

APPENDIX E

CWSRF and DWSRF FORGIVENESS ALLOCATION PROCEDURE

All forgiveness awards are dependent on availability of funds. Additional subsidization provided by the FFY 2022 and 2023 SRF Capitalization Grants will be distributed to eligible loan recipients through this long standing process. References to eligible entities below must also require that they be a political subdivision in the State of Nebraska per statute.

The CWSRF and DWSRF MHI will be determined from the ACS five-year estimates published by the U.S. Census Bureau (<http://www.census.gov/acs/www/>). The State MHI as reported in the 2016 – 2020 ACS five-year estimates is \$63,015. Population is based on the 2020 United States decennial census. If there is a 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 the loan applicant may furnish additional information regarding such MHI. Such information will consist of reliable data from local, regional, state, or federal sources or from a survey conducted by a reliable impartial source. This new MHI will be valid for five years.

The respective MHI for Sanitary and Improvement District (SID) projects will be based on the smallest county subdivision with a reported MHI, such as a precinct or census tract, that encompasses the project service area. The MHI for Natural Resources Districts (NRDs) or Rural Water System projects will be based on the averages of the MHI values reported for the counties included, all or in part, in the district or system.

Beyond that noted in this appendix, the NDEE may offer and/or communities may petition for increased forgiveness assistance, should any of the following be documented:

- Communities with \$25,766 or less upper limit of Lowest Quintile Income
- Communities with $\geq 30.9\%$ Population Living Under 200% of Poverty Level
- Community with census tracts that have a poverty rate greater than or equal to 20%, or in a persistent poverty county (i.e., that 20% rate for consecutive SRF program ACS MHI five-year estimates)
- Communities with $\geq 3.4\%$ Unemployed Population ≥ 16 years in Civilian Labor Force
- Communities with $\geq 12.1\%$ Vacant Households
- Community in a county with a Social Vulnerability Index score indicating a high level of vulnerability per the Center for Disease Control and Prevention mapping
- Combined sewer and drinking water costs are greater than 2% of the 20th percentile household income (i.e., the Lowest Quintile of Income for the Service Area)
- Communities with $\geq 11.7\%$ Population Receiving Food Stamps/SNAP Benefits
- Communities with 10% of failing decentralized systems
- Communities with Lagoon systems not achieving water quality standards

Lastly, forgiveness can also be provided to communities that do not meet affordability criteria, or the definition of a disadvantaged community, should that benefit be provided to individual ratepayers in the residential user rate class, and the loan recipient be able to demonstrate that those ratepayers would otherwise experience a significant hardship from the increase in rates necessary to finance the project for which assistance is being sought. The minimum level of financial impact would be 75% of the EPAs reasonable level of user rates for drinking water and sewer service, 2.5% and 2% of MHI, respectively.

CWSRF - The June 2014 CW amendments required States to develop affordability criteria to assist in identifying applicants that would have difficulty financing projects without additional subsidization. The criteria must be based on income, unemployment data, population trends and other data determined relevant by the State.

In 2012, the Department started developing the AWIN program to assist struggling communities in Nebraska to better afford, maintain, and operate wastewater infrastructure projects. The goal of AWIN is to use current information to provide accurate estimates of future conditions in Nebraska communities to

develop sustainable projects and minimize financial burdens for struggling communities. AWIN examines various factors affecting communities, such as population trends, population, medium household income, unemployment, average age of residents, and infrastructure needs to develop a “sustainability risk” analysis. The AWIN sustainability risk was divided into three categories: low risk, moderate risk, and high risk. Applicants with a high sustainability risk are thought to potentially need the most assistance to bring them into compliance and keep them in compliance in the future with as little additional stress as possible. The Department will utilize the AWIN program as a portion of determining which applicants will be eligible for loan forgiveness. This is in accordance with §81-15,153(11) Nebraska Revised Statutes.

For each CWSRF (and DWSRF) loan recipient falling between 80 and 120% of the State MHI for the service area, the maximum Forgiveness level will be set using the same ratio as determined by Figure E1 and with a maximum cap set between 75% and 0% by interpolation based on population.

