



Date: December 22, 2020

To: Nebraska Environmental Quality Council

From: Marty Link, Planning and Aid Division Administrator, NDEE

Re: Amendment of the State Fiscal Year 2021 Intended Use Plan

The economic crisis sparked by the COVID pandemic has shown over the past few months the importance of the State Revolving Fund (SRF) programs to stay nimble in order to react and get ahead of the shifting financial market conditions. The Nebraska SRF program has seen a sudden increase of borrowers deciding to pay off their SRF loans and save their community money by refinancing their SRF debt. These communities are finding that other financial lenders are able to provide much better loan terms than their current loans with the SRF program. The NDEE proposes to amend the State Fiscal Year Intended Use Plan (IUP) to save communities money and additional administration expenses as well as prevent further increase in the SRF cash balance. We propose to substitute several pages in the IUP to accomplish these goals, as follows:

- Have the ability to offer a 0% rate on new loans (0% interest and 0% fee) for both the Clean Water and Drinking Water programs. This zero percent loan rate will provide financial support to every community that needs it for critical water infrastructure in these challenging times. This particular interest change is considered a “major” change for the IUP because it seems to set the loan funds up to fail a long-term goal of managing the fund in perpetuity. Detailed forecasting and modeling, combined with the mature nature of the two SRF funds, gives us confidence that the future of the fund is secure. (Refer to pages 3, 10, 11, 33, and 107)
- Increasing loan forgiveness offered on loans. To encourage the use of Planning Loans, the program will increase the grant amount available for each loan. Planning Loan borrowers that receive a construction loan may be offered forgiveness for the Planning Loan. (Refer to pages 4, 11, 17, and 120)
- In addition, loan forgiveness will be offered on new loans for existing borrowers of the Drinking Water program. This additional loan forgiveness will offset the inability to refinance current Drinking Water loans. (Refer to pages 24, 28, 50, and 121)

With the approval of these amendments, the program hopes to be able to relieve some of these communities from economic stress by reducing the cost of their debt and allowing the community to save money.

## SECTION I - CLEAN WATER STATE REVOLVING FUND (CWSRF)

### INTRODUCTION

The CWSRF was created to provide below market financing for construction of publicly owned wastewater treatment works and nonpoint source control systems. For more information on eligibility, please refer to NDEE's Title 131, *Rules and Regulations for the Wastewater Treatment Facilities and Drinking Water Construction Assistance Programs* (year).

Title VI of the federal Clean Water Act (CWA) requires the State to propose an annual plan setting forth the manner in which the State intends to use the money available in the Clean Water State Revolving Fund (CWSRF). This document is the State of Nebraska's State Fiscal Year (SFY) 2021 CWSRF Intended Use Plan (IUP) covering the time period of July 1, 2020 through June 30, 2021. Title VI (CWA) also requires that projects funded by the CWSRF be listed on the Project Priority Planning List. A priority system and the Project Priority Planning List are prepared in accordance with Title II, Section 216 of the federal CWA. The Project Priority Planning List and priority system are included with this IUP for approval action by the Environmental Quality Council (EQC). Potential CWSRF projects are selected from the Project Priority Planning List for funding. This IUP is an integral part of the cycle of events carried out annually in administering the CWSRF program. The IUP serves as a basis for developing new capitalization grant payment schedules with the U.S. Environmental Protection Agency (EPA) Region VII Administrator. In addition, the IUP serves as a basis for assessing the State's performance in administering the CWSRF program. This document can be compared to the CWSRF Annual Report for a complete picture of what was planned versus what was accomplished over the year. Assurances and certifications contained in the Operating Agreement established between the NDEE and the U.S. EPA Region VII are incorporated in this IUP by reference.

