

# **Comparison of Drinking Water State Revolving Fund (DWSRF) Programs and other Federal Assistance to Disadvantaged Communities in EPA Region 4**

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## **Background**

The 1996 Amendments to the Safe Drinking Water Act (SDWA) created the Drinking Water State Revolving Fund (DWSRF) program. Through the program, states receive funds from the federal government which are used to capitalize state managed revolving loan fund programs. States are given a degree of flexibility in how they design the programs including the ability to design special programs for “disadvantaged” communities. Some states in EPA Region 4 such as Florida, Georgia, Kentucky, and South Carolina have created disadvantaged community programs; while others such as North Carolina are considering them.

Infrastructure needs continue to rise while the source of funds remain constant or in the case of some grant programs such as the NC High Unit Cost Grants decrease. The DWSRF with its relatively stable source of funds is an important resource for many communities seeking funds. DWSRF program funds are available to public water system utilities, however many water infrastructure needs exist for neighborhoods and communities that are not currently part of a water utility. In this case, communities must work through their local utilities in order to access funds. Accessing SRF funds for these unserved communities requires a thorough understanding of the SRF programs and how the funds can be used. Many small community associations and neighborhood associations do not have a clear understanding of the SRF programs and how they will need to work with their local utilities to access the funds.

The purpose of this paper is to collect and analyze information on SRF programs with a special focus on how states in EPA Region 4 have chosen to implement disadvantaged community programs. The results of the project will be presented in a way that provides assistance to state SRF program managers interested in creating or modifying disadvantaged community programs. Information will also be compiled in the form of short community guides to SRF programs that will help community leaders understand the SRF programs in their state and whether they are a viable source of funds for their project. Additionally this policy analysis will summarize and explore the assistance available to disadvantaged communities in EPA Region 4 through the Department of Housing and Urban Development (HUD) State administered Community Development Block Grant (CDBG) program, and the United States Department of Agriculture (USDA) Rural Utilities Service (RUS) program.

## **Overview of Available Disadvantaged Community Program Assistance**

The impetus behind the development of state disadvantaged community assistance programs comes from Section 1452 of the SDWA of 1996. Section 1452 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.” Individual states are free to establish the specific terminology used to designate communities as economically disadvantaged. In EPA Region 4 four states have developed disadvantaged community DWSRF programs. They are Florida, Georgia, Kentucky, and South Carolina. Each State’s approach to address the drinking water infrastructure needs of disadvantaged communities differs greatly. Additionally each state’s program design results in different expenditures for pre-construction and construction projects that target the needs of disadvantaged communities. Florida, Georgia, Kentucky, and South Carolina have provided DWSRF assistance to disadvantaged communities since the disadvantaged community program was authorized by the 1996 SDWA amendments.

The following 3 policy issues will be discussed in this report: **1) Eligibility for disadvantaged community assistance, 2) Types of assistance offered, and 3) Agency technical support and management of disadvantaged community funding.** These policy issues will be discussed relative to the following programs: **State DWSRF disadvantaged community in EPA Region 4, HUD State administered CDBG , and USDA RUS.** Each State disadvantaged community program (whether it be the DWSRF, CDBG, or RUS) differs in its methodology of program implementation but all programs incorporate these 3 policy issues. A comparison of each policy issue for each State program will contribute to a better understanding of each programs’ effectiveness of addressing disadvantaged community drinking water infrastructure finance needs.

### ***1) Eligibility for Disadvantaged Community Assistance***

#### **DWSRF Disadvantaged Community Programs:**

The specific terminology used by each State DWSRF program to define a disadvantaged community in the SRF program guidelines relates to the extent of financing intended to be set aside from the DWSRF program funds for infrastructure improvement in disadvantaged communities. The terminology used by each State to craft the definition of disadvantaged communities is tied closely to the affordability criteria and eligibility criteria to be discussed in Section 2.

**Florida:** the Florida Department of Environmental Protection (FDEP) manages the “financially disadvantaged community” DWSRF program. The FDEP defines a financially disadvantaged community as “a municipality, county, or agency that has a public water system (PWS) service jurisdiction served by a Community Water System (CWS) and has an MHI less than the statewide average as reported in the most recent decennial census or other verifiable determination (i.e., local survey)” (FDEP, 1999).

**Georgia:** the Georgia Environmental Facilities Authority (GEFA) manages the “disadvantaged community” DWSRF program. GEFA defines a disadvantaged community based upon affordability criteria. The two-part GEFA affordability test “consists of 1) Determining whether a community is performing at a reasonable level of effort given its economic characteristics based upon the minimum monthly household water bill for 6,000 gallons of water, and 2) The community's 2000 Median Household Income (MHI) multiplied by 1.25% to ascertain the target user rate. Should the actual monthly user rate be higher than the target monthly water rate, the community will be eligible to be considered "disadvantaged" for the purposes of a subsidized loan not to exceed \$500,000 per community per calendar year” (Georgia GEFA, 2003).

**Kentucky:** the Kentucky Infrastructure Authority (KIA) manages what it defines as the “hardship community” DWSRF program. The KIA defines a hardship community in its Intended Use Plan (IUP) according to two affordability criteria. To qualify for the hardship community rate, applicants shall meet the following criteria: 1. The median household income of the applicant's jurisdiction shall be below the state median; and 2. After undertaking the proposed drinking water project, the residential water bill for 4,000 gallons of usage shall reasonably be estimated to exceed 1.25 percent of the median household income. The most recent statistics on household income as published in the “U.S. Census Bureau Income Report” shall be used in making the hardship community rate determination. (KIA, 2001)

**South Carolina:** the Department of Health and Environmental Control and the Budget and Control Board manage the South Carolina “disadvantaged community” DWSRF program. Disadvantaged community systems, subdivided into two criteria categories, are public water systems, including municipalities, counties and special purpose districts, which meet affordability criteria that are based on the 2000 median household income (MHI) of the water systems entire service area and on the level of the current or proposed user charge. The two affordability criteria levels are defined in the SC 2003 DWSRF IUP: “to qualify as a Level 1 Disadvantaged Community System, the MHI for the applicant’s service area must be less than \$37,082 (the State MHI). If the applicant meets this criterion, the term of the loan may be extended up to 30 years (not to exceed the project’s useful life), and the project would be funded at the standard interest rate. To qualify as a Level 2 Disadvantaged Community System, the applicant must first meet the above Level 1 criterion. In addition, the project must necessitate a rate increase which would result in a user charge higher than the target user charge. Target user charge is defined as the annual residential user charge for water, based on 6,000 gallons per month, equal to at least 1.10% of the applicant’s MHI.” (South Carolina DHEP, 2003)

**Tennessee:** The 2003 Tennessee DWSRF Intended Use Plan (IUP) states, “Tennessee’s DWSRF does not have a separate loan program for disadvantaged communities.” It should be noted that of the total amount Tennessee allocates for the DWSRF program, 15%, or \$1,246,185 is required by section 1452 (a)(2) to provide loan assistance to systems serving fewer than 10,000 persons, to the extent that there are a sufficient number of eligible projects to fund. This assistance is targeted mainly to fund projects in small rural areas although no formal definition or program exists for disadvantaged

community assistance. As required by Section 1452 (b) of the SDWA Tennessee establishes priority for the use of DWSRF funds to projects that: 1) Address the most serious risk to human health, 2) Are necessary to ensure compliance with the requirements of SDWA, 3) Assist systems most in need, on a per household basis, according to state “affordability criteria”. As shown in Table 1. Tennessee uses the Ability to Pay Index (ATPI) to determine priority for DWSRF assistance. Communities with greater economic need are given lower points and a higher ranking. The allocation formula uses a broad definition of fiscal capacity that includes per capita income, per capita property tax base, and per capita sales. The intent is to measure fiscal capacity in terms of the available resources for paying for services. Further information on Tennessee’s DWSRF will not be included in this policy analysis.

**Table 1.** Affordability criteria used to determine disadvantaged community status by States in EPA Region 4.

State/Program	Community Assistance Affordability Criteria				
	MHI of Community or PWS < State avg.	TUR 1.25% of MHI for 4,000 gall.	TUR 1.25% of MHI for 6,000 gall.	TUR 1.40% of MHI for 6,000 gall.	Ability to Pay Index (ATPI)
Florida	X		X		
Georgia	X		X		
Kentucky	X	X			
South Carolina	X			X	
Tennessee <sup>a</sup>	X				X

<sup>a</sup> Tennessee does not have a disadvantaged community program as outlined in Section 1452 of the SDWA 1996. TN does offer below market interest rates on DWSRF loans to communities and PWS serving under 10,000 people.

