



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

*Effective October 2022
(Updated November 2022)*

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/principal forgiveness funding through the DWSRF. This document describes the hardship financing program and the procedure used by the New York State Department of Health (DOH) and the Environmental Facilities Corporation (EFC) in determining hardship financing and grant/principal forgiveness 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.*** 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 any non-hardship portion of a project financing.

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 2019 American Community Survey's 5-year estimates.

Projects serving Environmental Justice (EJ) areas may also qualify for hardship eligibility. Projects in EJ areas that do not otherwise qualify for hardship based on MHI or poverty rate criteria will be considered for hardship eligibility if at least 50% of the project cost or project scope serves, protects, or benefits an identified EJ area.

State law authorizes extended term financing with a final maturity up to forty years for hardship recipients. The offer of extended term financing would be at DOH and EFC discretion and would be used on a limited basis to assist communities for which DOH and EFC determine an extended term would provide a significant benefit over the life of the financing.

Bipartisan Infrastructure Law General Supplemental (BIL-GS) Awards:

Projects on the current IUP Annual List that have been determined by DOH to meet the state's disadvantaged community (DAC) eligibility criteria outlined in Section B below will be considered BIL-GS eligible projects. BIL-GS eligible projects are indicated on the BIL-GS Eligible Project List in the current IUP and will be considered for awards consisting of additional subsidy (grant/principal forgiveness) and/or interest free financing in amounts as outlined in Section C below. BIL-GS funds will be awarded to projects on the BIL-GS Eligible Project List in public health priority score order until the available funds are exhausted. DOH will determine which projects will be awarded BIL-GS funds. Award letters will be sent to qualifying applicants notifying them of the award.

B. Eligibility

1. Hardship Eligibility Criteria:

The DWSRF hardship program typically offers both interest free financing and/or grant/principal forgiveness 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 assistance including grant/principal forgiveness and/or interest-free financing, the following criteria must be met:

- The municipal population must be:
 - less than 300,000, or
 - if greater than 300,000, 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.
- At least one of the following criteria must be met:
 - The MHI of the municipality must be less than 80% of the regionally adjusted Statewide MHI presented in Appendix 1, or
 - If the MHI of the municipality is between 80% and less than 100% of the regionally adjusted Statewide MHI presented in Appendix 1, then the poverty rate of the municipality must be greater than the statewide poverty rate of 10.4%, or
 - At least 50% of the project cost or project scope must serve, protect, or benefit an identified EJ area.

b) Project Criteria

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

- Must be for a publicly-owned drinking water system, or a privately-owned community public water systems regulated by the NYS Department of Public Service,
- Must be listed on the Annual List with a score equal to or greater than the score at the Hardship Evaluation Eligibility line (for base DWSRF) or must appear on the BIL-GS Eligible Project List. If insufficient qualifying projects exist above the Annual List Hardship Line to award all of the additional subsidy required under the Base DWSRF, projects below the line will be considered in public health priority score order until all of the required additional subsidy is obligated.
- Must not have closed on a 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,
- Must not have closed on long-term financing¹,
- Construction must not have reached substantial completion prior to October 1 of the FFY in which the hardship assistance is being awarded

¹ Long-term market rate financings that later receive subsidy are not eligible for hardship financing.

C. Limitations

- Projects are limited to a maximum grant/principal forgiveness award of 70% of total net eligible project costs after outside grants, but not to exceed \$5 million.
- Municipalities are limited to the \$5 million maximum grant/principal forgiveness award in any FFY, but may be eligible for an additional grant/principal forgiveness award in a subsequent FFY if a distinct, separate, eligible project is submitted in a subsequent year.
- No municipality may receive more than the maximum grant/principal forgiveness award for any combination of projects in any FFY, and no single project (even if shared by more than one municipality) may receive more than the maximum grant/principal forgiveness amount of \$5 million or 70% of the total net project cost, whichever is less.
- Municipalities are limited to a maximum of \$14 million in interest-free financing over a rolling five-year period. The five-year period includes the current FFY and the previous four FFYs. As an example, any interest-free financing provided in FFY 2023, when added to interest-free financings in a Project Financing Agreement closed during FFY 2019 through FFY 2022, will be limited to an amount such that the 5-year total does not exceed \$14 million.
- For the purposes of tracking the start time of the rolling five-year period, EFC and DOH will use the initial financing date. When an initial financing is converted to long-term financing EFC does not restart the five-year period.
- If a municipality has closed its maximum amount in grant/principal forgiveness or 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.
- Additional subsidy from the Bipartisan Infrastructure Law (BIL), may not be used to forgive debt that was incurred prior to November 15, 2021, the enactment date of the BIL.

