

# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH



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Commissioner

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Drinking Water Section

### EHDW Circular Letter #2023-04

TO: Community and Non-Profit Non-Community Public Water Systems  
Municipal Chief Elected Officials  
Local Directors of Health

FROM: Lori J. Mathieu, Public Health Branch Chief *Lori J. Mathieu*  
Environmental Health & Drinking Water Branch

DATE: February 24, 2023

RE: Drinking Water State Revolving Fund (DWSRF) State Fiscal Year 2023  
New Draft Intended Use Plan and Project Priority List

The Connecticut Department of Public Health's (DPH) Drinking Water Section (DWS) is presenting a new draft Intended Use Plan (IUP) for State Fiscal Year (SFY) 2023 for the Drinking Water State Revolving Fund (DWSRF). The October 18, 2022 Draft SFY 2023 IUP was published for public review and comment, with a public hearing held on November 22, 2022. This original draft IUP included the use of the Centers for Disease Control and Prevention's Social Vulnerability Index (SVI) in the Priority Ranking System (Attachment B) and for the determination of whether a project was qualified for the Disadvantaged Community Assistance Program (DCAP) (Attachment K).

DPH had reviewed its DWSRF program's disadvantaged community definition as recommended by the Environmental Protection Agency's (EPA) Bipartisan Infrastructure Law (BIL) implementation memo dated March 8, 2022 in an effort to ensure that BIL funds were helping people most in need. Draft IUP versions incorporating SVI were shared with EPA in August and September 2022; EPA raised no concerns regarding use of SVI within their reviews. However, during the formal comment period for the October 18, 2022 Draft SFY 2023 IUP, the EPA provided comments which stated a concern that "any "disadvantaged community" definition that incorporates race as a metric is open to possible litigation as a violation of Title VI of the Civil Rights Act of 1964" (Title VI). EPA recommended that both the new priority ranking system and disadvantaged community definition be discussed with state legal counsel for their opinion on these definitions and its compliance with Title VI. The SVI does include "racial and ethnic minority status" as one of 4 themes in their scoring system. DPH notes that three additional SVI metrics, "age", "disability" and "language," may raise similar concerns with respect to compliance with other federal anti-discrimination laws.



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This new draft SFY 2023 IUP will incorporate a PRS very similar to that which has been used by the DWSRF program for several years and was in the SFY 2022 IUP, with minor changes to incorporate the new funding from the BIL. The DCAP in the new draft SFY 2023 IUP will incorporate, in lieu of SVI, the use of median household income information from the American Community Survey along with the Connecticut Department of Economic and Community Development's (DECD) "distressed municipality" list, the latter of which has been used since incorporation of the formal DCAP program. DPH believes these DCAP criterion align closely with the elements of SVI but do not raise concerns under Title VI or other anti-discrimination laws. DPH believes the DECD criteria are also appropriate in determining whether a project meets affordability criteria established by the DCAP.

Due to the significance of the changes necessitated by EPA's testimony, DPH believes it is appropriate to provide additional opportunity for public comment on these changes. As a result, the DPH will publish a revised February 16, 2023 Draft SFY 2023 IUP for a 30-day public comment period followed by another public hearing. A final SFY 2023 IUP will be prepared following this second public hearing and after consideration of any additional testimony received. Please refer to the Hearing Report for the November 22, 2022 Public Hearing and the February 16, 2023 Draft SFY 2023 IUP for more information. Detailed information about the PRS and DCAP is included in this new draft SFY 2023 IUP.

A remote public hearing on the February 16, 2023 Draft SFY 2023 IUP has been scheduled for March 29, 2023 to provide an opportunity for meaningful comments. The February 16, 2023 Draft SFY 2023 IUP, information on this hearing, and a link for registration can be found on the [DWSRF website](#). A hearing notice will also be published in various local newspapers across the state and posted on the [DWSRF website](#).

Comments will be accepted until noon on March 28, 2023. Comments in writing may be submitted electronically via email to [dph.ctdwsrf@ct.gov](mailto:dph.ctdwsrf@ct.gov). Please note "DWSRF Public Hearing" in the subject line. Oral testimony will be accepted during the public hearing.

If you have any questions or wish to learn more about the DWSRF Program, please do not hesitate to contact Cameron Walden at [cameron.walden@ct.gov](mailto:cameron.walden@ct.gov).

c: Manisha Juthani, MD, Commissioner  
Lisa Morrissey, MPH, Deputy Commissioner