

As required by the SDWA, DWSRF assistance will be denied to applicants considered priority systems because they score 11 or higher in the Enforcement Tracking Tool if it is 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 2025, 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.

The following project meets the definition of a disadvantaged community and is anticipated to receive additional subsidization:

<b>Priority Ranking</b>	<b>Tracking No.</b>	<b>System Name</b>	<b>Project Cost</b>	<b>Additional Subsidy</b>
1	5201309-25-01	Central Plains WD	\$4,000,000	\$1,308,720

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.

### **Congressional Additional Subsidization**

Congress has mandated in previous appropriations bills and the BIL 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.

Mandatory additional subsidization in the amount of 14 percent will apply to the FY 2025 DWSRF base allotment. To address this requirement, 14 percent plus \$100,000 additional subsidization will be made available as loan forgiveness. Congressional additional subsidization will apply to the FY 2025 DWSRF allotment in the following amounts: