



New York State Drinking Water State Revolving Fund HARDSHIP FINANCING AND GRANT ELIGIBILITY POLICY

Effective October 2017

A. Overview

Municipalities **and certain privately-owned community water systems regulated by the NYS Department of Public Service** with drinking water infrastructure projects may qualify for hardship (interest-free) financing through the Drinking Water State Revolving Fund (DWSRF). Certain municipalities that qualify for hardship financing may additionally qualify to receive grant funding through the DWSRF. This document describes the hardship financing program and the procedure used by the Environmental Facilities Corporation (EFC) and the New York State Department of Health (DOH) in determining hardship financing and grant eligibility. For the purposes of this guidance document the term municipalities **shall be inclusive of municipalities and those privately-owned community public water systems regulated by the NYS Department of Public Service**.

The use of the terms Median Household Income (MHI), Percentage of Families Below the Poverty Level (Poverty), and Population throughout this document refer to the 2015 American Community Survey's 5-year estimates.

EFC does not charge issuance costs or an annual fee on hardship financing. As applicable, issuance costs and an annual fee will be charged on the non-hardship portion of the project financing.

B. Eligibility

1. Hardship Eligibility Criteria:

The DWSRF hardship program typically offers both interest free financing and/or grant to eligible projects. Eligibility for hardship is evaluated based on the criteria specified below. The first set of criteria is specific to the municipality; the second set of criteria is specific to the project. When evaluating a municipality's eligibility for hardship, DOH and EFC may consider other factors, including but not limited to population change and economic development. Modification of eligibility criteria is discussed in Section F.

a) Municipal Criteria

To be eligible for hardship (interest-free) financing:

- The municipal population must be:
 - less than 300,000, or
 - greater than 300,000, but an acceptable income survey must be submitted for an established Town or County special assessment district that confirms the population served by the project is less than 300,000.

- The MHI¹ of the municipality must be:
 - less than 80% of the regionally adjusted Statewide MHI presented in Appendix 1, or
 - 80% to less than 100% of the regionally adjusted Statewide MHI presented in Appendix 1, and Poverty greater than the Statewide Poverty of 12.0%.
- The municipality has not exceeded the \$14 million municipal limit on hardship financing and grant, discussed below.

b) Project Criteria

If the municipality meets the criteria above, the project must also:

- be for a publicly-owned drinking water system, or a privately-owned community public water systems regulated by the NYS Department of Public Service,
- have a priority ranking score equal to or greater than the score at which the Hardship Evaluation Eligibility Line is located on the Annual List in the current IUP,
- not have closed on a DWSRF Short-Term Financing prior to October 1 of the FFY in which the hardship assistance is being awarded. For phased projects, closing a short-term or long-term financing on a previous phase may not preclude a subsequent phase from hardship eligibility,
- not have closed on long-term financing²,
- Construction was not substantially complete prior to October 1 of the FFY in which the hardship assistance is being awarded
- if for refinancing through the DWSRF, meet all DWSRF requirements (e.g., Federal Davis-Bacon Prevailing Wage, American Iron and Steel, MWBE/DBE/EEO) for the entire project or appropriate waivers must be obtained, and
- have a total project cost³ of \$14 million or less.

C. Limitations

- Projects are limited to a maximum grant award of \$3 million or 60% of net project costs, whichever is less.
- Municipalities are limited to a maximum of \$3 million in grant and a total of \$14 million combined hardship financing and grant over a rolling five-year period. The five-year period includes the current FFY and the previous four FFYs. As an example, any grant/hardship funding provided in FFY 2018, when added to hardship/grant/principal forgiveness funding in a Project Financing Agreement closed during FFY 2014 through FFY 2017, cannot total more than \$14 million.
- The \$14 million combined hardship financing and grant can be used on multiple projects or project phases.
- No municipality may receive more than their maximum grant award for any combination of projects or phases of projects, and no single project (if shared by more than one municipality)

¹ See Appendix 1 for additional information.

