

determined that the project will not ensure compliance. Likewise, DWSRF assistance will be denied to applicants that lack capacity if they are unwilling or unable to undertake feasible and appropriate changes to ensure capacity over the long term. The lack of capacity at the time of loan application will not preclude DWSRF assistance if the project will ensure compliance, or the applicant agrees to implement changes that will rectify capacity problems. On a case-by-case basis, special conditions may be included in loan agreements to rectify compliance and/or capacity problems. As needed and appropriate, the NDDEQ will utilize other specific legal authorities as control points to ensure capacity. This includes the review and approval of plans and specifications. Under NDCC Chapter 61-28.1 and North Dakota Administrative Code (NDAC) Chapters 33.1-03-08 and 33.1-18-01, the NDDEQ is both empowered and required to review and approve plans and specifications for all new or modified drinking water facilities prior to construction.

Disadvantaged Community Additional Subsidization

States shall provide additional loan subsidies (i.e., reduced interest or negative interest rate loans, principal forgiveness) to benefit communities meeting the definition of disadvantaged or which the state expects to become disadvantaged as the result of the project. A disadvantaged community is one in which the entire service area of a PWS meets affordability criteria established by the state following public review and comment. The value of the subsidies may not be less than 12 percent or more than 35 percent of the amount of the federal capitalization grant for any fiscal year. For 2024, the DWSRF will distribute at least 12 percent but not more than 13 percent of the amount of the capitalization grant.

Section 1452(d) of the SDWA defines a disadvantaged community as “the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located”. EPA expects states to evaluate and revise, as needed, their existing DWSRF disadvantaged community definition. The criteria used by the North Dakota DWSRF program are:

- The average annual residential water user charge as a percent of the local or service area annual median household income
- Percent of the households with an income of less than 200 percent of the poverty threshold
- Percent unemployment
- Percent of residents with less than a high school education

Each criterion is scored by assigning points based on a range of values established in the Affordability section of the priority ranking system found in Appendix E. Projects may receive up to 20 points. Projects receiving 5 or more points are considered disadvantaged communities.

A water system that is undertaking a project in a portion of its service area may submit a census tract area for consideration as a disadvantaged community. If the water system receives additional subsidization, the water system must demonstrate that only the residential users in the census tract area will benefit from the additional subsidization.

Loan forgiveness will only be used to finance new construction. DWSRF loan and loan forgiveness can be bundled together with funding from other sources to form funding packages for projects. The combined loan forgiveness and grant in a bundled funding package must be less than or equal to 90 percent of project costs.

Timely progression of additional subsidization projects is required. To ensure this, there will be a first loan draw deadline, a construction contract notice of award deadline, and a loan forgiveness disbursement deadline. If projects identified as receiving additional subsidization do not meet these deadlines, the additional subsidization set-aside will be used to fund lower-ranked projects on the project priority list.

Disadvantaged community additional subsidization will apply to the FY 2024 DWSRF allotments in the following amounts:

	Percent Additional Subsidization	Amount of Additional Subsidization
Base	12%	\$592,560
Supplemental	49%	\$10,316,950
Emerging Contaminants	100%	\$7,640,000
Lead	49%	\$14,038,500

Base Funding

A minimum of 12 percent additional subsidization for the Base allotment must be provided to systems that meet the state’s Disadvantaged Community criteria. Additional subsidization will be provided to projects that meet the Disadvantaged Community criteria at a rate of up to 75 percent. Additional subsidization from other DWSRF allotments may be combined to meet the maximum rate of 75 percent loan forgiveness. The following project is anticipated to receive additional subsidization from the Base allotment:

Priority Ranking	Tracking No.	System Name	Project Cost	Additional Subsidy
3	1200211-22-01	Crosby	\$5,022,000	\$592,560

Supplemental Funding

The full 49 percent additional subsidization for the Supplemental allotment must be provided to systems that meet the state’s Disadvantaged Community criteria. Additional subsidization for the Supplemental allotment will be provided to projects that meet the Disadvantaged Community criteria at a rate of up to 75 percent. Additional subsidization from other DWSRF allotments may be combined to meet the maximum rate of 75 percent loan forgiveness. The following projects are anticipated to receive additional subsidization from the Supplemental allotment:

Priority Ranking	Tracking No.	System Name	Project Cost	Additional Subsidy
3	1200211-22-01	Crosby	\$5,022,000	\$3,173,940
5	4800152-13-02	Cando	\$2,000,000	\$1,500,000
7	2800953-22-01	Underwood	\$4,250,000	\$3,187,500
12	4700498-22-01	Jamestown	\$3,100,000	\$2,325,000
14	2600556-22-01	Lehr	\$1,500,000	\$130,510

Emerging Contaminants Funding

Out of the 100 percent additional subsidization that must be provided from the Emerging Contaminants allotment, 25 percent must be provided to systems that either meet the state’s Disadvantaged Community criteria or serve fewer than 25,000 people. This requirement will be met by the additional subsidization provided to all three recipients.

