements cannot exceed the total loan amount.

Applications which do not fall within these parameters will be automatically denied.

D. GUARANTEE AMOUNT

90% guarantee up to a maximum guarantee of \$25,000. The guarantee percentage will be adjusted on larger loans where 90% of the loan amount exceeds \$25,000 (i.e. a loan of \$100,000 would have a 25% guarantee)

E. TERM

The maximum initial loan term is three years from the Note date. Note extensions are allowed for an additional two years for a maximum term of five years.

F. INTEREST RATE

The maximum interest rate allowed to be charged on Disaster Assistance guaranteed loans is WSJ Prime + 2% on the day of the Note closing, with a ceiling of 7% (which will only be utilized if WSJ Prime rises above 5% during the course of the year). The rate must be a fixed interest rate set on the Note date.

The interest rate set by the Lender may be less than the maximum rate set by WHEDA. The Lender is encouraged to review the Borrower's financial needs on a case-by-case basis and to set the interest rate accordingly.

Important: Fees and interest costs paid by the Borrower to the Lender/lending institution cannot exceed the maximum rate. Fees must be disclosed on the lending agreement as required by law.

Default Interest Rate

The maximum default interest rate allowed on the Note is 12%.

G. APPLICATION FEE

A non-refundable WHEDA application fee equal to 1% of the Disaster Assistance Guarantee amount, with a minimum of \$150, is required on each application. WHEDA will initiate an electronic payment of the application fee from the Lender's account in accordance with the

Lender's ACH Form. This fee cannot be paid with Disaster loan proceeds and must be financed separately by the Lender or paid out of pocket by the Borrower.

The application fee is considered non-refundable, unless the Borrower is deemed ineligible due to Lender error (Borrower does not meet program requirements due to an oversight). Once the guarantee commitment has been executed, the application fee cannot be returned per the request of the Lender or Borrower. If the terms of the guarantee have not been adhered to, or if the guarantee must be terminated due to non-compliance or misrepresentation, the application fee paid will not be eligible for a refund.

H. LOAN PAYMENT

Payment Schedules

The payment schedule should be tailored to accommodate the specific type of farming operation. Note repayment must include monthly or quarterly principal payments at a minimum, unless the Farmer is financing a cash-Disaster operation and intends to receive a future lump-sum payment which does not allow for more frequent loan payments. The maximum amortization period for any Disaster loan is 5years. If quarterly payments are chosen, each payment must cover what the combined previous three individual months would otherwise total.

For entities with multiple types of farming operations, the portion of loan funds dedicated to non-cash-Disaster operation inputs must adhere to the monthly/quarterly payment criteria, while the portion dedicated to cash-Disaster operation inputs may reflect a lump-sum loan repayment upon the future sale of the commodity.

The loan maturity date cannot exceed three years after the Note date. An option to extend the loan term an additional two years is available.

Prepayment

The Disaster loan may be prepaid in full or in part at any time without penalty.

DAIRY ASSIGNMENT REQUIREMENT

Any Disaster loan used to fund dairy operation inputs, which will be secured by feed or other collateral that will be depleted by loan maturity (or the collateral value will be less than the value of the loan at maturity), or when the loan is secured by a blanket lien which is not in priority position, will require a dairy assignment to be filed.

I. COMPLETING A LOAN PACKAGE

Please submit only one version of each application package for review. Submitting multiple packages for the same borrower will be considered duplications. Duplicate packages will not be examined for variations (*example*: faxing an application and sending the original in the mail). If forwarding a revised or corrected document for inclusion in a previously submitted package, please label accordingly.

A complete loan package must include all of the following (unless otherwise noted):

- **Non-Refundable Application Fee**
 - Equal to 1% of the guarantee amount, with a minimum of \$150, will be pulled via ACH from the Lender's account
- **Disaster Application (Form 2)**
- **Signed copy of Note** adhering to the following terms:
 - Any loan amount guarantee of \$25,000 maximum

- Payment schedule to include monthly or quarterly principal payments at a minimum (where applicable, see LOAN PAYMENT section)
 - Maximum 5year amortization
 - Interest rate not to exceed Prime + 2% (with ceiling of 7%), fixed on day of Note closing (any lender fees must be calculated into this rate and cannot exceed the maximum allowed)
 - Maturity date no later than three years following the Note date with an option to renew for two additional years.
 - Default interest rate maximum 12%
 - Application submission date must be within 30 days of Note or application will be denied
- **Disbursement Record (Form 3)**
 - **Agricultural Production Disaster Assistance Loan Guarantee Program Lender's Warranty (Form 4)**

The following items do not need to be submitted to WHEDA but must be in the Lender's loan file.

- **Farm Security Agreement ~~or~~ Production Credit Association Security Agreement**
 - Disaster Assistance loan must be secured in accordance with normal, prudent agricultural lending practices distinct from WHEDA's guarantee
 - The Agreement must portray a perfected security interest in the agricultural commodity to be financed with the Disaster loan
 - Sufficient collateral must be in place to cover the value of the Disaster loan
 - Security documents must contain appropriate environmental law language
 - Needs to be signed by the borrower
- **UCC-1 Financing Statement**
 - Must be the recorded version with filing date within 5 years of Note date (if filing will expire during the Disaster loan term, the filing must be renewed in order for the guarantee to be effective)
 - If an extension of the original UCC-1 has been issued, the original UCC-1's filing information and date must be referenced on the extension and a copy of the original must be included
- **Balance Sheet (within 90 days, signed by borrower)**
- **Financial Statements**
 - Previous 2 years of income and expense statements or tax returns (with supporting schedules) to provide backup for the Borrower's cash flow budget.

J. DISBURSEMENT OF DISASTER ASSISTANCE LOAN PROCEEDS

The Borrower will provide the Lender with a bill or request for payment. The Lender will make the payment directly to the supplier/payee on behalf of the borrower. Hired or contracted labor costs incurred by the Borrower which are directly related to planting or harvesting of the agricultural commodity can be disbursed directly to the Borrower. The Borrower must be able to provide proof of payment for eligibility purposes.

In the event that it is not feasible for the Lender to pay the supplier directly, the Borrower must provide a receipt and copy of cleared check to the Lender for verification. WHEDA will require proof of eligible proceeds disbursement if a Request for Guarantee Payment is made after loan default. Any proceeds that cannot be verified for program eligibility will be deducted from the guarantee payment request.

Ineligible disbursements may invalidate the guarantee and at a minimum will not qualify for a guarantee payment in the event of loan default (See ELIGIBLE USES OF PROCEEDS for list of eligible expenses).

Total disbursements cannot exceed the total loan amount (the Disaster loan is not to be treated as a revolving line of credit). WHEDA does not prevent the Lender from making disbursements on the loan prior to obtaining guarantee approval, but this practice is strongly discouraged. Proceeds cannot be used to pay previously outstanding credit, as this is considered a refinance.

K. OUTSTANDING DISASTER ASSISTANCE LOANS

A Borrower is eligible for one Disaster loan guarantee per calendar year (though multiple Notes may be executed and are covered under one guarantee umbrella. If outstanding debt remains from the previous year's Disaster loan, the Borrower may request an additional loan for the new calendar year and apply for a guarantee with the understanding that the new guarantee will not go into effect until the previous loan is paid in full. This allows the Lender to apply for WHEDA assistance and set aside necessary funds prior to the maturity date of the prior Note. The original loan must be in good standing, and cannot be in a Forbearance Agreement or default status.

Guarantee Modification

The Authority may guarantee collection of an amount, not exceeding \$25,000 maximum of any agricultural Disaster Assistance Loan guarantee. An additional application fee may be due for loan increases.

L. INSURANCE REQUIREMENTS

When available, the Borrower must maintain adequate crop and/or other applicable insurance in order to protect loan interests. It is the Lender's responsibility to ensure that the Lender is properly listed as loss payee on the insurance policy. At WHEDA's request, the Lender must be able to provide verification of insurance for the agricultural commodity being financed by the Disaster Assistance loan or the collateral that is being used to secure the Disaster loan.