² Long-term market rate financings that later receive subsidy are not eligible for hardship financing.

³ "Project cost" includes all costs associated with the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension of a project; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, design, plans, working drawings, specifications, procedures, and other actions necessary for the construction of the project.

may receive more than the maximum grant amount of \$3 million or 60% of net project costs, whichever is less.

- The grant/principal forgiveness funding includes DWSRF base-program funds, Water Infrastructure Improvement Act (WIIA) grants, and Intermunicipal Grant Program (IMG) grants.
- For the purposes of tracking the start time of the rolling five-year period, EFC and DOH will use the initial financing. When an initial financing is converted to long-term financing EFC does not restart the five-year period.
- If a municipality has closed \$14 million in combined grant and interest-free financing and then closes a non-hardship financing during the five-year period, that non-hardship financing cannot be refinanced as hardship when hardship capacity becomes available.

D. Notification

Once it is determined which projects meet the eligibility criteria for interest-free financing and/or grant, after October 1 (the beginning of FFY), municipalities will be issued a confirmation letter offering interest-free financing and grant, if applicable, and as available. These letters include the finance application and finance closing dates that must be met to maintain hardship eligibility. Grant award letters will require the municipality to countersign and return to EFC, thereby setting forth the conditions of the grant offer.

Projects for municipalities that receive a hardship confirmation letter will be listed on the DWSRF IUP Annual List with a Priority Ranking Score of “H” in a subsequent IUP or by amendment to the IUP in place at the time of the confirmation letter. EFC and DOH will consider interest-free financing to have been allocated to a project upon submission of an acceptable financing application for that project.

Project costs may increase after a hardship confirmation letter is awarded, and before a hardship financing is closed. In that instance, the project will remain eligible for reduced interest rate financing as low as zero percent to cover the cost increase, subject to the hardship eligibility limitations and if DWSRF funds are available in the IUP funding period.

Projects awarded a financial hardship confirmation letter that have closed on their long-term funding package and whose project costs increased, may be eligible for reduced interest rate financing as low as zero percent to cover the cost increase. This is subject to availability and must be within five years of the long term closing date. In this case, the applicant must file a new Project Listing Form to list the project in the next IUP and it will be listed as a phase of the original project if appropriate. Additional hardship funds for cost increases will not be provided after five years from the long term closing date, and at the discretion of DOH, additional hardship funds for cost increases may not be provided within five years of that date if the project is operational and has addressed the significant public health issues that it had received priority ranking points for.

E. Expiration

Hardship confirmation letters include a finance application due date and a finance closing date. If either of these dates are not met, the hardship eligibility will expire. For example, a project sent a hardship confirmation letter in November 2017 would need to submit an acceptable financing application by the 2019 application due date stated in the IUP. Hardship eligible projects with

acceptable financing applications submitted by the application due date will have through November 2020 to close the hardship financing

Hardship eligible projects that close a short-term financing will have their hardship eligibility extended until the short-term financing maturity date. The project must close a long-term hardship financing prior to the short-term maturity date.

Projects with expired hardship eligibility may be evaluated by the hardship eligibility policy criteria in place after expiration. Municipalities will be re-evaluated based on their core project scores (excluding bonus points) that place the projects at or above the final published Hardship Evaluation Eligibility Line on the DWSRF IUP Annual List. Municipalities will not be re-evaluated for projects with core scores that place the projects below the Hardship Evaluation Eligibility Line on the DWSRF IUP Annual List.

F. Modification

EFC and DOH may modify the data used to evaluate hardship and/or grant eligibility. Modifications will be announced in a Draft IUP or IUP Amendment. EFC and DOH honors hardship confirmation and grant offer letters written under superseded policies until the confirmation letter expires.

Appendix 1: Median Household Income (MHI)

This appendix provides additional detail about the Median Household Income (MHI) used by EFC to evaluate hardship eligibility.