### HIGHLIGHTS AND WHAT'S NEW FOR SFY 2021:

- The Federal budget was passed as of December 20, 2019. The final allotment for the Federal Fiscal Year (FFY) 2020 CWSRF Capitalization Grant for Nebraska is \$8,110,000. This is approximately \$1,000 more than last year's allocation.
- On July 1, 2019, the Department of Environmental Quality (NDEQ), and the Nebraska Energy Office, were merged into one program called the Department of Environment and Energy (NDEE).
- Construction Loan interest rates for CWSRF will be set **at or below Market Rate. similar to last year's rates:**
  - ~~For loans with terms of 20 years or less:~~
    - ~~Annual interest rate is currently set at 1.5%. The annual interest rate may be adjusted quarterly due to market changes.~~
    - ~~Projects with qualifying Green Project Reserve (GPR) components may receive up to a 0.50% reduction in annual interest.~~
  - ~~For loans with terms greater than 20 years:~~
    - ~~Annual interest rate will be determined based upon Assessing Wastewater Infrastructure Needs (AWIN) Risk score and the current market rate.~~
      - ~~Loans made to municipalities with a medium or high AWIN Risk score, or are considered to be under financial hardship by the Department, will receive an annual interest rate of 1.5%.~~
      - ~~Loans made to municipalities with a low AWIN Risk score will receive an annual interest rate of 2.00%.~~
        - ~~Municipalities who do not meet the AWIN eligibility criteria may submit a financial hardship report to the Department for additional consideration.~~
  - ~~Projects with qualifying GPR components may receive up to a 0.50% reduction in annual interest.~~

- Planning and Design Loans will be available to municipalities to encourage pro-active planning efforts. Planning and Design Loans will have an interest rate of 0%, with a 0.5% administrative fee, and a maximum of five year term. **Further, should the recipient return to the program for a construction loan related to an awarded Planning Loan, an additional subsidy of loan forgiveness up to the final Planning Loan awarded, may be added to the construction loan.**
- Subsidy assistance:
  - In an effort to provide communities with additional financial assistance and to create similar loan terms and conditions across both SRF programs, the CWSRF loan forgiveness allocation determination procedures will be similar to that of the DWSRF program.
  - In conjunction with current loan forgiveness, an additional tiered evaluation system will be used for borrowers. The following tiered system will be implemented for the SFY 2021 IUP:
    - Population Focused
      - Population of 10,000 or less – Capped at 15%
      - Population of 3,300 or less – Capped at 20%
      - Population of 500 or less – Capped at 25%
  - Borrowers will be evaluated based on standard loan forgiveness terms as well as the new population focused terms and be awarded the loan forgiveness amount of whichever is greater and dependent on availability of funds.
- Median Household Income (MHI) American Community Survey (ACS) five-year data from 2012-2016 data is being updated to the ACS five-year data from 2014-2018. The State Median Household Income (MHI), that is determined from the American Community Survey five-year estimate (2014-2019), has increased from \$54,384 to \$59,116.

## I. CWSRF SOURCES AND USES OF FUNDS

The CWSRF has been created from a series of EPA Capitalization Grants and a required 20% State match provided through State general fund appropriations, Nebraska Investment Finance Authority (NIFA) public offered bond issues or private placements, and administrative fees. Match funding will be accomplished through bond funds and program cash for the FFY 2020 Capitalization Grant and is planned for July 2020, and the match for the FFY 2021 Capitalization Grant is planned for the July 2021 time period. Sources and uses of funds for the program two-year planning period discussed in this IUP are summarized in the following table. See Appendix I: SRF Cash Flow Model for more information.





a natural or manmade disaster requiring the activation of the State Emergency Operations Plan, or to meet the requirements of funds that are available to the program unexpectedly.

Nebraska, like much of the United States, has wastewater infrastructure needs related to aging pipes, failing and inefficient treatment plants, and/or increased energy costs. Two-thirds of Nebraska's communities are losing population while seeing the existing population increase in age, making them less capable of handling the expense of large wastewater treatment projects. New water quality discharge requirements, such as lower ammonia limits, have put even more pressure on Nebraska's small systems to update their systems. Today, many of the wastewater projects being planned and built make use of newer technology which could reduce operation and maintenance costs and/or energy needs, especially for small systems. With these facts in mind, Appendix B1-a is included in the IUP; it lists communities that may still have undocumented needs. Being included in this IUP and on this list does not mean the community will need, seek out, or receive funding from the CWSRF; but it does recognize the community's possible future needs.

## IV. ADDITIONAL INFORMATION AND REQUIREMENTS

### A. Administrative Fees

An annual fee of up to 1% **is may be** charged against the outstanding principal on construction loans, and 0.5% for planning loans, to meet the long-term administrative costs of the CWSRF program. A reduction of up to 0.25% in fees may be applied on new loans with borrowers who have previously borrowed and have fully repaid SRF loans. A reduction of up to 0.5% in fees may be applied on new loans with borrowers that have current outstanding SRF loan balances. If a project is atypical, the Director may choose to not allow a reduced administration fee. These fees are not included in the loan principal. The Director may waive this fee during construction, except on projects that only receive interim financing during construction. Fees collected in addition to principal and interest, which are not deposited as loan repayments, are considered "income received by the grantee" or "program income."

