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# **2010 CROP LOAN GUARANTEE PROGRAM**

***FINANCING MANUAL***

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FORM 2	APPLICATION
FORM 4	LOAN AMOUNT INCREASE REQUEST
FORM 5	LOAN DISBURSEMENT RECORD
FORM 6	FORBEARANCE AGREEMENT
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FORM 8	LENDER UPDATE FORM
FORM 9	LOAN STATUS NOTIFICATION
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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 CROP Loan Guarantee Program.

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 CROP-guaranteed loans 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 CROP program-related inquiries, please contact:

#### **Courtney Searles**

Toll-Free: (800) 334-6873  
Fax: (608) 267-1099  
E-mail: [courtney.searles@wheda.com](mailto:courtney.searles@wheda.com)

#### **WHEDA**

CROP Program  
P.O. Box 1747  
Madison, WI 53701-1747

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

WHEDA has Community Relations Officers (CROs) located throughout the state that are available to assist you. Our CROs work with local lending institutions, local governments and Farmers to provide information on our products. For general program information, please contact:

#### **Community Relations Officers (CROs)**

(800) 628-4833

***All forms referenced in this manual and utilized for the CROP loan guarantee program can be found on our website at: [www.wheda.com](http://www.wheda.com).***

## **CALENDAR OF EVENTS FOR 2010**

### **FEBRUARY 1**

- WHEDA begins accepting CROP applications for the new calendar year
- Disbursements for current year begin

### **MARCH 31**

- Maturity date of all CROP loans originated in 2009

### **JUNE 30**

- Last day WHEDA will accept applications that include refinanced portions of 2009 CROP-guaranteed loans. Must receive applications by noon on June 30.
- Last day WHEDA will accept Forbearance Agreement packages for outstanding 2009 CROP loans. Must receive complete packages by noon on June 30.
- Request for Guarantee Payment due to WHEDA for loans originated in 2009 (or Loan Status Notification (form 9) due in order to secure guarantee during collection process until completed). Must receive either document by noon on June 30.
- Guarantee expires for loans originated in 2009 if other action is not taken

### **DECEMBER 31**

- Last day WHEDA will accept 2010 loan applications and loan increase requests. Must receive packages by noon on December 31.
- Last day to make disbursements on 2010 CROP loans

## CHAPTER I: ELIGIBILITY

### A. ELIGIBLE LENDERS

Any bank, farm credit service (includes production credit association, federal land credit association and agricultural credit association); credit union, savings bank, savings and loan association, or other entity that makes loans for the acquisition or improvement of agricultural assets is eligible to participate in the Credit Relief Outreach Program (CROP).

#### ***Becoming a Participating Lender***

The Lender must submit a signed Participating Lender's Agreement (CROP 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. WHEDA will sign the PLA and return a copy to the Lender. WHEDA must receive the signed PLA before we can process any CROP loan guarantee applications.

A Lender wishing to originate CROP loans must meet the criteria defined in the PLA. If the Lender fails to meet any of these criteria, the Lender must immediately notify WHEDA.

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.

#### ***Farm Supply Cooperatives***

A farm supply cooperative wishing to originate CROP 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 CROP 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 CROP loan

If the farm supply cooperative fails to meet any of these criteria, the farm supply cooperative must immediately notify WHEDA.

## B. ELIGIBLE FARMERS

A Farmer must meet the following guidelines in order to be eligible for a CROP loan guarantee:

1. Unable to obtain conventional financing at reasonable terms
2. Debt-to-asset ratio is at least 40%, but does not exceed 85%
3. Debt Coverage Ratio (DCR) must be at least 1.0
4. Has sufficient collateral to cover the value of the CROP loan
5. Farm is located in and Farmer resides in Wisconsin (or is legally registered in Wisconsin if partnership or corporation)
6. Farmer must be actively engaged in the farming operation
7. Farmer 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 Farmer's application for participation in CROP:

- The Lender will evaluate the Farmer's 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.
- To the Lender's knowledge, the Farmer 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 CROP loan.
- To the Lender's knowledge, the Farmer has no outstanding judgments or tax liens.

