



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

Effective October 2017

A. Overview

Municipalities with wastewater treatment works projects may be eligible for hardship (interest-free) financing through the Clean Water State Revolving Fund (CWSRF). Municipalities eligible for hardship financing may also qualify to receive Federal grant. This policy (Hardship Policy) delineates the hardship financing program and the procedure used by the Environmental Facilities Corporation (EFC) to determine hardship financing and grant eligibility.

Municipal population and percentage of families below the poverty level (Poverty Rate) are based on the 2015 American Community Survey's 5-year estimates published by the U.S. Census Bureau. The Statewide Median Household Income (MHI) is also based on the 2015 American Community Survey's 5-year estimates, and adjusted regionally as described in Appendix 1.

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

Hardship Eligibility Criteria

A municipality's eligibility for hardship is evaluated on two sets of criteria: first, on criteria specific to the municipality, and second, on criteria specific to the project. When evaluating a municipality's eligibility for hardship, EFC may consider other factors, including but not limited to population change and economic development.

In order to be eligible for hardship (interest-free) financing the following municipality and project criteria must both be met:

1. Municipal Criteria

- The municipal population must be:
 - less than 300,000, or
 - if greater than 300,000, an acceptable income survey is submitted for an established special assessment district that confirms the population served by the project is less than 300,000. Income surveys are to be submitted to EFC by the deadline stated in the Intended Use Plan (IUP).



- The MHI¹ of the municipality must be:
 - less than 80% of the regionally adjusted MHI presented in Appendix 1, or
 - 80% to less than 100% of the regionally adjusted MHI presented in Appendix 1 if the Poverty Rate of the municipality is greater than the 2015 statewide Poverty Rate of 12.0%.
- The municipality has not exceeded the \$20 million limit on hardship financing and grant, as discussed below.

2. Project Criteria

The project must:

- be a municipally-owned wastewater treatment works project,
- be environmentally significant, as determined by the Commissioner of the NYS Department of Environmental Conservation²,
- have a core score (excluding bonus points) that would place the project above the Hardship Subsidy Line of its respective category on the Annual List in the current IUP, and
- have a total project cost³ of \$20 million or less, unless the project is being undertaken pursuant to an executed State Consent Order, SPDES permit compliance schedule or judicial order. In that instance, there is no maximum project cost; however hardship financing is available only for the first \$20 million of project costs.

In addition, the municipality must not have closed a CWSRF short-term financing before October 1, 2015 or any long-term financing⁴ for the project. For phased projects, closing a short-term or long-term financing on a previous phase does not preclude a subsequent phase from hardship eligibility.

C. Notification

After October 1, the beginning of the federal fiscal year (FFY), a hardship eligibility letter is sent to each municipality that is determined to have a project eligible for hardship financing. The letters will include the financing application submittal and finance closing dates that must be met by the municipality to maintain hardship eligibility.

Projects that are eligible for hardship will remain listed in Category A or B of the IUP until an acceptable financing application has been submitted for the project. Upon receipt of the acceptable financing application, EFC will consider hardship financing to have been allocated to that project and will move the project to Category D.

¹ See Appendix 1 for additional information.

² See 21 NYCRR §§2602.2(a)(23) and 2602.6. For a project to be considered Environmentally Significant, the project must score either project priority scoring criterion A (Existing Source Criterion) and B (Water Quality Improvement Criterion) or D.1.a (Enforcement).

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.

⁴ Long-term market rate financings that later receive subsidy are not eligible for hardship financing.

If project costs increase before a hardship financing is closed, the project will remain eligible for hardship financing to cover the cost increase, subject to the hardship eligibility limitations discussed in Section H, if CWSRF funds are available.

D. Expiration

Hardship eligibility letters include a financing application due date and a finance closing date. If either of these dates are not met, the municipality's hardship eligibility will expire. Municipalities eligible for hardship under this Hardship Policy will have approximately 18 months to submit an acceptable financing application. For example, a municipality sent a hardship eligibility letter in November 2017 would need to submit an acceptable financing application by the 2019 application due date stated in the IUP. Municipalities with hardship eligible projects that submit acceptable financing applications by the application due date will have until December 1, 2020 to close the hardship financing.

Once a municipality closes a short-term financing for a hardship eligible project the hardship eligibility is extended until the maturity date of the short-term financing. The project must be converted to a long-term hardship financing prior to the short-term maturity date.

Projects with expired hardship eligibility that were moved to Category D revert to the appropriate project category (A or B) in the next IUP. A project may be re-evaluated for hardship eligibility if its core score (excluding bonus points) places it above the Hardship Subsidy Line in its respective category. The project will be evaluated for hardship using the Hardship Policy in place at the time eligibility is re-evaluated. Projects with core scores below the Hardship Subsidy Line in their respective category will not be re-evaluated.