An annual administrative fee of 0% may be applied to loans made for emergency projects as defined by Title 131, that serve as bridge financing while a borrower awaits to receive funding from other sources, such as the Federal Emergency Management Agency (FEMA). Loan contracts will also establish that if other funding sources cannot be secured, the administrative fee may be adjusted up to 1.0% annually.

Administrative fees can be used to accomplish the long-term and short-term goals of the CWSRF program and for other eligible water quality related purposes. In addition, the fee on a loan made from leveraged bond proceeds may be set to reflect the cost of issuing bonds and management of the leveraged loan portfolio. Fees will be assessed on a semi-annual basis and billed at the same time invoices for principal and interest rates are mailed.

The June 10, 2014 Federal Water Pollution Control Act amendments allow for additional options in determining the amount of administration funds that can be utilized from the capitalization grant. The maximum annual amount of CWSRF funds (not including any fees collected that are placed in the fund) that may be used to cover reasonable costs of administering the fund is the greatest of the following:

1. \$400,000; or
2. 0.2% of the current valuation of the fund which currently would be equal to \$647,193, according to the net position stated in the most current audit; or
3. An amount equal to 4% of all grant awards received by the State CWSRF less any amounts used in previous years to cover administrative expenses, which would total \$2,228,215.

For SFY 2021, the program will allocate \$150,000 for activities that include: program costs for NDEE for day-to-day program management activities, other costs associated with debt issuance, financial management, consulting, engineering, and support services necessary to provide a complete program. Administrative costs are mostly paid out of the program's administration fee cash fund for the year, with the exception of some engineering costs. In addition, the program has implemented Northbridge loan and grant

tracking software that was purchased with the administration funds from both CWSRF and DWSRF. Further work on the software is planned for the SFY 2021 and will continued to be paid from these administration funds. The contract was let through EPA.

The CWSRF market loan rate determination procedure is described in the CWSRF program regulations (Title 131 – *Rules and Regulations for the Wastewater Treatment Facilities and Drinking Water Construction Assistance Programs*) and is based on the cost of obtaining money for the Fund and on public finance market rates. The CWSRF market rate will be set at 1.5% for construction loans. Loans for emergency projects, as established by Title 131, that serve as bridge financing until funded by other financial sources and planning loans will have a 0% interest rate.

With the approval of LB737 by the Governor on February 24, 2016 during the Nebraska 104<sup>th</sup> Legislature (2015-2016), the CWSRF is now able to provide financing for loans with a maximum term limit of 30 years. The primary intent of extending term loans from 20 to 30 years is to assist disadvantaged communities that may experience financial hardships in financing their wastewater infrastructure needs. The NDEE has developed the policy found below for establishing various interest rates for loans exceeding 20 years based upon communities' AWIN scores and ranking.

The following is the current loan rate for the SFY 2021. **As per regulations, the SRF cannot exceed total Market Rate. The established Market Rate may change quarterly. The Department may apply an interest rate at or below the set Market Rate.**

- For loans with terms of 20 years or less:
  - The annual interest rate **will may** be **up to 1.5%**.
- For loans with terms greater than 20 years:
  - Eligible borrowers with a medium or high AWIN Sustainability Risk score, or are considered to be under financial hardship by the Department, **will may** have an annual interest rate **up to 1.5%**.
  - Eligible borrowers with a low AWIN Sustainability Risk score **will may** have an annual interest rate of **up to 2.0%**
    - Municipalities who do not meet the AWIN eligibility criteria may submit a financial hardship report to the Department for additional consideration.
- Projects which incorporate eligible Green Project Reserve (GPR) components may receive a deduction of up to 0.50% annual interest rate depending upon the percentage of project that is GPR eligible.
- Loans made for emergency projects that serve as bridge financing while a borrower awaits to receive funding from other sources, such as FEMA, will have an annual interest rate of 0% for SFY 2021 IUP. The 0% will only apply to the portion that will be covered by other funding sources. Loan contracts will also establish that if other funding sources cannot be secured, the interest may be adjusted up to 1.5%.
- The market rate for Planning Loans will be set at 0% for the SFY 2021 IUP. **Further, should the recipient return to the program for a construction loan related to an awarded Planning Loan, an additional subsidy of loan forgiveness up to the final Planning Loan awarded, may be added to the construction loan.**

As an effort to continue to create jobs and generate new businesses, NDEE may offer incentives for economic development through reduced interest rates, up to a quarter percent. The Director may adjust the market rate of interest in response to changing public finance market conditions. The actual interest rate charged on each loan will be determined under the procedures described in Appendix C.