### ***Eligibility Exception for Dairy Farmers***

A dairy Farmer 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 CROP loan. A Farmer is required to meet the eligibility factors listed in Section B, EXCEPT that they do not need to have a debt-to-asset ratio of at least 40% based on a current financial statement.

## C. ELIGIBLE USES OF PROCEEDS

CROP loan proceeds can only be used to pay for eligible services or consumable goods necessary to produce an agricultural commodity (see comprehensive list below). The loan is for current-year expenses and cannot be used to prepay for the following year's expenses or to refinance existing debt (except as allowed under the REFINANCE section of this chapter). 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.

WHEDA's guarantee is valid only on eligible uses of proceeds. CROP-guaranteed loans cannot include any ineligible expenses. The Lender must make payments directly to the supplier/payee on behalf of the Farmer (see DISBURSEMENT OF CROP LOAN PROCEEDS section). Documentation verifying expenses may be requested at WHEDA's discretion. Eligible uses of proceeds are limited to the following:

- Fertilizer
- Seed
- Fuel
- Land rent
- Animal feed
- 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
- Tillage service
- Custom hire
- Crop insurance
- Pesticides and herbicides

## D. 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 (exception: portion of prior-year CROP-guaranteed loan may be refinanced, see REFINANCE section)
- Payroll-related taxes
- Interest or lender fees
- Insurance other than for crops
- Attorney or other legal fees

Ineligible expenses cannot be paid with loan proceeds and may invalidate the guarantee. 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.



## CHAPTER II: 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 underwriting a CROP loan. The Lender's decision to originate a CROP loan must be supported by the value of the collateral for the CROP loan and the creditworthiness of the Farmer. The Lender is responsible for approving or denying the Farmer's request to obtain the loan.

Lender acknowledges and agrees that if any representation or warranty made on any CROP 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 Agricultural Financing Manual, WHEDA shall cancel its agreement to guarantee the CROP loan.

### B. GUARANTEE APPLICATION PROCESS

The Lender must initially verify Farmer and loan eligibility criteria (Chapter 1) in order to determine whether the loan qualifies for a CROP guarantee. The loan is then closed prior to submitting the guarantee application package as pre-approvals are not provided by WHEDA. Within 30 days of the loan closing, the application (CROP 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 after 30 days of loan closing will not be accepted for review.

WHEDA will process the application package within 5 business days of receipt. Should any documentation be missing or inconsistent with program guidelines, a representative will notify the Lender, who then has 30 days to submit the remaining items or the request will be automatically denied. Once WHEDA has received a complete application package that meets all program criteria, a commitment letter will be faxed to the contact person on file for the lending institution (indicated by the Lender Number on the application).

The CROP 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](http://www.wheda.com).

This chapter details all loan terms and program guidelines related to loan origination.

### C. LOAN AMOUNT

Minimum: \$ 2,000

Maximum: \$100,000

Aggregate loan amounts which do not meet the minimum or exceed the maximum loan amount are not eligible for a CROP loan guarantee. Applications which do not fall within these parameters will be automatically denied.

## D. GUARANTEE AMOUNT

Aggregate loan amounts less than \$50,000..... 90% guarantee  
Aggregate loan amounts of \$50,000 or more..... 80% guarantee

The “guarantee amount” is based on the loan amount indicated on the guarantee application, rather than actual loan disbursement amount.

## E. TERM

The CROP loan program operates on a yearly basis. A loan originated in any given year is required to have a maturity date no later than March 31 of the following year. Loans that have not been paid in full by March 31 will be given an automatic extension until June 30.

## F. INTEREST RATE

The maximum interest rate allowed to be charged on 2010 CROP-guaranteed loans is Prime + 2% on the day of the Note closing, with a ceiling of 7%. The rate must be a fixed interest rate set on the Note date.

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

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

### ***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 loan amount, with a minimum of \$500, must be submitted with the guarantee application package. Loan applications will not be processed until the actual fee is received (a mere copy of the check will not suffice). This fee cannot be paid with CROP loan proceeds and must either be financed separately or paid out of pocket by the Farmer. Electronic payments are not currently accepted.