Letter of Non-Compliance, Administration or Consent Order Projects

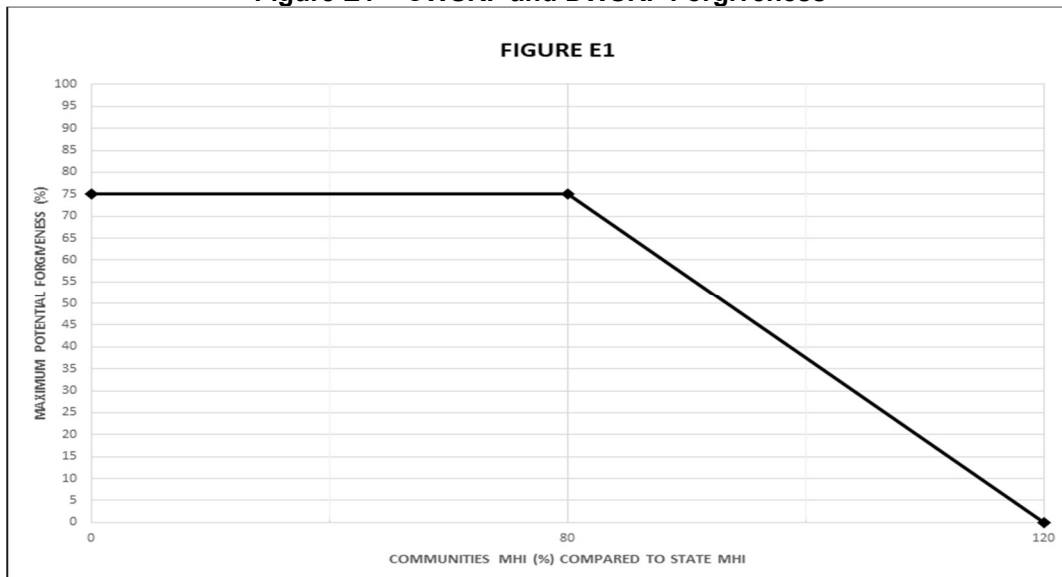
- Population of 10,000 or less – Capped at 40%
- Population of 3,300 or less – Capped at 50%
- Population of 500 or less – Capped at 60%

If it is assessed by the Department that the non-compliance or order was caused by negligence of the municipality, the forgiveness caps below shall apply.

All remaining projects

- Population of 10,000 or less – Capped at 35%
- Population of 3,300 or less – Capped at 45%
- Population of 500 or less – Capped at 55%

Figure E1 – CWSRF and DWSRF Forgiveness



Municipalities must also have a high or moderate AWIN sustainability risk factor as identified on NDEE’s website. Municipalities who don’t meet the AWIN eligibility criteria may submit a financial hardship report to the Department for additional consideration justifying the forgiveness requested. In addition, an AWIN categorization of “Low” Risk can be allocated forgiveness assistance should the municipality be able to direct the impact of such assistance (i.e., lower monthly bills, credits, etc.) to “Moderate” or “High” Risk residential populations within their service area, likely based on census track information. Should forgiveness funds remain during the bypass period, “Low” Risk municipalities may become eligible in order of AWIN ranking, i.e., 9 then 8, then 7, etc. In addition, an AWIN categorization of “Low” Risk can be allocated forgiveness assistance should the municipality be able to direct the impact of such assistance

(i.e., lower monthly bills, credits, etc.) to “Moderate” or “High” Risk residential populations within their service area, likely based on census tract information.

DWSRF - Public water supply systems (PWSs) that are in the DWSRF IUP and receive a SRF loan will be evaluated for eligibility for receipt of Forgiveness. This is in accordance with §71-5322(9) Nebraska Revised Statutes.

A simplification as to how forgiveness assistance is offered is planned, in that the factor of population will be carried throughout the funding of priorities this year. Still capped per the long standing established MHI disadvantaged criteria, but now per the following tiered system:

Public Health Administrative Order Projects

- Population of 10,000 or less – Capped at 40%
- Population of 3,300 or less – Capped at 50%
- Population of 500 or less – Capped at 60%

Low Priority Projects ranked with a Sustainability Factor and new GPR projects, or greater

- Population of 10,000 or less – Capped at 35%
- Population of 3,300 or less – Capped at 45%
- Population of 500 or less – Capped at 55%

Projects that in part address an Emerging Contaminant (e.g., Manganese)

- Population of 10,000 or less – Capped at 55% (or possibly up to 75%)
- Population of 3,300 or less – Capped at 65% (or possibly up to 75%)
- Population of 500 or less – Capped at 75%

These will be the maximum forgiveness benefits available to qualifying disadvantaged communities for traditional projects. The “or possibly up to” for Emerging Contaminants will be based on the availability of funds (See Emerging Contaminants Priority Funding List table note pertaining to Build America Buy America and SDC WIIN). Private borrowers and Planning Loans will not qualify for forgiveness assistance.

Lead Service Line (LSL) Replacement Projects will be addressed differently than all of the above, as services lines are typically owned by the resident of the property, not the PWS. As such, should the system not assume responsibility to replace the LSL, the serious financial hardship would be on the residential property owner. Therefore, with all systems facing the same choice of whether to relieve that hardship, a straightforward up to 58% forgiveness assistance will be offered to all PWSs.

With respect to LSLs, the BIL language requires forgiveness assistance be provided to the *service area of a PWS that meets affordability criteria*. The program will rely both on the above and the Federal Opportunity Zones Program established by the Congress through the Tax Cuts and Jobs Act of 2017, wherein census tracts eligible for nomination include those which:

The census tract poverty rate was at least 20%, and:

- If located in a metropolitan area, the tract’s median family income did not exceed 80% of the greater of (i) the median family income in the metropolitan area of (ii) the statewide median family income, or:
- If located in a non-metropolitan area, the median family income for such tract did not exceed 80% of the statewide median family income.

A map of those areas can be found at this link:

<https://www.arcgis.com/apps/mapviewer/index.html?webmap=4c47225a52a94729a303a695fbfa0c81>

Outside of those areas, forgiveness assistance for LSL replacements will be capped per the percentages in the 2016 – 2020 ACS five-year estimates.