State definitions of a disadvantaged community or similarly defined group include many references to specific affordability criteria shown in Table 1. These affordability criteria form the basis of eligibility for communities to receive disadvantaged community DWSRF program assistance. States base affordability criteria upon measures of households’ ability-to-pay for water services. States compare the annual median household income (AMHI) of specific communities or PWS jurisdictions to the average AMHI of the county or State. Another means of determining eligibility for disadvantaged community status used by States in Region 4 is the comparison of poverty rates in communities or PWS jurisdictions to the average poverty rates in the county or in the State. Finally, States also conduct random sample surveys of AMHI of household residents served within a community to determine eligibility for disadvantaged community DWSRF assistance. In some cases in order to qualify for disadvantaged community assistance PWS’s are required to conduct a random sample of residents’ AMHI. Most states in EPA Region 4 require an analysis of existing U.S. Census Bureau decennial census data to evaluate a community’s AMHI compared to the county or State average.

According to the EPA’s Information for States on Developing Affordability Criteria for Drinking Water, affordability is a function both of the price of water service and the ability of households (and other water users) to pay for this service. Generally, ability-to-pay is determined at the household level. However, a community's ability-to-pay can be thought of in terms of the aggregation of household ability-to-pay. This issue is relevant because of variations in income distribution from community to community. Communities with isolated pockets of poverty but healthy overall income levels are in a better position to provide payment assistance or to use progressive rate structures to provide affordable water service to those in need.

**USDA Rural Utilities Service (RUS):**

**Table 2.** Affordability criteria used to determine eligibility status through the USDA RUS and HUD State CDBG programs.

Program	Community Assistance Eligibility Criteria <sup>a</sup>				
	>51% of community must be low and moderate income (US Census)	>20% community poverty rate (US Census)	MHI of community or PWS < State avg.	Poverty of community or PWS > State avg.	Must be public entities: local governments or non-profits
USDA RUS			X	X	X
HUD CDBG	X	X			X

<sup>a</sup> Eligible entities include public bodies such as towns, counties, districts, authorities and other political subdivisions of the state, not for profit organizations and Indian tribes.

The purpose of the RUS “Water and Waste Disposal Grants” program is to reduce water and waste disposal costs to a reasonable level for rural users. The program serves rural disadvantaged community residents and provides grants for up to 75 percent of eligible project costs. As shown in Table 2, recipients must be public entities. These can include municipalities, counties, special purpose districts, Indian tribes, and corporations not operated for profit, including cooperatives. A new entity may be formed to provide the needed service if an appropriate one does not already exist. The same types of applicants are eligible for grants as are for loans. Loan and grant funds may be used to: 1) Construct, repair, modify, expand, or otherwise improve water supply and distribution systems and waste collection and treatment systems, including storm drainage and solid waste disposal facilities. Certain other costs related to development of the facility may also be covered, 2) Acquire needed land, water sources, and water rights, and 3) Pay costs such as legal and engineering fees when necessary to develop the facilities.

**HUD Community Development Block Grant (CDBG):**

Eligible assistance is administered by States in accordance with the Housing and Community Development Act of 1974 (HCDA). States administer loans and grants for eligible activities in low and moderate income areas of municipalities and counties. Table 2. shows that more than 51% of the community must be low and moderate income and that more than 20% of the community be below the poverty rate. Both eligibility criteria are determined according to the most recent decennial Census.

The CDBG program in most cases requires that a municipality or county apply for federal grants for improvement of housing and often drinking water infrastructure. The State administered CDBG program is relevant to NC disadvantaged community water infrastructure improvement needs. States participating in the CDBG program award grants only to units of general local government that carry out development activities. Annually each State develops funding priorities and criteria for selecting projects. Under the “Section 108 Loan Guarantee Program CDBG (Section 108 Program)” entitlement communities are eligible to apply for a guarantee from the Section 108 Loan Guarantee program. CDBG non-entitlement communities may also apply, provided that their State agrees to pledge the CDBG funds necessary to secure the loan. Non-entitlement applicants may receive their loan guarantee directly or designate another eligible public entity such as an industrial development authority, to receive it and carry out the Section 108 assisted project. Other CDBG programs include disaster relief and assistance for Colonias along the US-Mexico border.

