

State Water Infrastructure Authority
Meeting Date: July 18-19, 2023
Agenda Item K – Summary of Lead Service Line Replacement Program
(Information Item)

Division of Water Infrastructure Staff Report

Background

Congress appropriated funds to the Drinking Water State Revolving Fund (DWSRF) in the Infrastructure Investment and Jobs Act of 2021, commonly referred to as the Bipartisan Infrastructure Law (BIL). The BIL appropriated additional funds for five fiscal years (FY 2022-FY 2026) specifically for the purpose of inventorying and replacing lead service lines (LSLs). These funds are referred to as the BIL DWSRF Lead Service Line Replacement Funds (LSLR Funds). North Carolina's FY2022 allotment is \$87,062,000, of which a portion will be used for set-asides.

At its April meeting, the State Water Infrastructure Authority (Authority) approved a Priority Rating System (PRS) for BIL DWSRF LSLR Funds. As part of the PRS approval process, The Division provided a public comment period from March 7 through April 7, 2023 for the LSLR Funds Intended Use Plan (IUP). At the same time, the Division requested local government units (LGUs) to provide potential project information to assist the Division in assessing need for funds for the different project types and assess proposed funding caps, project milestones, and potential application requirements. This staff report summarizes the final IUP that was submitted to EPA as part of the LSLR capitalization grant application.

Overview

Per the March 2022 EPA BIL implementation memo, LSLR-funded projects or activities must be DWSRF eligible and be a LSLR project or associated activity directly connected to the identification, planning, design, and replacement of LSLs. All funded projects involving the replacement of a LSL must replace the entire LSL, not just a portion, unless a portion has already been replaced. Eligible projects and activities are limited to the following:

- Complete removal of LSLs (public- and privately-owned portion) or service lines made of galvanized iron or galvanized steel (that are currently or have previously been downstream of lead components) and replacement with a pipe that meets the requirements established under 40 CFR 143 and which complies with state and local plumbing codes and or building codes.
- Removal of lead or galvanized goosenecks, pigtails, and connectors, and replacement with an acceptable material that meets the requirements established under 40 CFR 143 and which complies with state and local plumbing codes and or building codes.
- Replacement of curb stops, curb stop boxes, and other service line appurtenances that are removed as part of full LSLR.

- Site restoration, including landscaping, sidewalks, driveways, etc. if the removal was necessary to replace the LSL.
- Permit fees if the fees are normal, required, and specific to the LSLR. It is recommended that communities waive these fees.
- Temporary pitcher filters or point-of-use (POU) devices certified by an American National Standards Institute accredited certifier to reduce lead during or for a short time period after LSLR projects.
- Development or updating of LSL inventories, including locating and mapping LSLs. Methods of investigation to develop inventories could include visual observation, water quality sampling (non-compliance), excavation, vacuum or hydro-excavation, statistical analysis, or other emerging technologies.
- Planning and design for infrastructure projects listed above.
- Non-routine lead sampling (if not for compliance purposes) as part of an LSLR project.

Table 1 shows the amount of solicitations and funding requested that the Division of Water Infrastructure (Division) received by the end of June 2023.

Table 1. Summary of Project Solicitations received by 6/30/2023				
	Replace Known LSL	Find & Replace	Inventory	Total
Solicitations	4	6	35	45
Funding Requested - aggregate	\$12,342,500	\$9,684,013	\$12,613,140	\$34,639,653
Funding Requested - average	\$3,085,625	\$1,614,002	\$360,375	---

Resulting Updates to the IUP and LSLR program

Program Schedule

It is the intent of the Division to make the BIL DWSRF LSLR Funds available to systems more quickly than the traditional DWI funding cycles which occur twice per year (awards in February, and July). BIL DWSRF LSLR funds will be made available for awards as part of regular Authority meetings during the year. The Division will establish application due dates for each funding cycle. Complete and eligible applications received prior to the application due date will be considered for funding, and staff will make funding recommendation to the Authority at the next scheduled Authority meeting. Projects not selected for funding will be automatically reconsidered for the next funding cycle. Table 2 shows the expected funding rounds for the 2022 BIL LSLR funds.

