

New York

Drinking Water State Revolving Fund Toolkit

This toolkit is a resource to quickly reference four key aspects of the state's current Drinking Water State Revolving Fund (DWSRF), which was authorized under the Safe Drinking Water Act (SDWA). A regularly updated compilation, this toolkit includes the policies, regulations, and laws that define the state's [application processes](#), [disadvantaged community definition](#), [scoring criteria](#), and [lead service line replacement program](#). Advocacy is especially needed on these highlighted topics to ensure that the application process is accessible to low-income and communities of color, and that funds are prioritized for those experiencing cumulative impacts of legacy pollution and disinvestment.

Abbreviations

- New York State Environmental Facilities Corporation (EFC)
- New York State Department of Health (DOH)
- Drinking Water State Revolving Fund (DWSRF)
- Federal Fiscal Year (FFY)
- Bipartisan Infrastructure Law (BIL)
- American Community Survey (ACS)

DWSRF Application Process¹

Step 1: List Your Project

Before you can apply for financing through the DWSRF, you must first list your project on the state DOH Intended Use Plan (IUP).

- Project listings are screened for eligibility, scored, ranked, and listed, and a new IUP is issued annually.
- **If your project is included in the Annual List of the IUP, skip to Step 3.**

What's Required

Drinking Water projects are listed by completing the project listing form on the state DOH website: <https://www.health.ny.gov/environmental/water/drinking/water.htm>

- The required information includes contact information, a general description of the project's scope, a budget, and a project schedule.
- Projects are then screened for eligibility, scored, ranked, and listed.



You must submit an approvable engineering report and Smart Growth Assessment Form with the project listing, or have one on file with DOH, in order to be on the Annual List and apply for financing during the IUP period.

- You must submit an approvable engineering report and a Smart Growth Assessment Form so that the project can be included on the Annual List.
- Projects without these documents will be on the Multi-Year list only.
- You should upload any available documents, such as engineering reports, consent orders, or project descriptions, through EFC's Project Listing and Update System (PLUS), in order to receive the most accurate project score and ranking.

Deadline: Submit by June 16, 2023

- DOH accepts new project listings on a continuous basis.
- The project listing deadline is June 16, 2023 for inclusion in the 2024 draft IUP.

Resources

The project listing form, hardship policy, Intended Use Plan and engineering report outline for drinking water projects are available on the DOH website:

<https://www.health.ny.gov/environmental/water/drinking/water.htm>

Step 2: Secure Required Documents

Financial Application Guidance

Actions required to process an application: Before you get started with your financing application, please note there are a number of actions/processes that you must complete to generate the documentation you need to complete your application.

- Municipal bond resolutions
- Environmental review documents and findings
- District formation/increase authorization
- Agreement for engineering planning services
- Form a special district (generally only counties or towns)
- Contact State Historic Preservation Office (SHPO) for a determination on potential project impacts



- Pass a bond resolution
- Hire a consulting engineer if you do not have a design engineer on staff

Documents that may be necessary to close financing and/or get your money

Documents include, but may not be limited to:

- Financial statements (audited if available) for the three most recent fiscal years (for applicants other than counties, cities, towns and villages)
- Letters for grant awards or financing that is not from/through EFC
- Current adopted capital and operating budgets

Step 3: Apply for Financing

If your project is included on the Annual List in the DOH IUP, you may proceed with submitting a financing application.

- **Applications for interest-free and subsidized financing are accepted on a continuous basis until March 1, 2023 for the current IUP.**
- Applications received after the deadline may be postponed to the next IUP year.
- Plan on submitting your financing application as soon as possible to meet your needs for timely access to funds.
- This will give EFC adequate time to process your application, request clarification, prepare closing documents, and ensure you are able to receive disbursements when you need them.

The next section provides links for you to Download the Application Form & Guidance.

Disadvantaged Community Definition²

7.0 Disadvantaged Community (Hardship) Program

7.1 Introduction

DWSRF hardship assistance includes grants/principal forgiveness and interest-free financing.

- Since the inception of the program, DOH and EFC exercised the federal Safe Drinking Water Act Hardship Provision. This allows states to use up to 30% of their annual DWSRF federal grant to provide additional subsidies (grants) to eligible **disadvantaged communities**.

- States are currently required to use 14% of their federal capitalization grant for additional subsidy in the form of grants, principal forgiveness, or negative interest loans.
- Additionally, states must use at least 12%, but no more than 35%, of their capitalization grant for additional subsidy for state-defined **disadvantaged communities**, provided there are sufficient projects available.
- For the current FFY it is anticipated that New York state will use 26% of the federal grant for additional subsidy in the form of grants/principal forgiveness to **disadvantaged communities**.
- Table 3 reflects the total project financings, the cumulative amount of grant funds that have been provided to **disadvantaged communities**, and the estimated new additional subsidy expected to be provided during this FFY funding cycle.

Table 3 Total DWSRF Program Financings and Additional Subsidy			
Federal Fiscal Years	Federal DWSRF Dollars Provided to NY State (Capitalization Grants)	Executed Project Financings & Grants	Additional Subsidy Awarded to Disadvantaged Communities
1997 - 2022	\$1,435,017,943	\$7,686,956,963 1	\$396,493,566 2
2023 (Estimated)	\$45,000,000		\$11,700,000 3

1 Includes financings, refinancings and grants awarded since program inception.
2 Total DWSRF hardship grants awarded to disadvantaged communities since program inception
3 Estimated new hardship Additional Subsidy commitments to be provided = 26% of the Federal Capitalization Grant.

7.3 Disadvantaged Community (Hardship) Eligibility Criteria

To be considered for **Disadvantaged Community** assistance including grant/principal forgiveness or interest-free financing, public water system projects must meet the following criteria:

- Must be a municipally-owned or NYS Public Service Commission (PSC) regulated privately owned drinking water infrastructure project;
- 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.
 - o 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 order until all of the required additional subsidy is obligated;
- Municipal population must be less than 300,000 per the 2019 ACS.

- o Alternatively, a public water system with a population greater than 300,000 can qualify if the project is for an established water district or a service area with a population less than 300,000. An income survey of the water district or service area would be required;
- At least one of the following criteria must be met:
 - o The Median Household Income (MHI) of the municipality, per the 2019 ACS, must be less than 80% of the regionally adjusted statewide MHI; or
 - o For projects in communities with an MHI equal to or greater than 80% and less than 100% of the regionally adjusted statewide MHI, the community must have an ACS family poverty rate greater than the statewide family poverty rate; or
 - o At least 50% of the project cost or project scope must serve, protect, or benefit an identified Environmental Justice (EJ) area.
- Projects for communities with an MHI equal to or greater than 100% of the regionally adjusted statewide MHI, and that do not meet the EJ criteria outlined above, are not eligible for hardship assistance;
- An income survey, Census Designated Place (CDP), or other acceptable demonstration of a more accurate MHI for the service area may be used in lieu of the American Community Survey published MHI;
- Project construction cannot have reached substantial completion prior to October 1 of the FFY in which the hardship assistance is awarded;
- The project must not have closed on short-term financing prior to October 1 of the FFY in which the hardship assistance is awarded. For phased projects, closing short-term or long-term financing on a previous phase may not preclude a subsequent phase from hardship eligibility;
- The project must not have closed on long-term financing.

7.4 Determination of Maximum Grant/Principal Forgiveness Award

Projects and municipalities are subject to maximum grant/principal forgiveness awards as follows:

- Projects are limited to 70% of the 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.

7.5 Project Evaluation and Identification

Projects that meet the **Disadvantaged Community** (hardship) criteria above and receive a hardship confirmation award letter will receive an “H” designation on the Annual List in the IUP.