**Category 1:**

- o Less than 10,000 population
- o MHI (see Appendix F)
- o Maximum loan forgiveness of \$150,000, up to 50% of loan

**Category 2:**

- o Based on population
- o Less than 10,000 population (see Appendix F)
- o Maximum loan forgiveness up to 25% of the loan

Total CWSRF grant award for any borrower cannot exceed one half of total eligible project costs.

Borrowers will be assessed under both categories and will be awarded the greater of the two. For loans effective prior to July 1, 2020, borrowers seeking refinancing with new loan forgiveness conditions must submit to NDEE sufficient documentation demonstrating severe financial hardship and to be approved by the SRF program.

**For borrowers who have been awarded a Planning Loan, additional subsidy of loan forgiveness may be awarded to borrowers who return to the program for a construction loan directly related to an awarded Planning Loan. The borrower may be rewarded an amount of up to the final Planning Loan awarded.**

The FFY 2020 federal grant conditions state that 10% of the capitalization grant must be used for additional subsidization. The Department will reserve a minimum of \$811,000 (10% of the capitalization grant) for forgiveness to be used for additional subsidization. The Department's power and authority to distribute the additional subsidization is an existing authority under the Nebraska Environmental Protection Act, Nebraska Revised Statute §81-1504(4) and the Wastewater Treatment Facilities Construction Assistance Act, Nebraska Revised Statute §81-15,150. Together, these statutes allow the Department to accept and expend federal grants for projects described in these references.

***E. Green Project Reserve (GPR)***

EPA has required or encouraged states to fund "green" projects. Typically, green infrastructure projects include water or energy savings or efficiency measures, storm water management, or other innovative concepts to save water or energy. Green infrastructure projects for possible funding include the following: South Sioux City. Should the above mentioned projects fail to proceed or qualify as green infrastructure, the Department will make a continued effort to solicit additional qualifying projects. Every effort will be made to fund the required 10% reserve amount during this IUP cycle. Projects containing eligible GPR will receive up to a 0.50% reduction in interest rate to help encourage incorporation of green infrastructure.

***F. New and Innovative Technology Grant (NIT Grant)***

NDEE would like to ensure projects which introduce noteworthy innovations in technology that advances the drinking water, wastewater, and nonpoint source profession are recognized and supported. An additional subsidy may be available for these potential innovations. Examples include projects that explore and elevate the drinking water quality and wastewater treatment standards and challenge the current institutional approaches to water treatment and technology. Projects will adhere to eligibility requirements and regulations as other SRF grant programs. No more than \$1,000,000 shall be used for the NIT Grant and is not part of any set-aside; thereby if these funds are available they may also be used for CWSRF loans if needed.

**VI. LEVERAGED OR POOLED BOND ISSUES**

Many communities are anticipating large capital expenditures associated with combined sewer separation, storm sewer, interceptor sewers, wastewater treatment plant upgrades, and nonpoint source control projects in SFY 2021 and beyond. Many of these projects are listed in the Intended Use Plan. In order to

## SECTION II - DRINKING WATER STATE REVOLVING FUND (DWSRF)

### INTRODUCTION

The DWSRF was created to provide low cost financing for construction of publicly or privately owned public water systems. For more information on eligibility, please refer to NDEE's Title 131.

Section 1452 of the Safe Drinking Water Act (SDWA) requires the state to prepare an annual plan setting forth the manner in which the State intends to use the monies available in the DWSRF. This is Nebraska's SFY 2021 Intended Use Plan (IUP) covering the time period of July 1, 2020 through June 30, 2021. This IUP is an integral part of the cycle of events carried out annually in administering the SRF programs. The IUP serves as a basis for developing grant payment schedules with the U.S. Environmental Protection Agency (EPA) Region VII Administrator prior to awarding new capitalization grants to the State. In addition, the IUP serves as a basis for assessing the State's performance in administering the SRF programs. This document can be compared to the Annual Report to EPA for a complete picture of what was planned versus what was accomplished over the year. This IUP includes the DWSRF Priority Ranking System and Project Priority Lists provided by the Nebraska Department of Health and Human Services, Division of Public Health (NDHHS-DPH) in Appendix A2 and B2 respectively, the Interest Rate System in Appendix C and Disadvantaged Community loan forgiveness information in Appendix F. Assurances and certifications contained in the Operating Agreement established between the NDEE, the NDHHS-DPH and the U.S. Environmental Protection Agency, Region VII, are incorporated in this IUP by reference.

