

SFY 2024 Safe Drinking Water Loan Program Responses to Public Comments

A 30-day public comment period for the SFY 2024 Safe Drinking Water Loan Program (SDWLP) Intended Use Plan (IUP) opened on May 2, 2023 and closed on June 1, 2023. The comments and the corresponding responses are listed below. In many cases, the comments have been shorted to highlight their recommendations. We appreciate the engagement we received and the patience commenters have shown while awaiting responses.

Comment letter 1

Submitted by Michael Heyroth, Rib Mountain Sanitary District

- 1. Comment:** We feel the IUP should reflect all our wells are PFAS impacted because we must continue to pump the impacted well otherwise PFAS will spread to the other wells. Our efforts also include adding PFAS removal technology to a new treatment plant as a permanent solution. This is coming at a great cost. What started as a 3 to 4 million-dollar treatment plant has now tripled into a 12 million dollar plus estimate, which is still 2 plus years before completion.

This project is now in jeopardy of being cancelled due to the cost. As a small community of 6,000 people, we simply cannot afford a project of this size without assistance from the state in the form of significant Principal Forgiveness and grant money. This kind of infrastructure is simply beyond our ratepayers ability to finance.

We were anticipating Emerging Containment Principal forgiveness of 70% for SFY24. We were shocked to find out it may be 25% or less. This completely changes how or if we approach this project. There was no indication of this much of a change in the funding. If we would have known, we could have accelerated the design to complete design by January 31st 2023 to qualify for the 70%. A 3-month window may end up costing us 4 million dollars in principal forgiveness. A very steep price to pay for a 3-month window to say the least. This seems to be too much of difference in funding.

Possibly a third pass of PF could be allocated to utilities such as ours to get this project completed ASAP to help protect the people of Rib Mountain. Access to the EC-SDC funding would also be critical in receiving funds for communities like us who are under a population of 10,000. These families deserve no less protection than any other community when it comes to having safe drinking water for their families.

Response: In response to the comments above, DNR is removing the restriction that non-disadvantaged municipalities will only receive 25% of total project costs as EC PF. The maximum EC principal forgiveness a water system may receives is \$3,500,000. Disadvantaged municipalities will also compete for Regular SDWLP PF.

Comment letter 2

Submitted by Brenda Coley and Joe Fitzgerald, Milwaukee Water Commons

- 1. Comment:** The Wisconsin Department of Natural Resources should commit to actions that will support department staff and their partners in ensuring procedural justice through the state's environmental loans programs.

Procedural justice calls for inclusion of all stakeholders in decision-making, especially those who are impacted by the decisions being made. This means eliminating barriers for engagement, and ensuring that policies and procedures result in fair treatment and equitable access. As administrators for Wisconsin's state revolving fund programs it is the responsibility of the Wisconsin Department of Natural Resources to build awareness of public comment opportunities, as well as application deadlines, and to ensure that public input is heard and can inform the states policies and implementation for each environmental loan program. As community advocates, utility leaders, and administrators, we are all working toward the same goal of providing clean and safe water to Wisconsinites. For this reason, the WDNR should consider adaptive and innovative strategies for outreach to connect communities with opportunities to engage with, and influence, the Safe Drinking Water Loan Program.

Through our engagement with utility leaders around WI in 2021 and 2022 our organization learned that there has been very little participation from utilities in Wisconsin's Intended Use Plan process and that many utility leaders were uncertain about submitting public comments. Further, anticipating significant changes to the environmental loans programs with the introduction of federal BIL funding, many Wisconsin utilities were seeking guidance on new program policies and technical assistance to support needed investments in water infrastructure. We would like to commend the WDNR for using set aside funding to hire additional staff and to support programs that will engage utility leaders to aid with capacity development and help with navigation of the SDWLP.