For loan increases, additional application fees may be necessary. Follow the calculation process on the Loan Increase Request (form 4) to determine this amount. (See INCREASE TO LOAN AMOUNT)

## H. LOAN PAYMENT

### *Payment Schedules*

The Note must require monthly or quarterly principal payments at a minimum, unless the Farmer is financing a cash-crop operation and intends to receive a future lump-sum payment which does not allow for more frequent loan payments. The payment schedule should be tailored to accommodate the specific type of farming operation. The loan maturity date cannot surpass March 31 of the year following loan origination. Maximum amortization period for any loan is 2 years.

### *Prepayment*

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

## I. SUBMITTING A LOAN PACKAGE

### *Loan Package Due Dates*

A complete loan package must be submitted to WHEDA within 30 days of the Note date. Loan packages received more than 30 days after the Note date will be automatically denied and the loan will not be eligible for a guarantee. Loans originated in December must be received in our office by noon on December 31<sup>st</sup>.

### *Complete Loan Package*

A complete loan package must include the following:

- **Non-Refundable Application Fee**
  - Equal to 1% of aggregate loan amount, with minimum of \$500
- **CROP Application (CROP Form 2)**
- **Signed copy of Note** adhering to the following terms:
  - Loan amount maximum \$100,000 (aggregate loan amount)
  - Maturity date no later than March 31 of following year
  - Interest rate not to exceed Prime + 2% (with ceiling of 7%), fixed on day of Note closing
  - Payment schedule to include monthly or quarterly principal payments at a minimum (see LOAN PAYMENT section above)
  - Default interest rate maximum 12%
- **Farm Security Agreement or Production Credit Association Security Agreement**
  - CROP 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 CROP loan
  - Sufficient collateral must be in place to cover the value of the CROP loan
  - Security documents must contain appropriate environmental law language

- **UCC-1 Financing Statement**
  - Must be the recorded version with filing date within 5 years of Note date (if filing will expire during the CROP 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**
  - Last 2 years' audited or reviewed financial statements or tax returns (with supporting schedules) to provide backup for Debt Service Coverage table

### ***Loan Approval***

A complete loan package will be reviewed by WHEDA within 5 business days of receipt. A "Guarantee Commitment Letter" will be faxed to the contact person on file, based on the Lender Number indicated on the application.

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 Loan Package***

If the submitted loan package is deemed incomplete, WHEDA will notify the Lender and request the missing information. Review of the loan package is deferred pending receipt of this information. The request allows the Lender a maximum of 30 days to submit the missing information or the guarantee will be automatically considered denied/withdrawn. If there is an issue with terms of the Note and WHEDA will allow it to be modified in order to meet requirements, an amendment or loan modification agreement signed by the Farmer(s) will be required.

### ***Denial***

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

## **J. DISBURSEMENT OF CROP LOAN PROCEEDS**

The Farmer 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 Farmer. Hired or contracted labor costs incurred by the Farmer which are directly related to planting or harvesting of the agricultural commodity can be disbursed directly to the Farmer. The Farmer must be able to provide proof of payment for eligibility purposes.

In the event that is it not feasible for the Lender to pay the supplier directly, the Farmer 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 will not qualify for the guarantee (refer to Chapter I, ELIGIBLE USES OF PROCEEDS for list of eligible expenses).

Proceeds of the CROP loan must be disbursed on or before December 31 of the year in which the CROP loan was originated. Proceeds cannot be used to pay previously outstanding credit, as this is considered a refinance (unless otherwise allowed under the REFINANCE section of this chapter), or to pre-pay for the following year's expenses.

Lender may want to complete a Loan Disbursement Record (CROP Form 5) to detail proceeds disbursement. WHEDA will request this form if default action is necessary.

## **K. OUTSTANDING CROP LOANS**

A Farmer is eligible for one CROP loan guarantee per calendar year (though multiple Notes may be executed and are covered under one guarantee umbrella, see INCREASE TO LOAN AMOUNT). If outstanding debt remains from the previous year's CROP loan, the Farmer may borrow an additional loan 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 (or extension thereof) the prior Note.

## **L. REFINANCE**

A portion of the Farmer's previous year's WHEDA CROP-guaranteed loan may be refinanced into a new CROP loan. Other debt previously incurred by the Farmer is not eligible for refinancing. Up to 40% of the previous loan can be included in a new request, provided that at least 60% of that loan (disbursed amount) has been paid in full. Refinancing will be permitted for a maximum of two (2) consecutive years.