D. Notification

Once it is determined which projects meet the eligibility criteria for interest-free financing and/or grant/principal forgiveness, sometime after October 1 (the beginning of FFY) municipalities will be issued a confirmation letter outlining the interest-free financing and grant/principal forgiveness award. These letters include the finance application and finance closing dates that must be met to maintain hardship eligibility.

Projects for which municipalities have received 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.

E. Expiration

To remain eligible for hardship financing, the municipality must submit an acceptable financing application and then close a financing with EFC by the dates identified in the hardship confirmation

letter. Hardship eligibility may expire if either of these dates are not met. At the discretion of DOH and EFC, an extension of hardship eligibility may be granted under certain circumstances.

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/principal forgiveness eligibility. Modifications will be announced in a Draft IUP or IUP Amendment. EFC and DOH will honor hardship confirmation and grant/principal forgiveness offer letters written under superseded policies until the confirmation letter expires.

G. Grant/Principal Forgiveness Eligibility

Grant/principal forgiveness may be available to municipalities who meet the criteria described in this section. The amount of grant/principal forgiveness available, if any, is dependent upon the amount of additional subsidy that the DWSRF is authorized to provide in a particular FFY, among other things.

To be considered for grant/principal forgiveness, a municipality must have:

- met all disadvantaged community eligibility criteria,
- not closed a DWSRF short-term financing for the project before the beginning of the FFY in which the award is made, and not closed a long-term financing for the project, and
- not substantially completed construction before the beginning of the FFY.

H. Income Survey

In certain circumstances, an income survey (“Survey”) may be performed by a municipality to establish an MHI different than what is found in the American Community Survey’s 5-year estimates published by the US Census Bureau. If the income survey is accepted by DOH and EFC, the MHI in the accepted Survey may be used by DOH and EFC for determining hardship and grant/principal forgiveness eligibility. Income surveys are typically used to establish an MHI for a special district or other areas where census data is not available. DOH and EFC will not accept income surveys to revise the Poverty for a municipality or district. DOH and EFC uses the published 2019 American Community Survey Poverty for all evaluations. See Appendix 2, Income Survey Requirements, for more information.

Appendix 1: Median Household Income (MHI)

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

The 2019 American Community Survey Statewide MHI for New York State is \$68,486, 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 | 1.00 | \$ 68,486 | \$ 54,789 | \$ 68,486 |
| Dutchess, Orange, Putnam, Rockland, Sullivan, and Ulster Counties ⁱⁱ | 1.27 | \$ 86,977 | \$ 69,582 | \$ 86,977 |
| Suffolk, Nassau and Westchester Counties ⁱⁱⁱ | 1.52 | \$ 104,099 | \$ 83,279 | \$ 104,099 |

ⁱ - [2020-2021 Regional Cost Factor from NYSED.gov Facilities Planning](#)

ⁱⁱ - 1.27 is the average of the RCFs for Dutchess, Orange, Putnam, Rockland, Sullivan, and Ulster Counties

ⁱⁱⁱ - 1.52 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 DOH and EFC. The income survey must be in a form acceptable to DOH and 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 Appendix 2 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, DOH and EFC use the MHI of that municipality.

DOH and EFC allow 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, DOH and EFC reserve the right to require the use of population data in calculating weighted MHIs.

Appendix 2: Income Survey Requirements

Overview

This appendix describes the income survey process that must be used by a municipality to document an alternative MHI for EFC's consideration. A municipality and project must meet all hardship criteria described in the Hardship Policy to be eligible for hardship financing or Principal forgiveness/grant.

EFC recognizes that conducting an income survey requires a substantial commitment of time to complete properly, and also that other funding agencies may have different income survey requirements. EFC recommends that any municipality considering an income survey coordinates the income survey effort with all prospective funding agencies to be sure that each agency's requirements will be satisfied by the income survey performed.

Requirements

Requirements for completing an income survey that will be acceptable to EFC are listed below.

Who to Survey

1. Conduct the income survey in the service area of the water supply or wastewater treatment project proposed for SRF financing. The geographic boundaries of the income survey must match the infrastructure project service area identified in the relevant engineering planning report.
2. Survey only residential households.
 - o Residential households include single family homes and individual apartments in multi-family structures
 - o The following are not residential households: businesses, institutions or non-residential entities.