### HIGHLIGHTS AND WHAT'S NEW FOR SFY 2021

- The federal budget that was passed as of December 20, 2019 and the Federal Fiscal Year (FFY) 2020 DWSRF Capitalization Grant that Nebraska will receive is \$11,011,000.
- The plan for SFY 2021 is to continue to blend existing and recycled funds with the FFY 2020 capitalization grant to provide loan forgiveness to the majority of projects in accordance with the disadvantaged community program described in Appendix F. ~~In general, the forgiveness amounts will have a cap of 30% for all eligible project costs on projects that address public health needs or 25% for those that predominantly replace existing infrastructure, with lesser amounts offered based on the existing disadvantaged community policy and system populations.~~
- NDHHS-DPH has identified 393 projects with just over \$994 million in need this year compared to 378 projects and just over \$1 billion need identified in the SFY 2020 IUP.
- The 1% administration fee charged on all loans may be reduced for past DWSRF loan recipients.
- Terms for DWSRF have been extended up to a maximum of 30 years for all borrowers, and up to 40 years for Disadvantaged Communities.
- A new set-aside is planned to study workforce development to help assist small communities with replacing aging staff that operate public water systems.
- The projects eligible for financial assistance to address public health concerns have been expanded to include those that resolve manganese issues above EPA's public health advisory level of 300 µg/l.



<b>CW and DW SRF Transfers - Reserved Authority</b>	<b>Amount</b>
FFY 1997 Cap Grant	\$4,231,920
FFY 1998 Cap Grant	\$2,350,029
FFY 1999 Cap Grant	\$2,463,054
FFY 2000 Cap Grant	\$2,559,810
FFY 2001 Cap Grant	\$2,570,412
FFY 2002 Cap Grant	\$2,657,325
FFY 2003 Cap Grant	\$2,641,353
FFY 2004 Cap Grant	\$2,740,023
FFY 2005 Cap Grant	\$2,734,215
FFY 2006 Cap Grant	\$2,715,669
FFY 2007 Cap Grant	\$2,715,669
FFY 2008 Cap Grant	\$2,688,180
FFY 2009 Cap Grant	\$2,688,180
ARRA Cap Grant	\$6,435,000
FFY 2010 Cap Grant	\$4,479,090
FFY 2011 Cap Grant	\$3,107,940
FFY 2012 Cap Grant	\$2,961,750
FFY 2013 Cap Grant	\$2,816,189
FFY 2014 Cap Grant	\$2,918,850
FFY 2015 Cap Grant	\$2,899,710
FFY 2016 Cap Grant	\$2,742,960
FFY 2017 Cap Grant	\$2,742,960
FFY 2018 Cap Grant	\$3,665,310
FFY 2019 Cap Grant	\$3,631,320
FFY 2020 Cap Grant	\$3,633,630
<b>Total Past Reserved Authority</b>	<b>\$77,790,547</b>
Proposed SFY 2021 Allocation	\$0
<b>Total Reserved Authority</b>	<b>\$77,790,547</b>

For the additional subsidization required by the Federal Fiscal Appropriation, the DWSRF intends to provide at least the \$2,202,200 in loan forgiveness funding from the FFY 2020 grant, and blend it with leftover forgiveness assistance from past grants to at least \$6.6 million in forgiveness assistance during the SFY. Forgiveness funds will be targeted primarily to the highest ranked eligible projects on the Priority Funding Lists. These include projects that address public health needs, are needed to address critical capacity development concerns, and those that replace existing public water system infrastructure. Forgiveness assistance will be provided at the time a disbursement request is processed.

Additional loan forgiveness in an amount not to exceed 65% of the revenue from administrative fees collected in the prior fiscal year may be provided in SFY 2021 from the Administration Cash Fund, most notably if a state source of forgiveness funding is required for a project. All levels of forgiveness will be reported in the Finding of No Significant Impact Statement (FNSI) or Categorical Exclusion (CatEx), whichever is issued for a project, before the loan agreement is signed. **Lastly, additional forgiveness may be added to new loans, wherein a past borrower agrees to amend existing DWSRF loan agreements and the Department's prepayment requirements. The added forgiveness amount would be equivalent to the refinancing savings permissible under the CWSRF program.**

## II. LONG-TERM AND SHORT-TERM GOAL STATEMENTS FOR THE DWSRF PROGRAM



This fee is calculated on a semiannual basis and billed when loan principal and interest payments are due. The fee will be applied to all loans in accordance with Title 131 and the loan agreement. The fee is deposited into an account separate from the DWSRF accounts and is used for administrative costs. It is planned that revenue from fees will be used in part to provide the Capitalization Grant match for the FFY 2019 and 2020 Capitalization Grants. Further, the Administration Cash Fund may be used for loan forgiveness and/or planning/source water protection grant funds.