The refinanced portion of the previous year's loan must be indicated on the CROP Loan Application in order to be guaranteed. Refinancing a greater portion than is allowed by program guidelines will invalidate the guarantee, and only the amount designated on the application will be covered if a Request for Guarantee Payment is made.

*Example:*

Year 1:	\$30,000 loan taken out
Year 2:	\$12,000 refinanced plus \$48,000 new dollars
Year 3:	\$24,000 refinanced plus \$36,000 new dollars
Year 4:	Cannot refinance and not eligible for a new guarantee until entire previous loan is paid in full

***Refinancing Deadline***

The last day to originate CROP loan that includes a refinanced portion is June 30. WHEDA must receive the application package by noon that day.

**M. INCREASE TO ORIGINAL LOAN AMOUNT**

The Farmer is allowed to borrow multiple CROP-guaranteed Notes during each year, provided that the aggregate loan amount does not surpass the maximum allowed for that year (currently \$100,000). The Farmer must be current on existing WHEDA-guaranteed loans and meet all other eligibility and guideline criteria at the time of the loan increase request. A new Note (do not include existing debt or other refinanced funds as this is considered a refinance) will be created for each additional increase, however, WHEDA will only assign one CROP loan number which combines the aggregate loan amounts. All program parameters and fees apply to each individual Note/loan increase.

The Lender must submit a copy of the new Note, Loan Amount Increase Request (CROP Form 4), required supplemental documentation (listed on the form), and additional WHEDA application fee (if applicable).

***Guarantee Percentage Modification***

If any increase causes the aggregate loan amount to equal \$50,000 or more, the percentage of guarantee on the entire aggregate amount is 80% (less than \$50,000 is a 90% guarantee).

***Additional Application Fee***

An additional application fee MAY be due for loan increases:

- If combined loan amount is \$50,000 or less, no additional fee is due beyond initial \$500 fee
- If loan increase causes aggregate loan amount to surpass \$50,000, only submit additional fee equal to 1% of new loan amount that surpasses \$50,000
- If loan amount prior to increase already surpassed \$50,000, only submit additional fee equal to 1% of new loan amount

**NOTE:** The CROP loan cannot be utilized as a revolving line of credit. If the Farmer reduces the amount owed on the guaranteed loan, they are NOT able to receive additional funds from that same Note.

**N. INSURANCE REQUIREMENTS**

When available, the Farmer must maintain adequate crop and/or other applicable insurance in order to protect loan interests.

***Crop Insurance***

The agricultural commodity financed with the CROP loan must be insured while growing and while in storage. A minimum level of Catastrophic Coverage (CAT) is required for crops.

***Personal Property Insurance***

If any personal property is used as collateral for the CROP 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 farm is located in a special flood hazard area as defined by FEMA.

It is the Lender's responsibility to verify 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 CROP loan OR the collateral that is being used to secure the CROP loan.

**O. SECURITY AND COLLATERAL**

The Lender will secure each CROP loan in accordance with normal, prudent agricultural lending practices distinct from WHEDA's guarantee. Sufficient collateral must be in place to cover the value of the CROP loan. It is unacceptable to knowingly under-secure a guaranteed loan by using a commodity that already has several liens against it, or by not placing WHEDA in a superior lien position.

It is WHEDA's policy to maintain a superior lien position for these loans. Therefore, requests for lien waivers will not be approved. In the event that a Production Money Security Interest or Livestock Purchase money Priority Interest takes priority over the CROP loan, notify WHEDA immediately of the change in lien position.

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

***Conventional Refinance***

If the Lender conventionally refinances a portion of a CROP loan, WHEDA requires that the CROP 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 CROP loan, it is important that the assignment reflect the amount of money being applied to the CROP 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 CROP loan has been extended to a dairy farmer due to the bankruptcy or insolvency of a dairy plant, the CROP loan must include terms which require the dairy farmer to pay the CROP 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 Farmers outstanding obligation. The Lender must pre-notify the buyer of farm products pledged as collateral on a CROP 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 CROP loan should be underwritten based solely on the financial circumstances of the Farmer. In borderline cases, the income of a guarantor may be considered if the guarantor signs the CROP loan Note.