Rural poor communities seeking drinking water infrastructure improvement grants and loans should diversify their funding options by mixing assistance from DWSRF programs, State administered CDBG, and RUS loans and grants. The State administered CDBG and RUS programs allow local governments to explore additional funding opportunities to meet the drinking water infrastructure improvement needs of disadvantaged communities.

## ***2) Types of Assistance Offered***

### **DWSRF Disadvantaged Community Program:**

EPA regulates the amount of money distributed to disadvantaged communities through low interest loans, loan periods greater than 20 years, and loans with negative interest rates (forgiveness of principal). Section 1452 of the SDWA requires that not more than 30% of funds for disadvantaged communities be used to provide loans with negative interest rates (i.e. loans with forgiveness of principal). These program features, defined as disadvantaged community assistance, are offered by 4 states which have disadvantaged community DWSRF programs in EPA Region 4. Table 3. shows the types of assistance offered by each state’s disadvantaged community DWSRF program within EPA Region 4. Tennessee does not have a disadvantaged community program as outlined in Section 1452 of the SDWA 1996 and will not be included in the discussion of types of assistance offered to disadvantaged communities.

**Table 3.** DWSRF Program in EPA Region 4 and the type of assistance provided through disadvantaged community programs.

State	Disadvantaged Assistance Program Features		
	Provides Principal Forgiveness	Provides Loan Terms >20 Years	Provides Lower Interest Rates
Florida	X	X	
Georgia	X		X
Kentucky	X		X
South Carolina		X	X
Tennessee <sup>a</sup>			X

<sup>a</sup> Tennessee does not have an official disadvantaged community program as outlined in Section 1452 of the SDWA 1996 but does provide 0% to market rate loans for DWSRF projects in communities or PWS serving fewer than 10,000 individuals.

Table 3. shows that Florida, Georgia, and Kentucky offer principal forgiveness to disadvantaged community projects. Florida and South Carolina offer loan terms of greater than 20 years. The loan terms can be extended to a period of up to 30 years. Table 3. also shows that Georgia, Kentucky, and South Carolina offer lower interest rate loans to disadvantaged communities. Loan interest rates range from 0% to the current market rate.

**Table 4.** DWSRF assistance to disadvantaged communities, by State in Region 4 July 1, 1996 through June 30, 2002 (in millions of dollars).

State	Amount of Assistance Mill. of Dollars				
	Total SRF Assistance	Disadvantaged Communities	Assistance with Principal Forgiveness	Assistance with >20 yr. Repayment	Provides Lower Interest Rates
FL	170.9	22.4	22.4	2.2	n/a
GA	45.4	25.5	25	0	n/a*

KY	39.3	26.7	0	0	n/a*
SC	34.4	6.0	0	6.0	n/a*

n/a\* = EPA did not provide summary information on lower interest rates for disadvantaged community assistance however these States have used or plan to use this program feature in the future.

Table 4. shows DWSRF assistance to disadvantaged communities for the period from July 1, 1996 through June 30, 2002 by state in EPA Region 4. EPA did not provide summary information on program assistance by State for lower interest rate loans. This lack of funding information would be relevant to the disadvantaged community programs in Georgia, Kentucky and South Carolina.

**Table 5.** Principal forgiven through DWSRF disadvantaged community program, by State in Region 4 July 1, 1996 through June 30, 2002.

State	Amount of Principal Forgiven		
	Millions of Dollars	As a Percent of Total SRF Assistance	As a Percent of Grant Awards
FL	20.2	11.8%	13.3%
GA	11.5	25.3	15.6
KY	0	0	0
SC	0	0	0

**Table 6.** Number of DWSRF agreements, by State in Region 4 July 1, 1996 through June 30, 2002.

State	Number of DWSRF Agreements*			
	Total SRF Assistance	Disadvantaged Communities	Assistance with Principal Forgiveness	Assistance with >20 yr. Repayment
FL	54	25	25	10
GA	37	31	30	0
KY	22	13	0	0
SC	13	1	0	1

\* EPA did not provide summary information on agreements involving lower interest rates for disadvantaged communities