### **B. DWSRF Market Loan Rates**

The DWSRF market loan rate determination procedure is based on the cost of borrowing money for the DWSRF and on public finance market rates. Rates may change quarterly due to market changes. The DWSRF rate is set to the following for the SFY 2021 IUP:

- For loans with terms of 30 years or less, the market rate will be **set at up to 1.5%**.
- For loans with terms exceeding 30 years:
  - For Disadvantaged Communities, the market rate will be **set at up to 1.5%**.
  - For all other communities, the market rate will be **set at up to 2.0%**.

Loans made for emergency projects that serve as bridge financing while a borrower awaits to receive funding from other sources, such as FEMA, will have an annual interest rate of 0%, and the rate for Planning Loans will be set at 0%. This 0% fee may also be applied to blended package loans, wherein if a past borrower agrees to amend existing DWSRF loan agreements and the Department's prepayment requirements, a fee reduction of up to 0% may be applied on future loan assistance.

The Director may adjust the rate of interest in response to changing public finance market conditions. The actual interest rate charged on each loan will be determined under the procedures described in Appendix C.

### **C. Terms**

Repayment of loans will generally be based on a level payment amortization schedule with full amortization of a typical loan in 20 years. Terms of up to 40 years are allowed for disadvantaged communities, with a maximum of 30 years for all other systems dependent on the design life of the funded project. Planning Loans will have a term of five years. Several opportunities for changing the loan terms are described under provisions in Appendix C. No prepayment is allowed within the first five years of the loan term if the loan recipient has received Forgiveness assistance.

### **D. Financial Status of DWSRF**

*Estimate as of March 1, 2020*

Since 1997, the EPA has provided the State twenty-three federal capitalization grants totaling \$205,217,931 and an ARRA grant for \$19,500,000. The State, in turn, provided \$41,084,867 from cash, general funds, and bond proceeds to meet the 20% match requirements. The DWSRF has \$90,370,877 in outstanding loans and \$24,794,383 in loan and forgiveness obligations.

Administrative expenses of the DWSRF program are paid out of fees charged on loans. Loan fees are deposited in the DWSRF Administration Cash Fund. The program collected \$841,644 fees in SFY 2019, and incurred \$482,294 in expenses for program administration. The DWSRF Administration Cash Fund balance is \$1,317,704. Administrative Cash Fee collection in SFY 2021 will decrease to \$776,207, and program administration expenses should increase to \$565,000.

Capitalization grants from federal appropriations provided prior to FFY 2018 are entirely expended. The 2%, 10%, and 15% set-asides from future grants will be used as described in Part I of Section II. DWSRF Sources and Uses of Funds. Set-aside balances are shown in the following table.

6. **Affordability (Disadvantaged) Criteria.** The purpose of the affordability criteria is to determine which of the projects receiving funds from the DWSRF may also qualify for financial assistance beyond the ordinary benefits available through the DWSRF. Eligible PWS may qualify for additional financial assistance if their population is equal to or less than 10,000 people with an MHI less than 120 (one hundred twenty) percent of the state MHI.

All High Priority PWSs ranked for funding in SFY 2021 will be eligible for loan forgiveness at an estimated percentage not to exceed 30% of project costs or the maximum percent listed in the IUP based on the PWSs MHI. Typically those include PWSs under an Administrative Order through NDHHS-DPH, or any PWS which is a single well system due to the loss of a production well(s) to avoid an AO or other enforcement action through the NDHHS-DPH within the past five years, or any PWS that is a multiple well system and has lost two or more production wells to avoid an AO or other enforcement action through the NDHHS-DPH within the past five years may be eligible, should forgiveness funding remain available. Information on the financially disadvantaged assistance program, the extent of the availability of such disadvantaged funds for this program, and the disadvantaged determination criteria are included in Section I of the IUP. Systems that meet the minimum disadvantaged criteria determination are also eligible for extended loan terms up to 40 years.