To build on this added capacity, we are encouraging the WDNR to track and report on engagement with these newly established programs and with the public engagement process for each year's Intended Use Plan. Tracking and reporting on engagement will set a baseline for understanding the current participation in WDNR programs for technical assistance, for webinars, and for public comment. This data baseline should be used to inform goal setting for increasing engagement and for pursuing more diverse engagement that is inclusive of groups who are currently under-represented or entirely disconnected from the SDWLP. Reporting would both help WDNR staff navigate new approaches to build towards benchmarks for increasing engagement, and could inform the work of partners intent on increasing access to those programs and resources.

As written, the draft SDWLP IUP does not demonstrate a strong enough level of commitment to public engagement. The current approach to conducting outreach through sign on email lists and publicly available webinars alone is not sufficient to call in stakeholders around Wisconsin who need assistance to address a myriad of drinking water emergencies, or to inform the public who live with these challenges daily about how funding is moving through federal, state and local programs. For this reason, Milwaukee Water Commons is encouraging the WDNR to look

for additional strategies to raising awareness about the programs scope and engagement opportunities through statewide campaigns, direct outreach to utility and community leaders, and through partnerships with community organizations and non-profits who can act as a bridge to raise awareness at a more local level.

Response: Outreach is a priority for the SDWLP. The more familiarity municipalities have with the SDWLP will result in more projects built in the state and a more effective revolving loan program. To do so, our outreach is targeted at our customers and that outreach is increasing as the result of BIL.

Direct outreach is an area we have heard as being the most effective to reach municipalities that have not historically accessed the SDWLP. To that end, the Department hired the Federal Programs Outreach Coordinator and the Federal Programs Project Manager that together will connect with municipalities and take the time to meet them where they are at. As more of those connections are made, we expect those positions to be communicating with the SDWLP and identifying areas of collaboration or concerns based on the results of their conversations. The IUP also includes \$4,060,150 for direct contact with municipal systems and public awareness campaigns for lead service line replacements.

Making the program accessible through communications is another area the program consistently prioritizes. Towards that end, the Environmental Loans Outreach Coordinator travels across the state to promote the program through events, conferences, and publications. This position also prepares regular newsletters about the program and publications tailored to various audiences.

2. **Comment:** In previous comments on Intended Use Plans, Milwaukee Water Commons has called on the WDNR to extend the public engagement window for intended use plans and to report on procedures and timelines for reviewing and incorporating public comments received by the department as a result of those engagement processes. By extending opportunities to comment on the draft 2023 LSL Replacement Program – BIL Funding Amendment to SFY 2023 SDWLP Intended Use Plan, the WDNR has modeled flexibility to allow additional time for public comments. We would urge the WDNR to continue to look for opportunities to extend windows for public feedback, and to utilize additional outreach strategies to vet program policies with utility leaders, nonprofits, and community advocates who can be partners in bolstering the impact of this program or garnering feedback from community members, contractors and other local stakeholders. In addition, each Intended Use Plan should outline procedures and timelines for reviewing and incorporating public comments in its Public Participation Section (XXII). Transparency around the process for reviewing public feedback will help to foster trust and understanding with the public and with other stakeholders invested in the success of the SDWLP.

Response: Last year's response to comments took too long. Last year's IUPs, however, included many changes to the program as the result of BIL. Going forward, we hope and expect to make iterative changes to the program, which would likely result in a corresponding drop in public comments.

The IUPs are dense documents, especially for those who are unfamiliar with our program. As such, we have found success seeking feedback from engineering firms, municipalities, and other

partners on a few policies at a time. For readers who are already familiar with the program, we hope to incorporate a summary of key changes into the IUP process so that they may be spared from scanning through the entire document.

Our current IUP process is constrained by the release of federal cap grant allocations and the SDWLP loan application deadline. We are evaluating a different IUP process that may create more space for a longer public comment period.

- 3. Comment:** Maximizing the amount of principal forgiveness available through both the BIL funded capitalization grants and the state funded base program. Through engagement with utilities serving small, medium and large populations/service areas, the consistent truth is that there is a major need for investments in drinking water infrastructure and that action on many of those needs will be dependent on access to principal forgiveness.