Crop Insurance

The agricultural commodity financed with the Disaster loan must be insured while growing and while in storage. A minimum level of Catastrophic Coverage (CAT) is required on crops. This coverage needs to be all peril or multiple insurance. If the deadline for obtaining this level of insurance has passed, the Borrower will not be eligible for participation in the Disaster program. This requirement will not be waived unless CAT coverage does not exist for the type of crop being grown.

Proof of Disaster insurance is not required to be submitted at the time of guarantee application, but must be provided in the event that a guarantee payment request is made.

Personal Property Insurance

If any personal property is used as collateral for the Disaster loan, the Farmer must obtain insurance to sufficiently protect the property against loss. Inputs and crops held in inventory should be acknowledged on a personal property policy when applicable.

Flood Insurance

Flood insurance must be purchased if the farm is located in a special flood hazard area as defined by FEMA.

M. SECURITY AND COLLATERAL

The Lender will secure each Disaster loan in accordance with normal, prudent agricultural lending practices distinct from WHEDA's guarantee.

Lender will secure the Disaster Assistance loan to the fullest extent possible based on available collateral. WHEDA does not require a first lien position on collateral securing the loan, but every attempt to fully secure the loan must be made by the Lender.

Conventional Refinance

If the Lender conventionally refinances a portion of a Disaster loan, WHEDA requires that the Disaster loan be in a primary security position to the conventionally refinanced loan. There will be no exceptions made to the requirement.

Assignment of Agricultural Commodities

When using proceeds from a perfected agricultural commodity assignment to pay a Disaster loan, it is important that the assignment reflect the amount of money being applied to the Disaster loan. When taking the assignment, the Lender must perfect that specific assignment by executing a Security Agreement and filing a UCC-1 Financing Statement covering the agricultural commodity and any proceeds derived from the agricultural commodity.

If the Disaster Assistance loan has been extended to a dairy farmer due to the bankruptcy or insolvency of a dairy plant, the Disaster Assistance loan must include terms which require the dairy farmer to pay the Disaster Assistance loan immediately upon receiving a financial settlement from the debt owed by the bankrupt or insolvent dairy plant.

Sale of Farm Products/Buyer Notification

It is required that the Lender follow all steps necessary to ensure the payment of the Borrower's outstanding obligation. The Lender must pre-notify the buyer of farm products pledged as collateral on a Disaster loan that, in the event of the sale of this collateral, possession of the products is to be taken subject to the Lender's security interest.

Guarantors

The Disaster Assistance loan should be underwritten based solely on the financial circumstances of the Borrower. In borderline cases, the income of a guarantor may be considered if the guarantor signs the Disaster Assistance loan Note.

N. LOAN MODIFICATION/CHANGE IN TERMS

The Lender must request approval from WHEDA prior to modifying the terms of a Disaster Assistance guaranteed loan, including (but not limited to): payment structure, maturity date, and collateral. There are limited situations in which this procedure should be used, and an adequate reason must be provided. A Disaster Loan Modification Request (Form 9) must be submitted to WHEDA for approval prior to any change in terms. Once the request is approved, the Lender must forward a copy of a Note Modification/Change in Terms Agreement signed by the Borrower, or other modified documents as applicable. The original Note date, principal balance amount, and all other aspects of the original loan must remain unchanged.

O. ENVIRONMENTAL CONSIDERATION

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.

P. 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 Disaster Assistance 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.

LOAN SERVICING

A. SERVICING THE LOAN

The Lender is responsible for holding and servicing each Disaster Assistance loan throughout its term. Servicing of Disaster Assistance loans is expected to be performed in accordance with normal agricultural loan servicing standards and in a manner which is consistent with the monitoring and servicing of the Lender's conventional loans. The Lender is responsible for collecting all principal and interest payments due on the Disaster Assistance loan.