**P. LOAN MODIFICATION/CHANGE IN TERMS**

The Lender must request approval from WHEDA prior to modifying the terms of a CROP-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 Loan Modification Request (CROP form 10) 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 Farmer, or other modified documents as applicable. The original Note date, principal balance amount, and all other aspects of the original loan must remain in place.

**Q. 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.

**R. 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 CROP 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 Farmer. 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.



**S. INTEREST SUBSIDY**

A 2% subsidy will apply only under certain circumstances as authorized by Wisconsin Statutes. If the interest rate on CROP loans as established by WHEDA, and the prime rate as determined by the Federal Reserve, equals or exceeds 10% on the loan origination or extension date, a subsidy will be paid. If both rates do not equal or exceed 10%, a subsidy will not be paid. WHEDA will notify the Lender in the Guarantee Commitment Letter if the loan is eligible for an interest subsidy.

## CHAPTER III: LOAN SERVICING

### A. SERVICING THE LOAN

The Lender is responsible for holding and servicing each CROP loan throughout its term. Servicing of CROP 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 CROP 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 CROP loan guarantee.

#### *Prompt Notification*

Lender must notify WHEDA of a change in loan status by submitting a Loan Status Notification (CROP form 9). 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 Farmer, 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 9) also serves to secure the CROP guarantee during the collection process, should the guarantee otherwise expire prior to completion of the Request for Guarantee Payment. The form must be received by WHEDA prior to guarantee expiration.

### C. ASSUMPTION OF GUARANTEES

WHEDA will allow a Lender, other than the originating Lender, to assume an existing CROP-guaranteed loan. If the Lender has not already signed a Participating Lender's Agreement which allows them to apply for CROP loans they must do so before proceeding. Please contact a CROP 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:

1. 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.
2. The existing Promissory Note must be assigned in its entirety to the new Lender. No changes in terms or refinancing will be accepted.
3. All security, collateral, and insurance documents related to the loan must be assigned to the new Lender.

## **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.

### ***Guaranteed Loan Reminder Report***

In May of each year, WHEDA will send each Lender a Guaranteed Loan Reminder Report that details all active CROP guarantees which require action on the part of the Lender, prior to noon of June 30 if the loan has not already been paid in full. The report is faxed to the contact person on file for the Lender Number used on the CROP application. This report does not need to be returned to WHEDA, it is merely a reminder notice that action must be taken by noon on June 30 or the guarantee will expire. Lender must submit a Loan Status Notification for any loan that has been paid in full or that has a substantial status change. This form will also secure the guarantee during the collection process if it expires prior to the completion of a Request for Guarantee Payment.

### ***Non-Performing Loan Status Report***

Quarterly, WHEDA will send each Lender a Non-Performing Loan Status Report for delinquent loans. The report will detail all loans in Forbearance, Pending Default, and Default status for each Lender. The Lender must verify and update all information required on the report, sign, and return 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 Farmer***

Lender must notify the Farmer of the delinquent loan status no later than the 15<sup>th</sup> day following the date the CROP 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 delinquency payments during the CROP year. A notable change in any CROP loan status should be indicated on the Loan Status Notification (CROP 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 CROP 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 deficiency judgment.

**NOTE:** When pursuing legal action against a Farmer, 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 CROP loan program.

## **CHAPTER IV: NON-PERFORMING LOAN PROCEDURES**

### **A. NON-PERFORMING LOANS**

A Non-Performing loan includes any CROP 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 CROP 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 Farmer to operate in a normal manner as long as they are in compliance with the terms and conditions provided in the Agreement. Prior to submitting a Request for Guarantee Payment, the Lender should make all attempts to work with the Farmer in order to formulate a feasible repayment plan if the Farmer is willing and able to continue making payments.

Prior to guarantee expiration (by noon on June 30 for prior-year loans), the Lender must submit a complete Forbearance Agreement package in order to extend the repayment terms and guarantee up to an additional year.

The Forbearance Agreement applies only to the outstanding principal amount due. Any outstanding interest owed to the Lender cannot be included in the new Note.

The borrower is not eligible for any other WHEDA guarantees until the Forbearance Agreement has been satisfied (paid in full).