Response: The only choice the SDWLP has regarding the amount of PF made available in a given year is from the Base capitalization grant. Recently, the size of this grant has severely diminished, which correspondingly reduces the amount of funds that can be awarded as loans and returned to the fund. Every dollar that revolves has a multiplicative benefit to the loan fund. Reducing the amount of PF made available this year will aid in the program's goal of allowing the fund to revolve in perpetuity and reduce the potential sharp drop-off of available PF when BIL funds are no longer available.

- 4. Comment:** Continuing to incorporate options for utilities to apply to environmental loans programs utilizing smaller geographic scales that target projects in disadvantaged communities. This shift will ensure that underserved communities around the state are able to access SRF funding, and it will encourage utilities throughout the state to take on equitable approaches to prioritizing water infrastructure projects.

Response: The SDWLP is piloting the practice of targeting PF scoring for Lead Service Line projects using census tracts. A municipality may request that the DNR consider data from disadvantaged census tract(s) for priority scoring. DNR will then use data for all scoring criteria at the census tract level except for population, population trend, and county unemployment rate.

Given that many projects' benefits are not specific to an area or a particular neighborhood, incorporating more granular data into the PF scoring criteria would have to be limited to a few types of projects. Because water systems must keep water rates equal, providing principal forgiveness based on the demographics of the project area would benefit the entire water system, not just the rate payers in the project area.

- 5. Comment:** Adopt workforce standards for projects financed by the SDWLP. This should include prevailing wage standards, responsible contractor policies, and required workforce development plans. These actions will not only be a commitment to establishing an equitable workforce, they will aid utilities and contractors – who may have limitations on their own ability to set these standards- in attracting and retaining employees.

Response: Currently the SDWLP funds a small piece of the total water infrastructure in the state; therefore, an effective workforce development program would need to be broader than our

program alone could reach. DNR is having discussions with the Department of Workforce Development to identify areas where we can mutually address workforce challenges in the water sector. Davis-Bacon prevailing wage requirements do apply to all SDWLP-funded projects.

Supporting water operators has long been a focus of the Department's capacity development program. Moraine Park Technical College's Water Quality Training Program helps train students for a career in the water industry, including as a municipal water operator. Additionally, at the most recent Water Quality Advisory Board meeting in April 2023, members (including DNR) discussed the possibility of creating a water operator apprenticeship program, similar to that which exists for wastewater operators. DNR further pursued this at a recent meeting at Region 5 EPA HQ, at which the DNR expressed interest in pursuing a potential EPA-funded internship program through one of the DNR's technical assistance providers.

6. **Comment:** Incentivizing the incorporation of community benefits agreements, and considering opportunities to push for state policies that would eliminate single factor procurement requirements at the local level. Multiple factor procurement could drastically improve access to contracting for DBE's in Wisconsin by incentivizing equitable contracting standards rather than lowest bid competition. Though the WDNR's standards for DBE compliance, and the requirements through federal equivalency, do encourage more equitable practices. Without the ability to move beyond single factor procurement, or the incentive to do so, it is likely that low bid policies will continue to box out DBE's. We encourage WDNR to act on advocating for state policies that encourage equitable procurement, and especially encourage looking for opportunities to incentivize the use of community benefits agreements to connect neighbors with local infrastructure projects and broaden the impact of infrastructure investments.

Response: While lobbying and other forms of engagement with the Wisconsin Legislature are an important part of the democratic process, state and local procurement laws are outside the scope of the SDWLP Intended Use Plan.

Providing incentives for community benefit agreements would be problematic considering that at the time we are scoring most projects or allocating PF, the construction contract has not been bid. Providing an incentive this early in the process would leave no assurances that a municipality would follow through on a plan to incorporate community benefit agreements, for example.

7. **Comment:** Encourage procurement policies that incentivize the use of DBE, WBE, and MBE. Though the WDNR's six good faith efforts and the addition of federal equivalency policies does encourage solicitation of DBE's, and practices that may create more access to contracts for those businesses, Milwaukee Water Commons encourages the WDNR to directly incentivize the use of DBE, WBE, and MBE contractors on projects funded through the SRF. Policies that influence the solicitation and procurement of infrastructure projects are touch points to push the water sector towards more equitable approaches to workforce development and ultimately towards a more diverse workforce.