B. GENERAL RESPONSIBILITIES OF THE LENDER

Access to Files

At WHEDA's request, the Lender must provide access to the Farmer's loan file as well as any other records relative to the Disaster Assistance loan guarantee.

Prompt Notification

Lender must notify WHEDA of a change in loan status by submitting a Disaster Assistance Loan Status Notification (Form 8). Notification of loan payoffs, delinquency, potential default, bankruptcy, and other status changes must be reported promptly.

Lender must notify WHEDA within (30) days if there is an adverse change in the Farmer's financial situation, or if there is an occurrence (or the likelihood of an occurrence) that would result in the default of the guaranteed loan.

Prior to taking any action against the Borrower, the Lender must notify WHEDA of the situation. WHEDA understands that, on 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.

The Loan Status Notification (Form 8) also serves to secure the Disaster Assistance loan guarantee during the collection process, should the guarantee otherwise expire prior to completion of the Request for Guarantee Payment (Form 6). The form must be received by WHEDA prior to guarantee expiration.

C. REQUEST TO REDIRECT LOAN PAYMENT

WHEDA does not allow proceeds from the sale of a commodity which are intended to repay the Disaster loan to be redirected or refunds of loan payments or dairy assignments to be given to the Borrower. If the Lender has authorized refunds or redirections of monies which were intended to repay the Disaster loan. WHEDA will not reimburse the Lender for that portion of funds in the event that a request for guarantee payment is applied for.

D. STATUS REPORTS

Status Update Requests

Status update requests may be issued periodically by WHEDA. The Lender must complete the form and submit back to WHEDA by the listed due date.

Non-Performing Loan Status Report

Monthly, WHEDA will request an update from each Lender who submitted a Non-Performing Loan Status Report. The request will detail all loans in Forbearance, Pending Default, and Default

status for each Lender. The Lender must verify and update all information required and respond to WHEDA within 15 days of receipt.

E. DELINQUENT LOANS

A delinquent loan is any loan for which the established payment schedule is not current. Procedures for handling delinquent loans are summarized below. For more information about specific collection options available to the Lender, consult your legal counsel. WHEDA's guidelines for various collection options are detailed in the following chapter.

Notification to Borrower

Lender must notify the Borrower of the delinquent loan status no later than the 15th day following the date the Disaster Assistance loan delinquency. All attempts must be made to contact the Farmer and retrieve payment until the loan becomes current. The Lender's standard course of action for conventional loans should be followed.

Notification to WHEDA

WHEDA does not require the Lender to report minor payment delinquencies during the Disaster year. A material change in any Disaster loan status should be indicated on the Loan Status Notification (Form 9) and submitted to WHEDA. If the Lender needs to request a guarantee payment in the future, WHEDA may request documentation of all collection efforts.

Unpaid Interest

Once the principal on the guaranteed loan becomes ninety (90) days or more past due, the loan must be placed on non-accrual, with all future payments applied to the principal balance. WHEDA's guarantee only applies to the principal amount due on the loan.

Legal Action

Lender will pursue to the fullest extent possible any and all reasonable alternatives for collecting each delinquent Disaster Assistance loan. This includes, but is not limited to, filing suit against the Farmer for collection and foreclosure of the Lender's security, and filing a lien against all the Farmer's assets for collection of any remaining deficiency.

NOTE: When pursuing legal action against a Borrower, any financial liability incurred by the Lender remains the sole responsibility of the Lender. WHEDA is not responsible for legal expenses incurred by the Lender and will not guarantee these expenses under the Disaster loan program.

F. ASSUMPTION OF GUARANTEES

WHEDA will allow a Lender, other than the originating Lender, to assume an existing Disaster Assistance guaranteed loan. If the Lender has not already signed a Participating Lender's Agreement which allows them to apply for Disaster Assistance loans they must do so before proceeding. Please contact a Disaster Assistance loan guarantee representative if you are interested in assuming an existing guaranteed loan.

After contacting WHEDA, the following steps must be completed and copies of all documents must be forwarded to WHEDA:

- A hold harmless agreement must be executed between the existing and proposed Lenders. This agreement must absolve the current Lender of all liabilities related to the assigned loan.
- The existing Promissory Note must be assigned in its entirety to the new Lender. No changes in terms or refinancing will be accepted.