- DOH will determine the projects that meet the criteria necessary to receive a hardship confirmation letter offering interest-free hardship financing and, if applicable, grant/principal forgiveness.
- DOH will determine which eligible projects, in order of public health priority ranking, can be issued hardship confirmation letters.
- After finalization of the IUP, hardship confirmation letters will be sent to qualifying municipalities stating that they are eligible to apply for interest-free hardship financing and, if applicable, grant/principal forgiveness.

7.6 Timing for closing on Interest-Free Financing and Grant/Principal Forgiveness

Municipalities issued a hardship award confirmation letter in FFY 2023 will have until the application deadline in FFY 2024 to submit a complete financing application, and until the end of FFY 2024 to close on a financing. **These dates will be specified in the confirmation letter.**

- A municipality will need to close on DWSRF short-term or long-term financing before the confirmation letter expires to remain eligible for hardship financing.
- If a municipality has not executed a DWSRF financing by the expiration date identified in the confirmation letter, the municipality will be considered for hardship eligibility evaluation in the next IUP period, using the hardship evaluation criteria in place for that IUP.
- At the discretion of DOH and EFC, for those municipalities that are under formal project-related compliance orders and have demonstrated diligence with respect to closing but are unable meet the hardship eligibility expiration date, or for projects that are delayed due to demonstrated circumstances beyond the control of the municipality, consideration may be given for a time extension.

7.7 Co-funding



Confirmation that a project qualifies for hardship assistance will help facilitate funding coordination with other State and Federal agencies that finance drinking water projects.

- Co-funding is anticipated and encouraged by the provision of additional points to a project's score in the priority system.
- A project must receive co-funding assistance of either \$25,000 or 5% of the project costs, whichever is less, to qualify for project co-funding points.

More details on the DAC program can be found in the IUP, including information on BIL awards.

Scoring Process³

Projects are scored using a project priority score system. In general:

- State Revolving Fund projects that improve and restore water quality generally receive the highest scores
- Projects that protect water quality are given secondary priority
- The scoring criteria also consider factors such as population and financial hardship, and whether the applicant is a non-municipal entity

The Department of Health scores drinking water eligible projects using the following criteria:

1. MCL/Treatment Technique Violations
2. Non-Treatment Sanitary Code Violations
3. System Reliability/Dependability Issues
4. Governmental Needs
5. Financial Needs

(I) Priority Ranking System and Intended Use Plan⁴

A. Priority Ranking System

The purpose of the priority ranking system is to establish a list of eligible projects to be funded in a manner that the most serious risks to public health are given the highest priority.

- The New York State DOH proposes that the highest priority be given to acute public health risks, particularly those related to microbiological organisms.
- The next priority has been given to situations that pose chronic and longer-term risks to consumers, such as organic chemical contamination.
- The scoring criteria also considers issues that are related to infrastructure upgrading or replacement.

(III) Priority Ranking System Scoring Criteria

The numerical scores in the DWSRF priority ranking system are based on technical and non-technical criteria.

- The technical criteria are A) MCL/treatment technique violations; B) Other sanitary code violations; and C) system reliability and dependability issues.
- The non-technical criteria are D) governmental needs and E) financial needs.
- The total numerical score for the project or project segment being scored shall be the sum of the scores for criteria A, B, C, D and E. Projects must be adequately supported by technical documentation, data, reports, etc.

Technical Factors

A. MCL/Treatment Technique Violations. Points awarded are based on treatment of MCL exceedances and/or replacement with an alternate source of supply, and for interconnection with, or purchase from adjacent water system(s) in lieu of treatment (more than one item may apply):

1. Microbiological	<u>Score</u>
a) Surface Water Treatment Rule	
i. Filtration	100
ii. Filtration Performance Criteria (NTU compliance)	50
iii. CT Disinfection	30
b) E. coli	80
c) Total Coliform	40
2. Organics	
Organic chemicals (POC/UOC) and disinfection by-products	40
3. Lead and Copper/Corrosion (mandated)	30
4. Radiological	25