The factor of population will be carried throughout the funding of priorities. Is capped per MHI disadvantaged criteria and the following tiered system:

**Public Health Projects**

- i. Population of 10,000 or less – Capped at 20%
- ii. Population of 3,300 or less – Capped at 25%
- iii. Population of 500 or less – Capped at 30%

**Low Priority Projects ranked with a Sustainability Factor, or greater**

- 1) Population of 10,000 or less – Capped at 15%
- 2) Population of 3,300 or less – Capped at 20%
- 3) Population of 500 or less – Capped at 25%

**Additional forgiveness may be added to new loans, wherein a past borrower agrees to amend existing DWSRF loan agreements and the Department's prepayment requirements. The added forgiveness amount would be equivalent to the refinancing savings permissible under the CWSRF program.**

## APPENDIX C

### **CWSRF & DWSRF INTEREST RATE AND ADMINISTRATIVE FEES SYSTEM**

The Interest Rate System is developed in accordance with "Title 131 Rules and Regulations for the Wastewater Treatment Facilities and Drinking Water Construction Assistance Programs." This system is reviewed and approved by the Environmental Quality Council (EQC) as a part of the public participation process followed each year for the Intended Use Plan.

**As per regulations, the SRF cannot exceed a loan rate that is higher than the established Market Rate. The established Market Rate is part of the Interest Rate System and may be changed by the Department quarterly. The Department may apply an interest rate at or below the Market Rate.**

On loans made from the proceeds of leveraged bonds, the Department will set interest rates reflective of the rates charged on the leveraged bonds. The Department of Environment and Energy will set the SRF market rates, using the cost of borrowing money for the CWSRF and DWSRF, recent local tax-exempt municipal issues, and costs for private borrowers as guidance.

#### **CWSRF Interest Rate for Loans**

The following **market interest** rates will be set for CWSRF loans:

- For loans with terms of 20 years or less, the market rate **may be set at up to 1.5%**;
- For loans exceeding 20 years:
  - For borrowers with a medium or high AWIN risk score, or are considered to be under financial hardship by the Department, the market rate **up to 1.5%**;
  - For borrowers with a low AWIN risk score, the market rate **will be set at of up to 2.0%**.
    - Eligible borrowers who do not meet the AWIN eligibility criteria may submit a financial hardship report to the Department for additional consideration.
- The market rate for Planning Loans will be set at 0%;
- Project which incorporate eligible Green Project Reserve (GPR) components may receive a deduction of up to 0.50% annual interest rate depending upon the percentage of project that is GPR eligible.
  - The market rate for a CWSRF project with qualifying GPR components will be initial market rate with a possible maximum reduction of 0.50% based upon the percentage of total SRF fundable GPR eligible components against entire SRF fundable amount. Projects that are 100% GPR eligible will receive a total reduction of market rate of 0.50%. If a CWSRF funded project has a combination of GPR eligible items and ineligible items, a blended rate may be calculated and applied based upon the Department's policy.

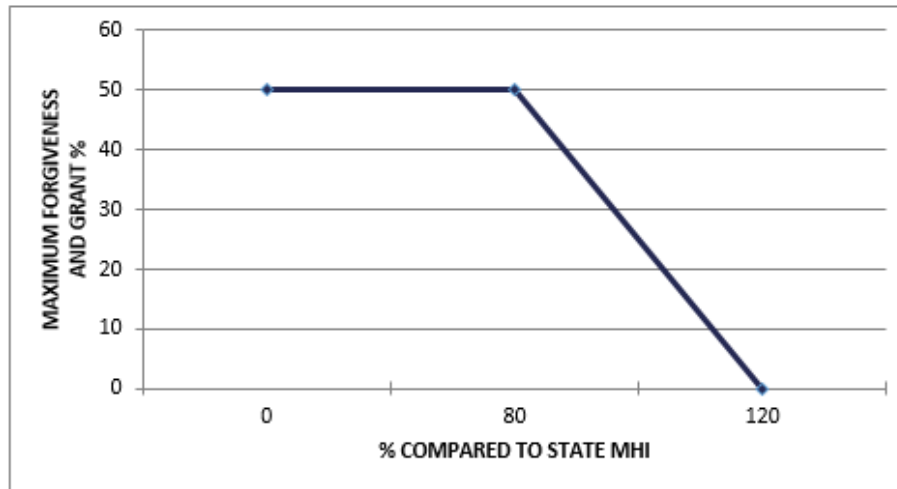
#### **DWSRF Interest Rate**

The DWSRF market rates will be set at:

- For loans with terms of 20 years or less, the market rate will be **set at up to 1.5%**;
- For loans with terms exceeding 20 years:
  - For Disadvantaged Communities, the market rate will be **set at up to 1.5%**;
  - For all other communities, the market rate will be **set at up to 2.0%**;
- For Planning Loan, the market rate will be set at 0%.