Response: Any incentive we would provide to encourage DBE solicitation would be vulnerable to the bait and switch tactic. A municipality or contractor could identify a DBE they plan on using and end not following through on that commitment. Sometimes there would be a legitimate

reason why a particular DBE firm was not able to be utilized, but it would be difficult to identify that with much certainty.

Like community benefit agreements, at the time we are scoring most projects or allocating PF, the construction contract has not been bid. Providing an incentive at that point would leave no assurances that a municipality would follow through on a plan to solicit DBEs, for example.

Comment letter 3

Submitted by:

- Janet Pritchard, Environmental Policy Innovation Center
- Anna-Lisa Castle, Alliance for the Great Lakes
- Richard Diaz, BlueGreen Alliance
- Debra Taylor, Community Water Services-Adams Garden Park
- Jerusa Johnson, Dominican Center
- Rev. Joseph Jackson, Friendship Baptist Church
- Chris Keim, Hepatha Lutheran Church
- Gerald Roesch, Rev. Joseph W. Ellwanger, Rev. Dennis Jacobsen, and Diannia Merriett, MICAH
- Pam Fendt, Milwaukee Area Labor Council
- Peter Burress, Wisconsin Conservation Voters
- Kent Miller, Wisconsin Laborers' District Council
- Tamika Glenn and Maria Beltran, COLE
- Elizabeth D. Brown, Amani United
- Larry Golopol, Geli Golopol, and Elaine Sweet, Congregation Shalom
- Terry Wiggins, Earth Justice Ministry of First Unitarian Society of Milwaukee
- Dennis M. Grzezinski, Law Office of Dennis M. Grzezinski
- Tony Wilkin Gibart and Dan Gustafson, Midwest Environmental Advocates
- Brenda Coley, Milwaukee Water Commons
- Huda Alkaff, Wisconsin Green Muslims
- David Liners, WISDOM Executive Director

1. **Comment:** From Wisconsin's base grant, federal law requires the state to award 14%, plus an additional 12% - 35% as additional subsidy (i.e., principal forgiveness). Unlike in some prior years, this year WDNR proposes to make only the minimum 26% (\$2,198,300) rather than the maximum 49% (\$4,142,950) available from the base grant. We urge WDNR to maximize the amount of principal forgiveness from the base grant because, even with the additional principal forgiveness made available from the influx of BIL funding, small and historically underserved communities need all the help they can get. Although a substantial portion of the BIL funds will be issued as PF, the influx of BIL funds will result in a substantial increase in SDWLP loans, too, which will return principal and interest repayments to continue to grow the fund over time.

Response: The only choice the SDWLP has regarding the amount of PF made available in a given year is from the Base capitalization grant. Recently, the size of this grant has severely diminished, which correspondingly reduces the amount of funds that can be awarded as loans and returned to the fund. Every dollar that revolves has a multiplicative benefit to the loan fund. Reducing the amount of PF made available this year will aid in the program's goal of allowing

the fund to revolve in perpetuity and reduce the potential sharp drop-off of available PF when BIL funds are no longer available.

2. **Comment:** Under federal law, any construction funded through the SDWLP must adhere to Davis-Bacon prevailing wage provisions. But Davis-Bacon should be considered the floor of what WDNR can do to ensure that SDWLP investments deliver quality jobs. WDNR should adopt a high-road wage standard to attract highroad contractors employing skilled professionals who perform high quality work, helping projects meet construction milestones on time and safely, without increasing total construction costs. It is critical that bidding rules clearly incorporate correct prevailing wage standards and mandate strict compliance.

Response: We contend that Davis-Bacon wage requirements is a sufficient wage standard. Imposing more requirements for applicants will make the program more challenging to access and administer. Increasing administration burden causes the price of the project to rise and a correspondingly higher cost for rate payers.