- All security, collateral, and insurance documents related to the loan must be assigned to the new Lender.

NON-PERFORMING LOAN PROCEDURES

A. NON-PERFORMING LOANS

A Non-Performing loan includes any Disaster Assistance loan that is delinquent, or for which payment is not expected due to: Bankruptcy, foreclosure, voluntary liquidation, or death of the Farmer.

Under no circumstances will the Lender assign, dispose of, or waive any interest in the Disaster Assistance loan security which would jeopardize future collection of the loan without written consent from WHEDA.

If any of the Non-performing loan procedures are not followed properly, the Lender risks losing the guarantee.

B. FORBEARANCE

An alternative to legal action is to postpone or restructure loan payment through a Forbearance Agreement. This agreement will allow the Borrower to operate in a normal manner as long as they are in compliance with the terms and conditions provided in the Agreement. The Lender should make all attempts to work with the Borrower in order to formulate a feasible repayment plan if the Farmer is willing and able to continue making payments.

Prior to guarantee expiration, the Lender must submit a complete Forbearance Agreement (Form 5) package in order to extend the repayment terms and guarantee up to an additional year. The borrower is not eligible for any other WHEDA guarantees until the Forbearance Agreement has been satisfied (paid in full).

The Forbearance Agreement applies only to the outstanding principal amount due. A new note is to be created which includes only the outstanding principal amount. Any outstanding interest owed to the Lender or additional fees must be excluded. If multiple loans were issued to the Farmer under the same Disaster Assistance loan guarantee, then the outstanding principal from all loans should be combined into one new note.

The Note must adhere to the terms specified below. If the maximum amortization and monthly payment requirement cannot be met, then an exception may be allowed if all future payments are placed against outstanding principal only (until all principal has been repaid). Contact WHEDA for authorization before proceeding.

Terms of Note

- Maximum term of the Note and Forbearance Agreement is one (1) year
 - After the one-year term has expired a renewal Agreement package may be submitted for approval of another term
- Note amortization cannot exceed 5 years
- Payment schedules must include principal payments made monthly at a minimum (NO interest-only payments will be accepted)
- Maximum Note interest rate allowed is 12% (or the Default Rate listed on the original Note), including all lender fees
- Lender is not allowed to impose prepayment penalties on the Note

Execution Fee

A \$300 Execution Fee must be submitted for each Forbearance Agreement. At the time of application along with all supporting documents before the Agreement will be approved. This fee cannot be financed with the loan.

Complete Forbearance Agreement Request Package

A complete Forbearance Agreement request package includes various documents necessary for assessing the Borrower's financial situation and need for the forbearance. The Forbearance Agreement will not be approved until the Execution Fee and all required documents have been received.

Upon satisfactory review of the documents, WHEDA will sign and return a copy of the Forbearance Agreement to the Lender. Until the Lender receives a completely executed Agreement, the Forbearance is not in place. The following documents must be submitted in order for the package to be reviewed for approval:

- \$300 Execution Fee
- Completed and signed Forbearance Agreement (Form 5)
- Signed copy of the new Note
- Income and expense statement (current within last 90 days)
- Balance sheet (current within last 90 days)
- Disaster Loan Disbursement Record (Form 3)
- Complete loan payment history printout
- UCC financing statement (if original has expired or been updated)
- Other security instruments related to the Disaster loan
- In addition, a written summary must be included which details:
 - Explanation of the need for the Forbearance
 - Explanation addressing what happened to the original collateral
 - Explanation/summary of collateral securing the new Note

Deadlines

The Forbearance Agreement and all supporting documentation must be received by WHEDA prior to the expiration of the guarantee.

Expiration

Each Forbearance Agreement is executed for a specific term, not to exceed one year. It is the Lender's responsibility to monitor the expiration of Forbearance Agreements. Once the Agreement has expired, the Lender has thirty (30) days to submit a new package for review. If this time period elapses, the guarantee is considered automatically withdrawn. **No exceptions will be made.**

Servicing

Forbearance notes carry the same servicing requirements as regular Disaster Assistance loans (see LOAN SERVICING).