5. Inorganic/Physical	
a) Nitrates	50
b) Other health-related	25
c) Aesthetic	10
B. Non-treatment Sanitary Code Violations (more than one item may apply):	
1. Inadequate Source Capacity (public health hazard)	50
2. Inadequate Distribution Pressure (public health hazard)	25
3. Uncovered Finished Water Storage (public health hazard)	25
C. System Reliability/Dependability Issues (more than one item may apply):	
1. Complete replacement or major rehabilitation of existing treatment facility for primary contaminants that has exceeded design life and/or does not meet the design standards in the current edition of <u>Recommended Standards For Water Works</u> . In lieu of treatment, replacement with an alternate source of supply, and/or interconnection with, or purchase from, adjacent water system.	20
2. Upgrade, replace and/or install major vulnerable system components to meet the design standards in the current edition <u>Recommended Standards for Water Works</u> . Any of the following apply:	10
a) A principal component integral to an existing filtration process such as sedimentation, flocculation, filtration, chemical feed, or backwashing (can only receive points for Criteria C.2a. or C.1.)	
b) Pump stations	
c) Existing wells	
d) Existing disinfection system for a groundwater/surface water supply	
e) Transmission main	
f) Finished water or distribution storage	
g) Other water treatment systems for secondary contaminants only (or replacement of source instead of treatment)	
3. Aged mains and appurtenances	5

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|---|---|
| 4. Redundancy of critical components
(pumps, valves, chemical feed-systems, etc.) | 5 |
| 5. Asbestos main replacement | 5 |
| 6. Control/automation for operational efficiency
(computerization, control valves, metering, laboratory upgrading) | 5 |
| 7. Inadequate source capacity which is not a public
health hazard (can only receive points for Criteria B1 or C7) | 5 |

Non-Technical Factors:

D. Governmental Needs (more than one may apply)

Additional points will be assigned to a project on the basis of state or local government needs, policies, and/or requirements.

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| 1. Development of a water system or extending existing
system to service contaminated or insufficient yielding
private wells at existing residential housing (new systems
are not eligible for points under Criteria A, B or C) | 40 |
| 2. Consolidation of water systems (can include
improving technical, managerial and financial capacity development) | 25 |
| 3. System dependent on a Sole Source Aquifer for
its source. (These points can only be obtained if system
scores points from Criterion A, B, C.1. or C.2.g.) | 25 |
| 4. A project that has received written commitment of
funding from another governmental source (e.g., co-funded
with Clean Water SRF, Rural Development, HUD, etc.). These
points do not apply to refinancing of projects. | 10 |
| 5. Consistent with Water Resources Management Strategy | 5 |
| 6. Proposes operational changes that improve and insure
adequate technical, managerial and financial capacity of the
system in order to insure compliance | 5 |



E. Financial Need

1. The Median Household Income (MHI) of the community in which the water service area is located is used as a numerator and the Statewide MHI is used as the denominator in the following equation to determine the financial need factor.

$$\frac{\text{Community MHI} \times 100}{\text{Statewide MHI}^*} = \text{Factor}$$

Factor	≤70	>70 - ≤77.5	>77.5 - ≤85	>85 - ≤92.5	>92.5 - ≤100	>100
Points	25	20	15	10	5	0

*2013 MHI is \$68,486

The MHI of the community in which the water service area is located and the Statewide MHI will be determined from the 2019 U.S. Census Bureau's American Community Survey 5-year income data. If there is reason to believe that the census data is not an accurate representation of the MHI within the area to be served, the reasons will be documented and applicant will furnish, or the Department may obtain, additional information regarding the MHI. Information will consist of reliable data from local, regional, state or federal sources or from an income survey conducted by a reliable impartial source. Communities have the option of conducting an income survey to ensure the accuracy of the MHI used.