The 2015 American Community Survey Statewide MHI for New York State is \$59,269, which is adjusted for certain counties by a Regional Cost Factor (RCF). The RCF used is developed by the NYS Education Department (NYSED) for facilities planning.

Regionally Adjusted MHI

| Region | RCF ⁱ | Adjusted MHI | 80% | 100% |
|---|------------------|--------------|----------|----------|
| Upstate | 1 | \$59,269 | \$47,415 | \$59,269 |
| Dutchess, Orange, Putnam, Rockland, Sullivan, and Ulster Counties ⁱⁱ | 1.31 | \$77,642 | \$62,114 | \$77,642 |
| Suffolk, Nassau and Westchester Counties ⁱⁱⁱ | 1.57 | \$93,052 | \$74,442 | \$93,052 |
| <small> i - 2016-2017 Regional Cost Factor from NYSED.gov Facilities Planning ii - 1.31 is the average of the RCFs for Dutchess, Orange, Putnam, Rockland, Sullivan, and Ulster Counties iii - 1.57 is the average of the RCFs for Suffolk, Nassau, and Westchester County </small> | | | | |

For special districts or other areas for which accurate census data is not available, income surveys may be provided by the municipality and considered by EFC. The income survey must be in a form acceptable to EFC. Also, if a municipality believes that the published ACS MHI is not representative of their income level, they may submit an income survey. Income surveys must be submitted by the income survey deadline stated in the IUP. See EFC’s Income Survey Requirements in Attachment 1 to the Hardship Policy for further information.

A project’s service area may encompass more than one municipal jurisdiction. If multiple municipalities sponsor a project and own the infrastructure, a weighted MHI, based on MHI and population, percentage of flow per municipality, or number of service connections served by the project, is calculated and used in determining eligibility for hardship financing. If the project sponsor and the owner of the infrastructure is one municipality, EFC uses the MHI of that municipality.

EFC allows the calculation of a weighted MHI for special districts where the service area is a portion of a municipality or multiple municipalities. In these cases, the municipality(ies) must provide the population or number of service connections in each portion of a municipality served by the special district for use in calculating the weighted MHI. For proposed districts, EFC reserves the right to require the use of population data in calculating weighted MHIs.

Attachment 1: Income Survey Requirements

The Hardship Financing Policies of the Environmental Facilities Corporation (EFC) for the Clean Water State Revolving Fund (CWSRF) and the NYS Department of Health (NYSDOH) for the Drinking Water State Revolving Fund (DWSRF) reference the Median Household Income (MHI) for the candidate SRF recipient municipality. MHI is one measure of the financial resources of a municipality and its ability to pay water or wastewater infrastructure costs. EFC uses MHI along with other published statistics in determining eligibility for hardship financing from these programs.

EFC uses MHI data from the American Community Survey (ACS) as conducted by the US Census Bureau. This document provides the income survey requirements the municipality should follow in order to produce an MHI value that is suitable for EFC to use in their hardship eligibility evaluation.

EFC recognizes that execution of an income survey requires a substantial commitment of time and effort to complete properly. To assure a satisfactory outcome for all parties, EFC strongly recommends applicants consult with EFC program staff regarding income survey requirements prior to initiating any survey. Applicants should also consult directly, prior to any survey effort, with other funding programs (co-funding partners) that may benefit the proposed water or wastewater infrastructure project, as income survey requirements of other programs may not be identical.

To properly plan and execute a successful income survey project, applicants are also strongly encouraged to use the separate guidance developed by RCAP Solutions, Inc. That guidance describes the methods required to implement an effective income survey, and has been jointly reviewed by EFC, USDA Rural Development and the NYS Office of Community Renewal for consistency with all three programs. A sample survey form developed by RCAP Solutions Inc. is included in that guidance and encompasses the data requirements of all three funding programs. Please contact RCAP Solutions Inc. directly to obtain this guidance.