**Table 7.** Percent of total DWSRF assistance, by State in Region 4 July 1, 1996 through June 30, 2002.

State	Percent of Total DWSRF Assistance				
	Total SRF Assistance	Disadvantaged Communities	Assistance with Principal Forgiveness	Assistance with >20 yr. Repayment	Provides Lower Interest Rates
FL	100%	13.1%	13.1%	1.3%	n/a*
GA	100	56.1	55.1	0	n/a*
KY	100	67.9	0	0	n/a*
SC	100	17.5	0	17.5	n/a*

n/a\* = EPA did not provide summary information on lower interest rates for disadvantaged community assistance

**Table 8.** Percent of total DWSRF agreements to disadvantaged communities, by State in Region 4 July 1, 1996 through June 30, 2002.

State	Number of DWSRF Agreements as a % of Total*			
	Total SRF Assistance	Disadvantaged Communities Assistance	Assistance with Principal Forgiveness	Assistance with >20 yr. Repayment
FL	100%	46.3%	46.3%	18.6%
GA	100	83.8	81.1	0
KY	100	59.1	0	0
SC	100	7.7	0	7.7

\* EPA did not provide summary information on agreements involving lower interest rates for disadvantaged communities

**USDA Rural Utilities Service (RUS):**

The USDA RUS program offers development grants. The RUS program provides grants and loans to communities for Up to 75% of the total eligible project costs are available (in conjunction with loans) for the purpose of reducing average user charges to a reasonable level based on comparable systems. Grants are not available to applicants when the median household income of the service area exceeds NC’s MHI.

**HUD Community Development Block Grant (CDBG):**

HUD distributes funds to each State based on a statutory formula which takes into account population, poverty, incidence of overcrowded housing, and age of housing. The total Fiscal Year (FY) 2003 CDBG non-entitlement appropriation was approximately \$1.301 billion. Neither HUD nor States distribute funds directly to citizens or private organizations; all funds (other than the 1% technical assistance set-aside) are distributed by States to units of general local government.

**Table 9.** Type of assistance provided through the RUS and CDBG programs.

Program	Assistance Program Features		
	Provides Principal Forgiveness	Provides Loan Terms >20 Years	Provides Lower Interest Rates
USDA RUS	X	X <sup>a</sup>	X
HUD State CDBG	X	X	X

<sup>a</sup> USDA RUS program offers loan terms of up to 40 years.

**3) Agency Technical Support and Management**

**DWSRF Disadvantaged Community Program:**

Due to fear of loan default Florida is developing a contingency plan which is an extension of the program that Florida Rural Water developed to help small systems meet operator certification requirements. This consists of a cadre of retired operators who provide free technical support to small systems throughout the state.

Florida coordinates the development of funding packages through Florida’s Bureau of Water Facilities Funding (BWFF). BWFF works closely with state funding sources to facilitate the application process for water systems and to help ensure that each system receives the maximum public funding available.

To maximize the funding for disadvantaged communities, Kentucky has developed an eClearinghouse. The eClearinghouse is outlined in Kentucky’s new draft Guidelines for the DWSRF—200 KAR 17:070. The eClearinghouse is defined as “the automated

Kentucky State Clearinghouse coordinating the federal Executive Review Process and the Kentucky Intergovernmental Review Process, for which the Department for Local Government has been designated as the single point of contact for federal or state funding assistance.” This system enables local governments and disadvantaged communities to submit one application for funding assistance with the knowledge that their application will not only be reviewed by the Kentucky DWSRF disadvantaged community program but also submitted for review by federal programs including but not limited to the USDA RUS, HUD State administered CDBG, and the Appalachian Regional Commission (ARC). The eClearinghouse system decreases the barriers for communities seeking funds through the various complex combination of funding opportunities through organizations at the State and Federal level.

**USDA Rural Utilities Service (RUS):**

The USDA RUS program offers management assistance for loan and grant recipients. Loan and grant recipients are supervised to the extent necessary to assure that facilities are constructed in accordance with approved plans and specifications and to assure that funds are expended for approved purposes.

**HUD Community Development Block Grant (CDBG):**

The State may use up to 1 percent of its grant to provide technical assistance to local governments and nonprofit organizations, either directly or through contractors, to assist them in carrying out community development activities. Eligible activities are outlined in the Housing and Community Development Act (HCDA) of 1974 Appendix A.

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