Additional subsidization for the Emerging Contaminants allotment will be provided to projects at a rate of up to 75 percent and may be combined with additional subsidization from other DWSRF allotments (Base and Supplemental) to meet the maximum rate of 75 percent loan forgiveness. The remaining 25 percent of the project costs will be combined with a loan through either the Base DWSRF program or the Supplemental allotment. The following projects are anticipated to receive additional subsidization from the Emerging Contaminants allotment:

Priority Ranking	Tracking No.	System Name	Project Cost	Additional Subsidy
1	0300762-15-02	Oberon	\$685,000	\$513,750
6	2801400-24-01	McLean Sheridan RWD	\$8,839,000	\$6,629,250
7	3901068-20-01	Wishek	\$1,200,000	\$497,000

Lead Funding

The full 49 percent additional subsidization for the Lead allotment must be provided to systems that meet the state’s Disadvantaged Community criteria. Additional subsidization for the Lead allotment will be provided to projects that meet the Disadvantaged Community criteria at a rate of up to 66 percent. This is dependent on the amount of set-asides taken from the capitalization grant and is calculated as follows:

Capitalization Grant Amount		\$28,650,000
Required Additional Subsidization	-	\$14,038,500
Planned Set-Asides	-	\$7,449,000
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Remaining Loan Fund		\$7,162,500

$$\frac{\text{Additional Subsidization}}{\text{Additional Subsidization} + \text{Loan Fund}} * 100\% = \frac{\$14,038,500}{\$14,038,500 + \$7,162,500} * 100\% = 66\%$$

The following projects are anticipated to receive additional subsidization from the Lead allotment.

Priority Ranking	Tracking No.	System Name	Project Cost	Additional Subsidy
1	4800152-13-02	Cando	\$1,000	\$650,000
2	1900162-23-01	Carson	\$238,000	\$157,080
3	4700498-22-01	Jamestown	\$300,000	\$198,000
4	4700498-22-02	Jamestown	\$3,500,000	\$2,310,000
5	0900492-23-01	Hunter	\$261,000	\$172,260
6	5100660-23-01	Minot	\$1,000,000	\$660,000
7	5100660-24-02	Minot	\$300,000	\$198,000
8	1800410-24-01	Grand Forks	\$1,050,000	\$693,000
9	2800194-23-01	Coleharbor	\$82,000	\$54,120
10	5200458-23-01	Harvey	\$1,783,000	\$1,176,780
12	5100515-22-01	Kenmare	\$310,000	\$204,600
14	0801036-23-01	Wing	\$152,000	\$100,320
15	0900166-23-01	Casselton	\$2,513,000	\$1,658,580

16	3000596-22-06	Mandan	\$100,000	\$66,000
17	4800152-23-01	Cando	\$1,115,000	\$735,900
18	1500571-23-01	Linton	\$990,000	\$653,400
19	3900333-23-01	Fairmount	\$367,000	\$242,220
20	3000400-23-01	Glen Ullin	\$807,000	\$532,620
21	2100726-23-01	New England	\$600,000	\$396,000
22	1100346-23-01	Forbes	\$53,000	\$34,980
23	3200023-23-01	Aneta	\$234,000	\$154,440
24	3300174-23-01	Center	\$600,000	\$396,000
25	3700314-23-02	Enderlin	\$890,000	\$587,400
26	3700574-23-01	Lisbon	\$2,154,000	\$1,421,640
27	2600038-23-01	Ashley	\$700,000	\$462,000
28	2900470-23-01	Hazen	\$2,411,000	\$123,160

Congressional Additional Subsidization

Congress has mandated in previous appropriations bills that a percent of assistance provided from DWSRF capitalization grants be in the form of additional subsidies. The DWSRF program provides these additional subsidies as loan forgiveness. The NDDEQ has the authority under state law (NDCC Chapter 61-28.1) to provide financial assistance through the DWSRF as authorized by federal law and EPA.

It is unknown at this time if mandatory additional subsidization will apply to the FY 2024 DWSRF Base allotment. To address this potential requirement, 14 percent plus \$100,000 additional subsidization will be made available as loan forgiveness.

Timely progression of additional subsidization projects is required. To ensure this, there will be a first loan draw deadline, a construction contract notice of award deadline, and a loan forgiveness disbursement deadline. If projects identified as receiving additional subsidization do not meet these deadlines, the additional subsidization set-aside will be used to fund lower-ranked projects on the project priority list.

Loan forgiveness will only be used to finance new construction. DWSRF loan and loan forgiveness can be bundled together with funding from other sources to form funding packages for projects. The combined loan forgiveness and grant in a bundled funding package must be less than or equal to 90 percent of project costs.

The congressional subsidization for the Base allotment will be provided to lead service line replacement projects at a rate of up to 75 percent and may be combined with additional subsidization from the Lead allotment to meet the maximum rate of 75