3. **Comment:** Major modern construction projects, such as LSLR projects, require experienced, qualified contractors and highly skilled craft labor. Using best practice [Responsible Contractor Policies] RCPs helps to ensure these needs are met.
- A central RCP component requires project contractors and subcontractors to affirmatively certify that they participate in bona fide apprenticeship training programs for each craft or trade they employ.
 - This is accomplished by mandating participation in Class A Apprenticeship (CAA) programs; these are programs registered with the federal or state government that have a track record of graduating apprentices for at least 3 years.
 - While prevailing wage requirements generally help to attract higher-skilled workers, a CAA rule allows proper verification of skill levels for each trade and provides effective quality control over the entire project workforce.

Response: The requirements presented in the comment would be part of the construction bidding process. Bidding requirements need to be allowable under municipal bidding laws. Our team has limited expertise with municipal bidding laws and further investigation is needed to evaluate the impact of the suggested requirements.

4. **Comment:** Prevailing wage requirements and responsible contractor policies have a proven track record for promoting successful project delivery, which is especially challenging in today's construction industry due to acute craft labor shortages.

There are a number of further steps WDNR could take to help ensure these standards are implemented. These could include:

- Requiring SDWLP applicants to include workforce development plans as part of their application materials.
- Requiring public engagement as part of SDWLP's readiness-to-proceed requirements. This could enable communities to work with their local water utility to develop Community Benefits Agreements governing investments in local water infrastructure, including local hiring and job training opportunities.

Response: Requiring water utilities to prepare workforce development plans to obtain financing would be a misplaced requirement through the loan program. Such a requirement would be easier for larger borrowers to comply with as they would have more resources to direct to such an effort.

The SDWLP does not have a readiness-to-proceed deadline. The CWFPP has a readiness-to-proceed deadline in an effort to award PF to projects that will be constructing shortly. Currently, the SDWLP funds a small piece of the total water infrastructure in the state and adding a requirement to conduct a public engagement process during project design is more appropriately implemented and enforced by the PSC or DNR's Drinking and Groundwater who regulate water utilities.

5. **Comment:** To operationalize the goal of “incentiviz[ing] public water systems to implement corrosion control study recommendations, develop and maintain asset management plans, and execute partnership agreements,” the Draft IUP proposes to award 20 PERF points to applicant water systems that have taken steps to implement this goal. Also, 10 PERF points are awarded if at least 50% of the members of the water utility’s governing body have taken all of the on-line training modules available at the time of application, 20 points for submitting a new Asset Management Plan, and 15 points for submitting a revised or updated Asset Management Plan.

Likewise, WDNR should introduce similar measures to incentivize and reward applicants that take meaningful steps to implement workforce development goals. For example, PERF points could be awarded for projects that include a workforce development plan to implement the highroad workforce standards set out in section 3a.

Response: Before providing an incentive for workforce development plans, we need a better understanding of the plans themselves and how such an incentive could be provided equitably. Given the time and knowledge it would take to put a plan together, such an incentive may only be achievable for larger utilities with the resources to dedicate to developing a plan.

6. **Comment:** Another tool WDNR has deployed to reward certain desired practices in the Draft IUP is the award of additional PF eligibility, over and above the amount that would be awarded in accordance with Tables 1-7. WDNR proposes in the Draft IUP that projects in municipalities that are Green Tier Legacy communities and/or are in municipalities providing disinfection where it was not provided previously are eligible for an additional 10% of project costs as PF. It is very important that such use of bonus PF is closely scrutinized to ensure that it does not essentially water down PF eligibility determined in accordance with indicators of disadvantage assessed through Tables 1-7. While we are not disputing the proposed use of bonus PF for Green Tier Communities or disinfection at this time, we feel that use of bonus PF for implementing significant workforce equity and affordability measures would be even more appropriate, as these goals relate more directly to equity issues which are at the heart of PF eligibility as determined by Tables 1-7. PF points could be awarded to projects that include a workforce development plan to implement the high-road workforce standards set out in section 3a.

Response: We agree that with each new incentive provided, it unintentionally reduces the incentive of the existing priorities. Not all projects funded by the SDWLP are bid at the time PF is allocated. This would make the administration of additional PF or PF points for workforce equity measures inconsistent. The PF could only benefit projects that have already been bid.