C. VOLUNTARY LIQUIDATION

Lender will obtain legal counsel as it deems necessary to assure that all steps are taken to maximize the amount of proceeds received. Collection procedures for voluntary liquidations include:

Liquidation Plan

When liquidation is scheduled, submit the following to WHEDA:

- Disaster Loan Status Notification (Form 8)
- Date of the auction
- A complete inventory of all assets and liens against Farmer
- Complete documentation of how proceeds were applied against the liens
- Copy of Judgment for any remaining deficiencies

If full payment is not expected, the Lender must take further action in order to maintain the guarantee or request a guarantee payment. (See REQUEST FOR GUARANTEE PAYMENT section of this chapter)

Sale of Collateral

Any proceeds obtained from the sale of the collateral securing the Disaster loan must be applied toward reducing the outstanding Disaster loan balance after considering prior liens on the farmer's assets if the Disaster loan is not in first lien position.

If there is an outstanding balance on the Disaster loan after the collateral is sold, it is the Lender's responsibility to determine whether or not the balance can be collected. If full payment is not expected, the Lender must take action in order to maintain the guarantee or request a guarantee payment (see REQUEST FOR GUARANTEE PAYMENT section of this chapter). A Judgment must be filed for any outstanding principal owed to the Lender prior to submitting a request for guarantee payment to WHEDA.

Unpaid Interest

Once the principal on the guaranteed loan becomes ninety (90) days or more past due, the loan must be placed on non-accrual, with all future payments applied to the principal balance.

The Lender is entitled to apply proceeds from the sale of the collateral toward satisfying up to ninety (90) days of accrued interest due from the Farmer. WHEDA's guarantee only applies to the principal amount due on the loan.

D. BANKRUPTCY

If a Borrower has filed for protection under Chapter 7, 11, 12, or 13 or the United States Bankruptcy Code, these procedures must be followed at a minimum:

Notification to WHEDA

Within 60 days of the Lender becoming aware that the Borrower has filed for bankruptcy, the Lender must send WHEDA a Disaster Assistance Loan Status Notification (Form 8) and either a copy of the Proof of Claim filed with the court or an explanation of why a claim has not been filed.

If Bankruptcy is filed and the Disaster loan is unsecured or under-secured (the court instructs the Lender NOT to file a Proof of Claim), the Lender may apply for a guarantee payment immediately. Under no circumstances should the Lender give up WHEDA's lien position.

Legal Advice

Lender will obtain legal counsel as it deems necessary to ensure that all steps are taken to maximize the amount of proceeds received.

Sale of Collateral

In accordance with United States Bankruptcy Code and the laws of the State of Wisconsin, the Lender is responsible for monitoring the sale of the Borrower's property to assure a fair price is received for the collateral securing the Disaster Assistance loan. Any proceeds obtained as a result of the sale of the collateral securing the Disaster Assistance loan will be applied toward reducing the outstanding balance of the Disaster loan. After the sale, the Lender will submit to WHEDA an inventory of the items sold and the amount received for each.

If there is an outstanding balance on the Disaster loan after the sale, it is the Lender's responsibility to determine whether or not full payment of the loan by the Borrower is likely. If it is not, the Lender is able to request a guarantee payment. (See REQUEST FOR GUARANTEE PAYMENT section for details).

Unpaid Interest

The Lender is entitled to apply proceeds from the sale of the collateral toward satisfying up to ninety (90) days of accrued interest due from the Borrower. WHEDA's guarantee only applies to the principal amount due on the loan.

Reorganization Plan

If the Disaster loan is included in a repayment schedule established by the court, the Lender must contact WHEDA in order to discuss further options. A copy of the repayment plan must be submitted to WHEDA. In most cases, the loan will be placed in a Bankruptcy Repayment Plan status in order to secure the guarantee during the repayment period. It may otherwise be decided that a guarantee payment will be made to the Lender. In such cases, the Lender will enter into an agreement with WHEDA whereby the Lender agrees to forward within five days of receipt the approved guarantee percentage of the payments made under the established repayment plan.