Responses

3. Respondents to surveys must be the owner/occupant or long term tenant of the residential household. In the case of seasonally occupied properties and second homes, respondents shall be the property owner and not a short term renter/occupant.
4. The income survey form must indicate that the survey responses represent the aggregate income of all occupants of a household, whether related or not, 15 years of age or older.
5. A numerical response representing the actual income of each household surveyed must be solicited. Surveys that allow respondents to choose from ranges of income on a survey form will not be accepted.

6. The minimum response rate must be met. The table below indicates the percentage of total households surveyed that must respond with a complete survey.

| 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 |

Documentation

7. Municipalities must keep documents related to the organization and execution of the income survey on file for a minimum of six years after the term of the project's financing agreement with EFC. 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

Results and Submission

8. Surveys must be submitted by the income survey deadline stated in the IUP. An Income Survey Methodology Questionnaire and Checklist is included later in this Appendix for the municipality's use. Other formats may be acceptable as long as the same information is provided to EFC.
9. Survey results must be certified. A certification is included in this Appendix for the municipality's use.
10. A master list must be included in the Survey that categorizes properties as occupied, seasonal/second home, vacant, and derelict residences. The list must include information that may be used to verify the location of these households within the project service area.
11. Survey results that are submitted more than five (5) years past the date of the initial data collection will not be accepted.
12. Municipalities whose Surveys were not conducted by an objective third party may be required to submit a representative sample of actual completed income surveys.
13. Municipalities are not required to report demographic data, collect signatures of residents on survey forms, report names or addresses of survey respondents or put tracking numbers on survey forms.

Notification

Municipalities will be notified if their income survey is accepted by EFC. Accepted income surveys are valid for a maximum of five (5) years from the income survey completion date.

Additional Resources

Guidance on planning and conducting income surveys is available and may be obtained directly from RCAP Solutions, Inc. Included in that guidance is a sample survey form that would encompass the data requirements for several agencies' funding programs, including EFC.

Income Survey Methodology Questionnaire and Checklist

Complete this form and submit it with the required documentation. Attach additional pages as needed.

Contact and Project Information

Project Information

Municipality: _____

SRF Project No.: _____ County: _____

Special Improvement District Name: _____

Municipal Contact

Name: _____ Phone: _____

Title: _____ Email: _____

Mailing Address: _____

Third Party Information (complete if income survey is not fully organized and managed by the municipality)

Firm or Agency: _____ Phone: _____

Contact Name: _____ Email: _____

Income Survey Methodology

Discuss why the income survey was conducted.

Name the individual(s) who managed and conducted the income survey and their roles (elected officials, municipal staff, consultants, not-for-profits, volunteers, etc.).

Discuss how properties in the project service area were inventoried and categorized with respect to property type (residential, commercial/business, institutions, etc.) and condition (occupied, seasonal/second home, vacant, derelict, etc.).

Discuss how the income survey was initially distributed to each occupied residence, and how follow-up was conducted.

Discuss the outreach that was conducted to owners of seasonal/second homes to assure that those owners responded to the income survey.

Describe how raw survey responses were assembled and analyzed to determine the median household income (MHI) of the project service area.

Income Survey Data

Income survey start date: _____

Income survey completion date: _____

- 1 Total households in project service area: _____
This is all homes, dwellings, and apartments served by the infrastructure project whether occupied or vacant.
- 2 Total households in survey universe: _____
This is all owner occupied, long-term tenant occupied, and seasonal/second homes.
- 3 Complete surveys received: _____
- 4 Response rate: _____
This is the number of completed surveys divided by the number of households in the survey universe.
- 5 Median Household Income (MHI) as measured by income survey: _____
- 6 Calendar year for which household income was collected: _____

Submission Checklist

- Cover letter signed by a municipal official transmitting the income survey results for EFC's review.
- Blank copy of the income survey form used
- This Income Survey Methodology Questionnaire and Checklist
- Income Survey Certification

Please note: EFC may request additional raw data from survey responses to document how the MHI was calculated. If the Survey was not conducted by an independent third party, EFC may request copies of completed survey forms. The municipality must keep a copy of the cover letter to the income survey form, and the master list of all residences in the project service area, identifying each as occupied, seasonal/second home, vacant, or derelict for a minimum of six years after the term of the project's financing agreement with EFC.

Income Survey 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. 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 or 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

Date

Name of Consultant (if applicable)

Address of Consultant

Sample Household Income Survey Form

This form 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)

\$ _____