7. **Comment:** While apprentices add to the labor capacity of LSLR construction teams, by virtue of their relative inexperience they will be less efficient than fully qualified journeymen workers in fulfilling LSLR project tasks. One way to balance the added cost of apprentices on construction projects with the general desire to procure lower-cost contracts for construction needs, is to provide wage subsidies for apprentices engaged on publicly procured construction contracts from a separate pool of funds. WDNR should explore the possibility of using LSLR set-asides to provide wage subsidies for apprentices on SDWLP-funded LSLR projects.

This approach has been taken in Wisconsin in other construction sectors. The State of Wisconsin Department of Transportation's Transportation Alliance for New Solutions (TrANS) program is an excellent example. TrANS is a cost-effective program that helps to fulfill entry-level laborer positions for construction contractors. It is a collaborative effort combining the strengths of industry and labor, community-based organizations, government, and contractors in Wisconsin. This public-private model for collaboration successfully prepares Wisconsin's untapped workforce with the skills needed to contribute to the transportation construction industry as laborers and apprentices. Participating contractors and apprentices need to comply with a number of program requirements. Wisconsin Department of Transportation (WisDOT) provides wage subsidies for apprentices employed by participating contractors to reimburse a portion of the extra cost incurred to take on apprentices for qualifying projects and also for workers from targeted under-represented communities engaged in related pre-apprenticeship programs.

Other states have used DWSRF set asides to provide wage support for pre-apprenticeship and apprenticeship programs, but these have been for workers training to become Certified Operators of water treatment systems. For example, Indiana's DWSRF program uses technical assistance set-asides to support the Alliance of Indiana Rural Water's Indiana Water Treatment Certified Operator Apprenticeship Program. The program provides training for workers from disadvantaged communities for employment as Certified Operators for water systems, including wage subsidies during the training period. Whether DWSRF set-asides could be used for a program like TrANS, which supports apprentices training to be employed by private water infrastructure contractors is a more open question.

There is no question that a sufficient number of sufficiently qualified workers to construct LSLR projects is crucial to fully utilizing the \$500+ million expected to be available for Wisconsin over the next several years to dramatically ramp up the replacement of LSLs. A strong argument can be made that using set-aside funds to provide wage subsidies for apprentices for LSLR projects is wholly consistent with the purpose of the BIL LSLR funds. Also, there is sure to be broad support within the state for ensuring that these investments are used to employ Wisconsin workers, preferably workers from the same communities that have borne the risk of lead contamination from LSLs for decades. Although states are prohibited from using DWSRF set-asides for project construction costs, if the amount of the wage subsidy provided is carefully crafted to fill the gap between the cost of a LSLR project with apprentices and the same project without apprentices, it could be argued that the set asides are not being used to cover construction costs, but rather to develop the workforce needed to ramp up the pace and scale of LSL replacement and fulfill one of the core aims of the IJJA funding for LSLR.

Further exploration of this idea, including through discussions with U.S EPA regulators, is required to confirm whether wage subsidies for LSLR project apprentices would be a permissible

use of set-aside funds. There is a clear precedent of states using DWSRF set-aside funds in novel and innovative ways, and EPA has in general strongly encouraged innovation. The best way to test the idea of using LSLR set-asides for wage subsidies for apprentices on LSLR projects would be for an innovative state to propose this idea to EPA for approval. We strongly encourage WDNR to lead the way for other states by doing so.

Response: In conversations about the LSL Replacement Program, we have heard the contractor capacity is a problem limiting lead service line replacements. More consistently available resources for lead service line replacements will help municipalities plan for long-term replacements and for contractors to confidently ramp up their capacity.

This is an innovative idea for set-asides, and EPA would need to weigh in on whether it would be eligible. From what we can tell so far, an ineligible use of set asides is, “Projects or related costs that are eligible for funding under the DWSRF loan program.” Apprentice salary spent on a project is an eligible project cost and should therefore be paid by loan funds.