For the purpose of this appendix, DW disadvantaged communities are communities which have a Median Household Income (MHI) less than or equal to 120% of the State MHI.

***Private borrowers (except for not-for-profit community systems) will not qualify for any alternate rates or any rates available to communities as a result of a disadvantaged community determination. There are no discounts available for accelerated pay back or debt service based rates and no provisions for extended terms.***



This CWSRF subsidization is only available for municipalities that have populations equal to or fewer than 10,000 people, up to a ceiling of \$150,000 per project, dependent on availability of funding from federal capitalization grants and the total amount of funds the Department decides to allocate for 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.

### Category 2

For each CWSRF 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 F1 and with a maximum cap set between 25% and 0% by interpolation based on population.

- For populations of 10,000 or less, a cap of 15% loan forgiveness on eligible project cost will be imposed.
- For populations of 3,300 or less, a cap of 20% loan forgiveness on eligible project cost will be imposed.
- For populations of 500 or less, a cap of 25% loan forgiveness on eligible project cost will be imposed.

Borrower's will be assessed under both categories and will be awarded the greater of the two

**For borrowers who have been awarded a Planning Loan, additional subsidy of loan forgiveness may be awarded to borrowers who return to the program for a Construction Loan directly related to an awarded Planning Loan. The borrower may be rewarded an amount of up to the final Planning Loan awarded.**

Total of SRF grants concurrent with loans cannot exceed one-half of the eligible project cost in grant. At the time of the loan closing, all current Intended Use Plan conditions are in effect and past IUP conditions are not available to the loan recipient.



**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 §71-5321(3) Nebraska Revised Statutes and NDHHS-DPH's affordability criteria.

A graphical representation of the Forgiveness allocation determination procedure is shown in Figure F2 for DWSRF. 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 established MHI disadvantaged criteria, but now per the following tiered system:

## Public Health Projects

- i. Population of 10,000 or less – Capped at 20%
- ii. Population of 3,300 or less – Capped at 25%
- iii. Population of 500 or less – Capped at 30%

## Low Priority Projects ranked with a Sustainability Factor, or greater

- 1) Population of 10,000 or less – Capped at 15%
- 2) Population of 3,300 or less – Capped at 20%
- 3) Population of 500 or less – Capped at 25%

These will be the maximum forgiveness benefits available to qualifying disadvantaged communities that meet the affordability criteria presented above and have populations equal to or less than 10,000 people, with two exceptions described below. Lastly, private borrowers will not qualify for loan forgiveness, nor is forgiveness available for Planning Loans.

1. A 50% forgiveness ceiling with a \$250,000 cap may be available to a PWS, at the discretion of the NDEE and the Director of the NDHHS-DPH, under all of the following conditions:
  - The PWS has closed a loan with the SRF within the past 5 years;
  - That loan was for a project needed to resolve either an Enforcement Action or an Administrative Order (A.O.) issued to the PWS by the NDHHS-DPH; and,
  - That project did not resolve the specified Enforcement Action or A.O., or resulted in a separate Enforcement Action or A.O., through no fault by the PWS.

Under these circumstances, the PWS may receive up to \$250,000 in forgiveness at a 50% allocation, at the discretion of the NDEE and the Director of the NDHHS-DPH, as part of a loan amendment or a second loan to comply with the PWS' Enforcement Action or A.O. with the NDHHS-DPH. The amount of the forgiveness must not exceed the amount of the loan obtained through the DWSRF for the initial project. Further, either the eligible amount of the Forgiveness will be offset by, or the PWS shall repay the Forgiveness amount to the SRF, to the extent another grant, insurance settlement, or any other non-loan funds are received by the PWS for the same need.

2. Further, forgiveness funding as a part of a sponsorship program may be offered to all DWSRF funded projects that include a new water supply well(s) phase, or rely on innovative planning to avoid an after treatment alternative. If a community is pursuing a treatment alternative with DWSRF funding, they may submit a plan prepared by a professional engineer based upon innovative techniques that could help the community avoid implementing the treatment alternative as a means of returning to compliance. The plan will require approval from the DHHS-DPH, but at the discretion of the DHHS-DPH, may be eligible for reimbursement through forgiveness funding up to an overall 50% level should it be determined the plan is acceptable to DHHS-DPH.
3. **Additional forgiveness may be added to new loans, wherein a past borrower agrees to amend existing DWSRF loan agreements and the Department's prepayment requirements. The added forgiveness amount would be equivalent to the refinancing savings permissible under the CWSRF program.**