

within the timeline results in the conclusion that an EIS is required, then the milestone deadlines for the project will be suspended until a draft EIS has been sent to the SCH. After the draft EIS is sent to the SCH, the project must adhere to the same time frames specified above.

5.3. Detailed Loan and Project Funding Criteria

5.3.1. General

- 5.3.1.1. To be eligible for DWSRF funding, a project must be on the Intended Use Plan Project List.
- 5.3.1.2. Funding can be provided for any eligible projects as provided for in the Safe Drinking Water Act and NCGS 159G, including water treatment facilities, distribution systems, tanks, etc. that improve drinking water quality.
- 5.3.1.3. Funding will be provided in priority order based on project scores, Authority determination, and the amount of funds made available with consideration of principal forgiveness reserve detailed below. Projects cannot be substantively changed once funding is allocated.
- 5.3.1.4. The maximum DWSRF loan amount will be established at \$25 million per applicant for each funding round.
- 5.3.1.5. The maximum DWSRF loan availability per applicant is not more than \$200,000,000 in outstanding debt to the DWSRF program.
- 5.3.1.6. Notwithstanding the limits in Items 5.3.1.4., and 5.3.1.5., if availability of funds exceeds project demand, these limits may be exceeded to ensure all available funds are utilized. Exceeding the maximum provided in Item 5.3.1.4. will be considered prior to Item 5.3.1.5.
- 5.3.1.7. A project may be funded with a targeted interest rate if the project is eligible for principal forgiveness as described in 5.3.2 below. For projects that are eligible for 75% or more principal forgiveness, the targeted interest rate will be 0%. For projects that are eligible for 50% or 25% principal forgiveness funding, the targeted interest rate will be one percentage point lower than the Division's base interest rate (but no less than zero percent).

5.3.2. Principal Forgiveness

5.3.2.1. Applicants that are eligible to receive principal forgiveness are defined as disadvantaged communities. Based on the current proposed appropriation, the following table provides minimum and maximum additional subsidy to be provided for the FY2023 base DWSRF and FY2023 BIL DWSRF General Supplemental capitalization grants. Included in these amounts, up to 14% (\$1,904,980) of the base DWSRF capitalization grant can also be to provide principal forgiveness to any DWSRF-eligible recipient as initial financing to buy, refinance or restructure debt obligations for debt incurred after March 15, 2022 or for debt incurred prior to March 15, 2022 if the State and EPA Region 4 determine that such funds could be used to help address a threat to public health from heightened exposure to lead in drinking water.

Cap Grant	Congressional Additional Subsidization (14% - Base)	SDWA Disadvantaged Community Subsidization Minimum (12% - Base)	SDWA Disadvantaged Community Subsidization Maximum (35% - Base)	BIL General Supplemental Subsidization Amount (49%)	Total Range of Principal Forgiveness
Base DWSRF	\$1,904,980	\$1,632,840	\$4,762,450		\$3,537,820 - \$6,667,430
BIL DWSRF General Supplemental				\$28,430,290	\$28,430,290

5.3.2.2. The Division will provide additional subsidization to projects in the categories provided in 5.3.2.2.1 – 5.3.2.2.3 in project priority order. The Division will provide principal forgiveness to a project based on only one of the categories provided in 5.3.2.2.1 – 5.3.2.2.3.

5.3.2.2.1. Non-viable rescue: Projects that eliminate a non-viable system to benefit a disadvantaged community with a financial need consistent with the criteria in 5.3.2.2.2 and served by a public drinking water system will receive principal forgiveness for the full amount of the loan up to \$3,000,000. The disadvantaged community either meets the affordability criteria listed in 5.3.2.2.2 or is representative of the criteria.

5.3.2.2.2. Affordability: Projects that receive project purpose points when the applicant has less than 20,000 residential water connections, at least three (3) of five (5) LGU economic indicators (“LGU indicators”) worse than the state benchmark, an operating ratio (future) of less than 1.3 and either utility

rates greater than the state median or project cost per connection that project to increase the utility rates above the 70th percentile of state-wide utility rates, will receive principal forgiveness following the affordability criteria grant percentage matrix found in Appendix E.

Projects that receive project purpose points when the benefiting system has been designated as distressed per NCGS §159G-45 and either has utility rates greater than the state median or project cost per connection that project to increase the utility rates above the 70th percentile of state-wide utility rates, will receive principal forgiveness percentages following the affordability criteria grant percentage matrix found in Appendix E.

Principal forgiveness will range from 25% to 100% in increments of 25%, up to \$500,000 per applicant per round with the targeted interest rate as described under 5.3.1.7 applied to the remaining portion of the loan.

- 5.3.2.2.3. Disadvantaged Area: Projects for which at least 50% of the project costs are to benefit disadvantaged areas will receive principal forgiveness for 50% of the award, up to \$500,000.

“Disadvantaged areas” are subsections or pockets of a local government unit area or utility service area, not the entire local government unit area or entire utility service area. Disadvantaged areas are limited to less than half the number of total connections served by the applicant at the time of application. A targeted project area will be considered a “disadvantaged area” based on factors that shall include:

- affordability of water and sewer service rates relative to the income levels of residents of the targeted project area;
- median household income of the targeted project area;
- poverty rates of the targeted project area;
- property values of the targeted project area; and/or
- employment rates of the targeted project area.

Additional factors that may qualify the targeted project area as disadvantaged, such as (but not limited to) demographic, historical, cultural, linguistic, socio-economic stressors, cost-of-living stressors, or existing contamination factors, may also be considered for targeted project areas that meet the size specification above. Applicants must provide a narrative in the application to justify the targeted project area as

disadvantaged using the factors above, and may use maps or other existing sources to document their justification. For example, applicants can demonstrate a targeted project area as a disadvantaged area if it meets the size specifications above and falls within a Potentially Underserved Block Group or Tribal boundary layer in the North Carolina Department of Environmental Quality's Community Mapping System, or similar state or federal maps such as the Climate and Economic Justice Screening Tool.

5.3.2.3. Notwithstanding the above limits in Items 5.3.2.2.2 and 5.3.2.2.3, if availability of principal forgiveness funds exceeds project demand, the limits may be exceeded in project priority order to ensure all available funds are utilized in the following order:

5.3.2.3.1. Principal Forgiveness limit of \$500,000 in item 5.3.2.2.2 may be exceeded by \$500,000 (not to exceed the applicant's principal forgiveness percentage eligibility determined in the grant percentage matrix in Appendix E) and principal forgiveness limit of \$500,000 in item 5.3.2.2.3 may be exceeded by \$500,000 (not to exceed 50% of the award) for eligible projects in priority order. If principal forgiveness funds remain for that funding cycle, additional increments of up to \$500,000 principal forgiveness can be awarded (not to exceed the applicable eligibility limit) for eligible projects in priority order.

5.3.2.3.2. Principal Forgiveness percentages determined in 5.3.2.2.2 and 5.3.2.2.3 may be exceeded by 10% (not to exceed 100%) for eligible projects in priority order. If funds remain after all eligible projects receive the first percentage increase, principal forgiveness percentages can be increased for eligible projects by additional 10-percent increments (not to exceed 100%) until all Principal Forgiveness funds are used.

5.3.3. Small System Reserve

5.3.3.1. 40 CFR 35.3525(a)(5) requires that a minimum of 15% (\$2,041,050) of the base DWSRF and a minimum of 15% (\$8,703,150) of the BIL DWSRF General Supplemental loan assistance be awarded to small systems serving up to 10,000 people, to the extent such funds can be obligated for eligible projects.

5.3.3.2. Funding may bypass a higher priority project to satisfy the Small System Reserve. Any such bypassing will be shown in the Intended Use Plan Project Priority List.

5.3.4. Capacity Development Reviews

5.3.4.1. All public water supply systems receiving funding from the DWSRF must be reviewed to ensure that they can demonstrate adequate technical, financial, and managerial capacity [per NCAC 15A 18C .0307(c)] to operate the water system in compliance with the SDWA. A regulatory process was developed and has been approved by EPA as adequate to ensure technical, financial, and managerial capacity is demonstrated. This is measured by the issuance of an Authorization to Construct for the process occurring after capacity development criteria are reviewed and satisfied. A water system that lacks adequate capacity in one or more of these categories might remain eligible for funding if a strategy that would resolve the problem or issue can be developed and attached as a condition of the loan approval.

5.3.5. Miscellaneous Criteria/Provisions:

5.3.5.1. Davis-Bacon prevailing wage rates apply to loans as required by funding agreements/conditions.

5.3.5.2. American Iron and Steel provisions will apply to loans as required by Federal mandates.

5.3.5.3. Build America, Buy America requirements will apply to loans as required by US EPA and by Federal mandates.

5.3.5.4. The DWSRF loan interest rate is based on ½ of The Bond Buyer's 20-Bond Index except as specifically allowed herein. The maximum interest rate for each loan will be set at the time of application with a lower interest rate, if available, set at the time of the award offer.

5.3.5.5. Approval of a DWSRF loan is contingent on approval by the Local Government Commission (LGC).

5.3.5.6. DWSRF loan terms are set by the LGC.

5.3.5.7. The maximum DWSRF loan term is determined by State statute and federal requirements.