#### ***Terms of Note***

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

***Execution Fee***

A \$300 Execution Fee will be assessed for each Forbearance Agreement, to be submitted at 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 Farmer's financial situation and need for the postponement. 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 (for each executed Agreement)
- Completed and signed Forbearance Agreement (CROP Form 6)
- Current personal/agricultural financial statement (within last 90 days)
- Current balance sheet (within last 90 days)
- Loan Disbursement Record (CROP Form 5)
- Signed copy of the new Note
- UCC financing statement (if original has expired or been updated)
- Other security instruments related to the CROP loan
- In addition, a written summary must be included which details:
  - Explanation of the need for the Forbearance
  - Explanation addressing what happened to collateral
  - Explanation/summary of collateral securing the new Note

***Deadlines***

The Forbearance Agreement (CROP Form 6) and all supporting documentation must be received by WHEDA before noon on June 30 of the year following the origination of the CROP loan.

***Expiration***

Each Forbearance Agreement is executed for a specific term, not to exceed one year. As a courtesy, WHEDA will provide a reminder notice to the Lender contact on file prior to Forbearance expiration. Once the Agreement has expired, the Lender has within fifteen (15) days to submit a new package for review (or a Request for Guarantee Payment). If this time period elapses, the guarantee is considered automatically withdrawn. No exceptions will be made.

## **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:

- 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 if deficiency outstanding before or after liquidation

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 as a result of the sale of the collateral securing the CROP loan must be applied toward reducing the outstanding balance of the CROP loan. This will be done prior to applying such proceeds against the outstanding balance of any other debt the Farmer may owe the Lender.

If there is an outstanding balance on the CROP 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)

### ***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 Farmer 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 Farmer has filed for bankruptcy, the Lender must send WHEDA 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 if the CROP loan is unsecured or under-secured, 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 Farmer's property to assure a fair price is received for the collateral securing the CROP loan. Any proceeds obtained as a result of the sale of the collateral securing the CROP loan will be applied toward reducing the outstanding balance of the CROP 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 CROP loan after the sale, it is the Lender's responsibility to determine whether or not full payment of the loan by the Farmer 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 Farmer. WHEDA's guarantee only applies to the principal amount due on the loan.

***Reorganization Plan***

If the CROP 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, a Forbearance Agreement will be entered into in order to prolong 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 receiving them, 90% of the payments made under the established repayment plan.

**E. DEATH**

In the event of a Farmer'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 the WHEDA to discuss further steps.



## **F. FRAUD**

If the Lender is aware of any misrepresentations or fraudulent act committed by a Farmer relative to the CROP 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 is able to apply to WHEDA for guarantee payment. The claim will not be paid until a complete Request for Guarantee Payment Package has been received and reviewed by WHEDA. 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 (CROP form 9) in order to secure the guarantee during the interim period.

### ***Deadlines***

WHEDA must receive a Request for Guarantee Payment by noon on June 30 of the year following the origination of the CROP loan, OR, before the expiration of an executed Forbearance Agreement.

### ***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 approved until all documents have been received. Unless the Farmer has filed for bankruptcy, the Lender must first obtain a Judgment for the CROP 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 (CROP Form 7)
- Loan Disbursement Record (CROP Form 5)
  - Lender must provide receipts and copies of cleared checks for any items not paid directly to supplier by Lender
- Complete loan payment history (computer printout)
- Current personal/agricultural financial statement (within 90 days)
- Current balance sheet (within 90 days)
- Explanation of why Farmer was unable to repay the loan
- Proof of Claim if filing Bankruptcy
- Listing of creditors
- Proof of insurance on crops/collateral that was securing the loan
- Collateral analysis OR list of lien holders securing the same asset(s) as the CROP loan, including lien position and balance of each loan

***Guarantee Payment***

WHEDA will pay to the Lender the appropriate percentage (80% or 90%) of the outstanding principal balance based on the original CROP loan amount. WHEDA will review all documentation to verify adherence to CROP 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.

Payment will be made if it is evident that the Lender has made every reasonable effort to collect the CROP loan.

In no event will WHEDA make any such payments prior to November 1 of the year in which the Lender originated the CROP loan.