General Requirements and Criteria

- Income surveys are to be conducted within the service area of the water supply or wastewater treatment project proposed for SRF financing.
- Residential households including each individual apartment in multi-family structures, not businesses, institutions or non-residential entities, are to be surveyed. In order to measure the incomes of those residents impacted by infrastructure costs, respondents to surveys must be the owner/occupant or long term tenant. In the case of seasonally occupied properties and second homes, income survey respondents shall be the property owner and not a short term renter/occupant.
- EFC accepts as valid the results of properly conducted income surveys that meet certain minimum response rates identified later in this guidance.
- Applicants are required to certify the results of the income survey, identify the calendar year the survey was completed, and the date the data collection was initiated.
- Accepted income surveys shall be valid for a maximum of five (5) years from the date of the initial data collection.
- Provide an income survey master list that identifies occupied, vacant and seasonal households. The list shall include information that may be use to verify the location of these households within the project service area.
- If the survey is not conducted by an objective 3rd party, such as a not-for-profit entity, the applicant may be required to submit a representative sample of actual completed income surveys.

- EFC only accepts income surveys that solicit an actual numerical response representing the actual income of each household surveys. Surveys that allow respondents to choose from various ranges of income on a survey form will not be accepted.
- Survey responses must represent the aggregate income of all occupants of a household, whether related or not, 15 years of age or older.
- Applicants are not required by EFC to report other demographic data, to collect signatures of residents on survey forms, to report names or addresses of survey respondents or to put tracking numbers on survey forms.
- The geographic boundaries of the income survey must match the infrastructure project service area identified in the relevant engineering planning report.
- An income survey shall only be evaluated when an Engineering Report has been submitted that complies with the applicable CWSRF or DWSRF program requirements and the project has been listed on the Annual List of the current Intended Use Plan above the Hardship Subsidy Line.

Required Income Survey Response Rate

The table below indicates the required minimum percentage of total households surveyed that must respond with a complete survey in order for EFC to rely on income survey results.

| Number of Households in Proposed Project Service Area | Required Minimum Percent (%) Return Rate |
|---|--|
| 1 to 55 | 90 |
| 56 to 63 | 87 |
| 64 to 70 | 85 |
| 71 to 77 | 84 |
| 78 to 99 | 80 |
| 100 to 115 | 78 |
| 116 to 153 | 72 |
| 154 to 180 | 69 |
| 181 to 238 | 67 |
| 239 to 308 | 57 |
| 309 to 398 | 50 |
| 399 and greater | 38 |

Sample Income Survey Forms

Attached to this document and listed below is a form for reporting survey results and certification, and a sample survey form that applicants can use to assure conduct of an income survey is compliant with EFC requirements. Other formats may be acceptable, so long as the same information is provided to EFC.

- Project Information and Income Survey Certification
- Sample Household Income Survey

Instructions for Submission of Income Survey Results

Applicants are expected to keep on file certain background materials related to the organization and execution of the income survey. EFC requires that these materials be kept on file until construction of the proposed infrastructure project is complete, or according to the terms of its local records retention policy, whichever is longer. Before submitting an income survey to EFC for consideration, please be sure that the following materials are retained and accessible, if requested by EFC:

- Copy of Income Survey Cover Letter sent to residences
- Master List of All Residences with identification as occupied, seasonal/second home, vacant, and derelict structures
- Original survey response forms received

Applicants must submit materials as listed below. EFC may request other additional materials as mentioned elsewhere in this document and on the Income Survey Certification form itself:

- Copy of the signed cover letter requesting that the income survey results be accepted by EFC
- A blank copy of the actual survey form used to conduct the survey project.
- Project Information and Income Survey Certification Form
 - This form must be signed by an authorized municipal official and if applicable a consultant engaged to conduct the income survey. The definition of a consultant may include a not-for-profit or other third party technical services organization that assisted in organization and management of the income survey.
- Description of survey methodology. This can be provided on the certification form or as an attachment. EFC relies on this description, in part, to determine if the income survey is properly conducted and valid. At a minimum, the narrative description must include:
 - Rationale for conducting the survey
 - The individual who managed and conducted the income survey project, e.g. elected officials, municipal staff, consultant, not-for-profit, roles of volunteers and other persons assisting the survey project.
 - The method used to identify and inventory all residences in the project service area and how they were characterized as to occupancy and condition, e.g. vacant, derelict, or seasonal.
 - Describe how the survey was initially distributed to each occupied residence and how follow up was conducted.
 - An explanation of how outreach was conducted to owners of seasonal/second homes to assure that such owners were respondent to the income survey.
 - Describe how raw survey responses were assembled and analyzed to determine the Median Household Income of the project service area.

- The dates the survey was initiated and completed.

Any requests for additional information or guidance, and submission of income survey results, shall be directed to:

Brock Rogers, P.E.
NYS Department of Health
Bureau of Water Supply Protection
Empire State Plaza
Corning Tower Rm. 1135
Albany, NY 12237
Ph. 518-402-7650
bpwsp@health.ny.gov

Project Information and Income Survey Certification

Contact and Project Information

Name of Municipality/Applicant _____

Mailing Address _____

Municipal Contact:

Name, Title _____

Phone number _____ Email _____

Project Location:

City, Town or Village _____ County _____

Income Survey Service Provider (if survey not fully organized and managed by the Municipality):

Name, Title _____

Firm, Agency or Employer _____

Phone number _____ Email _____

Special Improvement (Water or Sewer) District, and/or project name as applicable

Preliminary Engineering Report which describes the relevant capital project:

Title _____

Date (including revisions) _____

Engineering Contact _____

State Revolving Fund (SRF) Project number, if known _____

Engineering Report Map Reference (Map title and page/appendices number)

I am authorized to apply for evaluation of alternate Median Household Income (MHI) based on the enclosed Income Survey for the project(s) described in the application and that is currently listed on the Annual List above the Hardship Subsidy Line of the Intended Use Plan for either the Clean Water or Drinking Water State Revolving Fund. By signing the application, I certify that all the information contained in this application, in other statements and exhibits attached hereto or referenced herein, and in all statements, data and supporting documents that have heretofore been made or furnished for the purpose of evaluating the Income Survey for the project(s) described herein, are true, correct and complete to the best of my knowledge and belief.

Further, I acknowledge that offering a written instrument knowing that the written instrument contains a false statement of false information, with the intent to defraud the State of any political subdivision, public authority or public benefit corporation of the State, with the knowledge or belief that it will be filed or recorded by the State or any political subdivision, public authority or public benefit corporation of the State, constitutes a crime under New York State Law.

Signature of Authorized Municipal Official

Name and Title

Name of Applicant

Date

Name of Consultant if applicable

Address of Consultant

This is a sample Household Income Survey Form that may be used when conducting an income survey that is in conformance with EFC/SRF requirements. It does not represent a survey that would be in conformance with other agencies such as USDA Rural Development or the NYS Office of Community Renewal. Fields or information in *italics* are required. All other elements of this sample form are optional.

[Insert Municipality or Community and project name here]
Household Income Survey

This information is needed to support the [insert only one: Town/Village/Municipality] applications for State and federal funding assistance for our proposed [insert one: drinking water/wastewater] project. **The survey is confidential!** Data will be collected and compiled into a summary report. Your individual responses will not be shared with any agency.

Please write in the total income for your household for the calendar year (insert survey calendar year here). Income should include all income of persons 15 years of age or older in the household, whether related or not. Income consists of wage or salary income; net non-farm self-employment income; interest, dividend or net rental income or royalty incomes; social security or railroad retirement income; public assistance or welfare income; retirement or disability income; and all other income.

TOTAL Annual Household Income (add up income listed above)

\$ _____