8. **Comment:** We are pleased to see WDNR’s proposal in the Draft IUP to set aside 12.8% of the BIL LSL funds from FFY22 federal capitalization grant and 17.3% of the FFY23 LSL grant as set asides. The planned set-aside amounts from the BIL LSL funds break down as follows:

Federal Cap Grant	Administration and Technical Assistance (4% allowed)	Small Systems Technical Assistance (2% allowed)	State Programs to Water Systems and Local Assistance (15% allowed, but no more than 10% for each of six categories)	State Program Management (10% allowed)
LSL (FFY22)	\$428,389 (0.8%)	\$0	Local Assistance: Lead Service Line Inventory – \$4,831,900 (10%)	\$1,320,090 (2%)
LSL (FFY23)	\$553,912 (0.6%)	\$0	State Programs to Water Systems: Community-Based Outreach – \$4,060,150 (5%) Local Assistance: Lead Service Line Inventory – \$8,120,300 (10%)	\$1,409,791 (1.7%)

Using set-aside funds for these important tasks to facilitate expeditious and cost-effective replacement of lead service lines, as well as for LSLR-related administration and state program management needs, also improves the loan-to-PF ratio for water systems seeking SRF assistance to replace LSLs. With roughly \$16 of every \$100 of Wisconsin’s BIL LSL funds channeled through set asides, communities will receive an average of \$49 in principal forgiveness for every \$35 (rather than \$51) that will need to be repaid.

We urge WDNR to explore additional uses of set aside funds, as well. In particular, we urge WDNR to set aside 2% of each BIL LSL capitalization under the small system technical assistance allowance to help communities serving less than 10,000 persons with the activities listed below.

Additional funds could also be set aside under the Administration and Technical Assistance set-aside allowance to help systems serving more than 10,000 with similar needs.

Response: As the comment notes, the set-asides requested from the LSL capitalization grant reduce the loan commitment of the program. For this reason, we share a desire to maximize the request for the LSL set-asides. With additional set-asides come additional administration, however. Last year the Department experienced delays and challenges when hiring positions that support some of the new set-aside plans described in the Intended Use Plan. As the Department's capacity to manage the set-asides increases, the set-aside requests will correspondingly increase. All unrequested set-aside authority will be reserved for future years.

9. **Comment:** WDNR should use set-aside funds to support regional roundtables convening relevant drinking water system staff together with local water infrastructure contractors and local community leaders. These roundtable discussions could explore the readiness and capacity needs of area contractors. With this information, water systems could coordinate their procurement contracts for LSLR projects, perhaps combining their projects into larger, multi-year projects that could be bid to regional contractors. This could encourage local contractors to build their workforce and other capacities in anticipation of more substantial work opportunities over a series of years. Water systems could see cost-efficiencies, too, through bidding out larger LSLR projects through joint procurement. At the same time, the contract could be arranged so that each system would pay for LSL replacements in its system.

Similarly, neighboring small- and medium-sized municipalities and drinking water systems might realize cost-efficiencies if they coordinate the purchase and delivery of the supplies needed for LSLR projects, particularly in light of current supply chain constraints and IJJA's new Build America-Buy America requirements.

Response: Jointly bidding and administering a project between municipalities that have no formal arrangement between themselves could be challenging. The appropriate share of costs would need to be determined, along with the management structure, and timelines work will be completed at each municipality. Multi-year projects are now possible with changes to the LSL program, which should help address the commenter's concern. In addition, our engineer in the field reports that the water infrastructure supply chain is coming back to normal.

10. **Comment:** Cities that have had the greatest success in systematically removing LSLs from their systems, such as Newark, report that eliminating private-side cost shares coupled with the adoption of local ordinances allowing tenants, rather than landlords, to provide permission and meter access for LSLR, has been instrumental in reducing the cost-per-LSL for LSLR replacement, with cost savings approaching 20%. The savings can be attributed not only to the reduced administrative costs expended to secure authorizations from resistant property owners (or to go through the process to legally override the lack of authorization in communities with mandatory LSLR ordinances) but also the avoidance of project delays that can result from failure to obtain authorizations on a timely basis so that planned block-by-block LSLR projects can proceed smoothly.