E. DEATH

In the event of a Borrower's death, the Lender must notify WHEDA within 30 days. The Lender will obtain legal counsel as it deems necessary to assure all steps are taken to maximize the amount of proceeds received.

Contact WHEDA to discuss further steps.

F. FRAUD

If the Lender is aware of any misrepresentations or fraudulent act committed by a Borrower relative to the Disaster Assistance loan, it is the Lender's responsibility to immediately seek legal counsel and keep WHEDA informed of the situation. Applicable legal processes must be followed in order for the guarantee to remain in place.

G. REQUEST FOR GUARANTEE PAYMENT

In the event that a loan has defaulted and a principal balance remains after all collection processes have been exhausted, the Lender can apply to WHEDA for guarantee payment. Lender must make every reasonable effort to collect the Disaster Assistance loan prior to requesting a guarantee payment. The claim will not be paid until a complete Request for Guarantee Payment Package has been received and reviewed by WHEDA.

Once a guarantee payment has been made, the borrower and any persons with ownership interest in the borrowing entity will not be eligible for participation in any WHEDA programs. If the borrower chooses to repay WHEDA in full, their program eligibility will be reinstated.

Deadlines

WHEDA must receive a Request for Guarantee Guaranty Payment, Form 6, prior to the guarantee expiration date. In the event that the guarantee will expire prior to completing the collection process and Request for Guarantee Payment, the Lender must submit a Loan Status Notification (Form 8) in order to secure the guarantee during the interim period.

Complete Request for Guarantee Payment Package

A complete Request for Guarantee Payment package includes various documents necessary for assessing the Farmer's financial situation and need for the payment. The request will not be reviewed until all documents have been received. Unless the Farmer has filed for bankruptcy, the Lender must first obtain a Judgment for the Disaster loan prior to applying for the guarantee payment.

WHEDA will contact the Lender regarding the status of the request after initial review. The following documents must be completed and submitted for review:

- Request for Guarantee Payment (Form 6)
- Copy of Judgment or Proof of Claim if filing Bankruptcy (unless the court has instructed not to file, then submit copy of the Bankruptcy Notice) or proof that the borrower is in a negative equity position.
- Loan Disbursement Record (Form 3)
 - Include receipts and copies of cleared checks for any loan disbursements that were not made directly by the Lender to the supplier/payee, as well as for any expenses paid to the same entity which originated the Disaster loan (example: farm cooperatives)
- Complete loan payment history (computer printout)
- Income and expense statement (current within last 90 days)
- Balance sheet (current within last 90 days)
- Collateral analysis OR list of lien holders securing the same asset(s) as the Disaster loan, including lien position and balance of each loan
- Listing of creditors
- Proof of required CAT-level Disaster insurance during loan term (if applicable)
- Written explanations of the following:
 - Why the borrower was unable to repay the loan
 - Detail the final disposition of collateral and collateral sale proceeds

Guarantee Payment

WHEDA will pay to the Lender the remaining balance of the outstanding principal balance based on the original Disaster Assistance loan guarantee percentage. The guarantee payment will not exceed the original guarantee amount. WHEDA will review all documentation to verify adherence to Disaster Assistance Loan Guarantee Program guidelines in order to determine whether any adjustments should be made to the Lender's request. Ineligible disbursements of loan proceeds and fees will be removed from the total principal amount outstanding before the guarantee percentage is applied.

Stipulation

In most instances prior to making a guarantee payment, WHEDA will require the Lender to sign a Stipulation agreement. By signing the Stipulation, the Lender promises to forward to WHEDA the original approved guarantee percentage of any future payments made by the borrower after guarantee payment, until WHEDA's payout has been completely reimbursed.

Additionally, the Lender agrees to respond to status inquiries made by WHEDA after the guarantee payment has been made.