Lead Service Line Replacement Program

*Funding and program details associated with the BIL Lead Service Line Replacement (LSLR) programs will be provided later in an amendment or supplement to this IUP.*⁵

There are two lead service line (LSL) project types.⁶

1. The first is LSL inventory, which are projects that create an inventory of LSL locations.
2. The second is LSL replacement, which are projects that physically replace known LSLs.

If a municipality has both project types, separate inventory and replacement projects should be submitted.

- LSL replacement projects should only be submitted where there is a known number and location of LSLs
- Otherwise an LSL inventory project should be submitted

- LSL replacement projects can be submitted in a subsequent year

The webpage highlights LSL inventory project information, and then the following points are made regarding replacement projects:

LSL Replacement

Municipalities should only submit an IUP project listing form for an LSL replacement project where there is a known number of lead service lines in known locations. An engineering report shall be submitted with the IUP listing form. The engineering report should include the following information:

1. System Background

- Describe the water system – age, population served, number of service connections, etc.
- Lead service line inventory – how many known LSLs are located in the system?
- Service line ownership/responsible party – 100% municipal, shared between municipality and property owner, or 100% property owner.
- Lead history (if applicable) – does the municipality have a documented history of lead action level exceedances? If so, provide relevant documentation.
- Any other pertinent information about the water system and its service connections.

2. Project Description – Describe the steps that will be taken to replace known LSLs. Some examples of items to consider include:

- How many LSLs will be replaced with the funding requested? NOTE: LSL replacement project applications do not need to propose 100% LSL replacement to be eligible for funding.
- Who will perform the work (municipal forces, contractor, both)? If contractors will be used, describe how bids will be prepared and solicited.
- Identify the administrative structure (program contact and administration, construction oversight, financial contact, legal contact, etc.).
- Community involvement/outreach. How will the public be informed about the LSL replacement project? How will the public request to participate in the project? How will individual property owners be notified when their LSL is being replaced?
- Coordination/scheduling of individual LSL replacement. Will individual scopes of work be created? Will a temporary easement and consent to access private property be

required? How will water shut-off be coordinated? How long will LSL replacements take? What post replacement restoration will be included?

- What post replacement flushing guidance will be provided to property owners?

3. Project Budget – Provide as much detail as possible for each proposed budget category. Possible categories include:

- Salary and fees (Municipal staff, consultants, legal)
- Community outreach and education
- Equipment purchases or rental
- Software purchases or rental

4. Project schedule – provide anticipated project start and completion dates.

References

- 1 New York State Environmental Facilities Corporation. (n.d.). Apply for the Drinking Water State Revolving Fund. <https://efc.ny.gov/dwsrf-apply>.
- 2 New York State Department of Health and Environmental Facilities Corporation. (2022, Oct). FINAL - Intended Use Plan, Drinking Water State Revolving Fund, Federal Fiscal Year 2023 October 1, 2022 - September 30, 2023, p. 20-24.
https://www.health.ny.gov/environmental/water/drinking/iup/2023/docs/final_2023_intended_use_plan.pdf.
- 3 New York State Environmental Facilities Corporation. (n.d.). Drinking Water Project Scoring. State of New York. <https://efc.ny.gov/drinking-water-project-scoring>
- 4 New York State Department of Health and Environmental Facilities Corporation. (2022, Oct). Attachment 1 :Project Priority Ranking System, FINAL - Intended Use Plan, Drinking Water State Revolving Fund, Federal Fiscal Year 2023 October 1, 2022 - September 30, 2023, p. I-1, I-5 – I-7.
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- 5 New York State Department of Health and Environmental Facilities Corporation. (2022, Oct). FINAL - Intended Use Plan, Drinking Water State Revolving Fund, Federal Fiscal Year 2023 October 1, 2022 - September 30, 2023, p. 2.
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- 6 New York State Department of Health and Environmental Facilities Corporation. (2022, Jul). Bipartisan Infrastructure Law (BIL) Lead Service Line Project Submission Guidance. State of New York, p. 1-3.
https://www.health.ny.gov/environmental/water/drinking/docs/lead_service_line_project_submission_guidance.pdf