It is the DNR's desire to eliminate homeowner cost shares whenever possible. This is the reason the principal forgiveness is being directed to private side replacements before allocating any to public side replacements, and the reason that the previous versions of the LSL replacement

program allowed 100% of the private side cost to be covered with principal forgiveness. Some municipalities chose not to cover 100% of the cost even when they could have due to equity concerns for replacements that may occur when grant (principal forgiveness) funding is no longer available. Any principal forgiveness awarded for private side replacements through the program will be required to be used to cover the private side costs.

WDNR has incentivized municipalities to procure grants and other sources of funds for LSLR by providing PERF points for SRF funding applicants that are able to bring other funds to the table. For applicants unable to receive 100% of private-side costs as PF (which will be rare), these other sources of funds can replace the private-side cost-share. WDNR should complement this incentive with technical assistance to municipalities to help them identify and apply for other sources of funds. Technical assistance could also be provided to help municipalities estimate the cost-per-LSL if they eliminate the cost-share compared to keeping it. Some municipalities might opt to allocate general municipal revenues to cover the private-side cost share rather than pay out of their general funds the administrative costs incurred to impose the cost-share. Finally, WDNR could share examples and provide other technical assistance on the design and implementation of local ordinances and information campaigns to expedite the submission of authorization for LSLR from property residents (tenants as well as owner-occupiers).

Response: In recognition of the value of a mandatory lead service line replacement ordinance, the LSL Priority Scoring system has provided 10 points for municipalities that have enacted such an ordinance since 2020. To aid municipalities in drafting a mandatory replacement ordinance, DNR compiled various ordinances from cities around the state into an example document. This document is still available on [our website](#).

As for public information campaigns, we do have a [Q&A document](#) intended for property-owners, and we will aim to compile resources of successful public information campaigns.

- 11. Comment:** The homes in older neighborhoods served by LSLs are likely to also have sewer laterals that are over 50 or even over 100 years old. These old pipes are likely to be leaky and subject to infiltration and inflow (I/I) problems that overwhelm combined sewer systems and contribute to the pollution of local waterways. To address this problem, some sewerage systems have Private Property Infiltration and Inflow Reduction Programs to help local property owners to replace leaky sewer laterals. Because the replacement of LSLs and sewer laterals involve the same kind of work and the same kinds of contractors working on the same kinds of properties, coordination across I/I replacement programs and LSLR programs should be encouraged to achieve substantial cost savings across both programs. Contractors engaged to replace both LSLRs and leaky sewer laterals in the same targeted neighborhoods will also be better positioned to utilize apprentices on these larger, denser combined contracts.

Applicants for BIL LSL funds that coordinate LSLR projects with sewer lateral replacements should be rewarded with extra PERF points or bonus PF.

Response: Thank you for the suggestion. We will target providing PERF points for projects that coordinate LSL replacements with sewer lateral replacements in SFY 2025.

- 12. Comment:** Extra PERF points or bonus PF could also be provided to water systems that structure their LSLR contracts to incentivize contractors to reduce per pipe costs. For example, rather than

asking contractors to bid a price for the removal of X number of LSLs, requests for proposals could instead ask contractors to bid on how many LSLs they could replace for \$X. Another way to incentivize reductions in per-pipe costs would be through a community-based public-partner partnership (CB3P) to replace a large number of LSLs over a series of years. The CB3P contract could be negotiated to include targets to reduce per-pipe costs as well as targets relating to local workforce development goals, with further incentives to exceed these targets.

Response: Reducing the per pipe cost is a shared goal between the commenter and the DNR because it allows the limited LSL replacement resources to replace more lines. Often by the time a community is bidding a project they have identified a specific set of lines it is targeting for replacement. Communities are compelled to elect the lowest bidder with a few exceptions, which provides an incentive for contractors to submit a bid as low as possible to win the job. This should also be an effective way of driving down per price cost of LSL replacements.

This year we will be funding a project that is using a CB3P for the first time. We are hopeful that this experience will provide insight on how to remove roadblocks for projects utilizing CB3Ps.