E. Modification

EFC may modify the Hardship Policy, including the criteria used to evaluate hardship financing and/or grant eligibility. Modifications will be announced in a Draft IUP or IUP Amendment. EFC will honor the terms of hardship eligibility letters issued under superseded policies until the respective hardship eligibility letter expires.

F. Federal Grant Eligibility Criteria

Federal grant may be available to municipalities who meet the criteria described in this section. The amount of federal grant available, if any, is dependent upon the amount of federal funding allocated to the CWSRF in a particular FFY.

All of the following criteria must be met to be a candidate for federal grant:

- All hardship eligibility criteria have been met
- An acceptable financing application has been submitted
- A CWSRF short-term financing for the project has not closed before the beginning of the FFY
- Construction is not substantially complete before the beginning of the FFY and
- The project has not closed a long-term financing



G. Calculation of Maximum Federal Grant

Hardship eligible projects meeting the eligibility criteria are awarded an Affordability Score based on the following factors:

Affordability Score & Award Criteria					
2015 Median Household Income				Score	
Less than	\$ 35,561			10	0 - 60% of statewide
greater than or equal to	\$ 35,561	less than	\$47,415	7	60 - 80% of statewide
greater than or equal to	\$ 47,415	less than	\$59,269	5	80 - 100% of statewide
greater than or equal to	\$ 59,269			0	> 100% 2015 Statewide MHI
2016 % County Unemployment				Score	
greater than	5.5			2	> 120% of Statewide
greater than	4.6	less than or equal to	5.5	1	100 - 120% of Statewide
less than or equal to	4.6			0	< 100% 2016 Statewide Unemployment
% Population Change (2000-2010)				Score	
Less than	0			1	Negative Population Trend
greater than or equal to	0			0	Positive Population Trend
2015 % Families Below Poverty				Score	
greater than	14.4			5	> 120% of Statewide
greater than	12.0	less than or equal to	14.4	3	100 - 120% of Statewide
less than or equal to	12.0			0	< 100% 2015 Statewide Family Poverty

The total Affordability Score received by each project is used to determine the maximum grant award amount as follows:

0 to 8 points	\$2,000,000
9 to 12 points	\$3,500,000
13 points or greater	\$5,000,000



H. Limitations

- Municipalities may receive a maximum of \$20 million combined hardship financing, grant, and principal forgiveness over a rolling five-year period. The five year period includes the current FFY and the previous four FFYs with the closing of the initial EFC financing as the commencement of that period. For example, any hardship/grant funding provided to the municipality in FFY 2018, when added to hardship/grant/principal forgiveness funding provided during FFY 2014 through FFY 2017, cannot total more than \$20 million.
- The grant funding included in this limitation are Integrated Solutions Construction (ISC) grants, Water Infrastructure Improvement Act (WIIA) grants, and Intermunicipal Grant Program (IMG) grants. They do not include Green Innovation Grant Program (GIGP), Engineering Planning Grant (EPG), or Storm Mitigation Loan Program (SMLP) funds.
- The \$20 million combined hardship financing and grant may be on multiple projects or project phases.
- If a municipality has closed \$20 million in combined grant and hardship financing and then closes a non-hardship financing during the five-year period, that non-hardship financing cannot at any time be refinanced as hardship financing.

Projects may receive a maximum grant as follows:

- The lesser of
 - the maximum grant award calculated in Section G, or
 - 25% of net total project costs.
- Projects may receive no more than the maximum grant award calculated in Section G.
- A municipality may receive no more than \$5 million of EFC grant for any combination of projects or phases of projects over a rolling five-year period. This limitation is part of the overall \$20 million combined hardship financing and grant over a rolling five-year period, and no single project (if shared by more than one municipality) may receive more than \$5 million.

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

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

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 those 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 may 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. 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, and adjusts for regional differences. 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 are valid for a maximum of five (5) years from the date of the initial data collection.
- Applicants must provide an income survey master list that identifies occupied, vacant and seasonal households. The list must include information that may be used 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 accept 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, as 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 certain background materials related to the organization and execution of the income survey on file. EFC requires that these materials be kept 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 noted 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:

Jimmy Ng, P.E.
Community Assistance Group
Division of Engineering and Program Management
NYS Environmental Facilities Corporation
625 Broadway
Albany, NY 12207-2997
Phone: 518-402-7396

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 of 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)



Certification

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 of 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 all income categories listed above)

\$ _____