Table 2. Expected Funding Rounds for the 2022 BIL LSLR funds			
Approximate Application Due date	Approximate SWIA Meeting (Award date)	Estimated min 2022 LSLR Funds Available (Includes PF)	Estimated min 2022 Principal Forgiveness Available
August 18, 2023 ¹	September 19, 2023	\$22,345,913	\$14,220,127
November 1, 2023	December 12, 2023	\$22,345,913	\$14,220,127
December, 2023	February, 2024	\$22,345,913	\$14,220,127
March, 2024	April, 2024	\$0 ^{2*}	\$0 ²
Totals		\$67,037,740	\$42,660,380

¹Initial funding round will only be available to systems who previously provided a Lead Service Line Solicitation Form. These systems will have an opportunity to update project information prior to August 18.

²Allotments for 2024 SWIA meetings may be recommended for award if funds remain available from 2022 BIL DWSRF LSLR funds. It is anticipated that 2023 BIL DWSRF LSLR funds can be made available for 2024 if project demand exceeds funds available. The Division will apply for FY2023 BIL DWSRF LSLR in 2024.

Funds Specifically for Inventories

Commenters expressed concerns that the existing IUP and PRS may not provide sufficient prioritization for projects seeking funding for inventory work to meet the Lead and Copper Rule Revision (LCRR) requirement to complete inventory work prior to October 2024. Commenters requested consideration to set aside funds for inventory work to better assure that funds will be available to communities needing to complete inventory work prior to the end of 2024.

To support LCRR requirements for water systems to inventory LSLs by the end of 2024, a minimum of 50 percent of funds made available for each funding round will be reserved for inventory projects. Funds reserved for inventory projects will be made available to all projects in priority order if there are not sufficient applications to meet the 50 percent minimum funding reserve.

In addition, as included in IUP, the Division intends to set aside a portion of the BIL LSLR cap grant for contracts with qualified service providers to support LSL inventories in communities most in need.

Funding Caps for Different Project Types

Commentors felt that the proposed caps on service line replacement (construction) funding per applicant will limit the ability of construction projects to use all of the available LSL funding in any given funding round, that the caps were not sufficient to meet expected project costs and would result in unnecessary delays in partially funded project start dates.

In response to comments, the IUP was updated with the following maximum BIL DWSRF-LSLR funding loan amount (including principal forgiveness) per applicant for each funding round:

- \$5 million for projects replacing known lead service lines.

- \$2 million for projects finding and replacing LSLs in areas suspected of having LSLs. These projects must result in service lines within the project area being categorized as “known lead” or “known not lead” using methods approved for completion of the LSL inventory as required in the LCRR. The budget must limit service line material verification to \$1 million.
- \$1 million for projects to conduct a lead service lines inventory.

Funded projects with repayable loans with a targeted interest rate of zero percent.

Principal Forgiveness

Other commenters requested consideration for principal forgiveness allowances with a focus of the comments on assuring that those communities and residents most in need of financial support had the best opportunity to receive the principal forgiveness.

A total of 49 percent (\$42,660,380) of the BIL DWSRF-LSLR Capitalization Grant will be used to provide additional subsidization in the form of principal forgiveness to disadvantaged communities. Projects may document they are eligible for principal forgiveness using the affordability criteria used for other SRF projects, or by documenting the project is in a disadvantaged area. Principal forgiveness will range from 25 percent to 100 percent of the award, in increments of 25 percent, up to \$500,000 per project per round. Projects benefiting a disadvantaged area as defined in the IUP are eligible for principal forgiveness of 50 percent of the award, up to \$500,000. The \$500,000 cap can be exceeded each round to meet the principal forgiveness goals.

LSLR Funding Now Open for Applications

The Division has opened up the application period for the September 2023 LSLR awards (applications due August 1, 2023).

Local government units who provided project solicitation forms will have the first opportunity for funding (September 2023 Awards). These LGUs will need to provide project resolutions and any other missing documentation prior to August 1, 2023 to make their solicitation forms a complete and eligible application.

The Division is contacting all LGUs that provided project solicitation forms to ensure those LGUs are aware of any remaining items to turn their project solicitation into a complete and eligible application. This will also give LGUs an opportunity to submit a new application to update their project information to best meet their needs and potentially improve their priority ranking.

Interested parties that have not previously submitted project information can submit application for the second funding round (December 2023 awards). Applications for the December round are due prior to November 1, 2023.

LSLR application guidance and program information have been incorporated into the Division’s regular application training. Training for the Fall round begins the week of July 31.

Information on the Lead Service Line Replacement funding program can be found on the Division website.