

**DRINKING WATER STATE REVOLVING FUND
LEAD SERVICE LINE REPLACEMENT
Intended Use Plan
and Project Priority List**

State Fiscal Year 2023

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1.0 INTRODUCTION

On November 15, 2021, President Biden signed into law the Bipartisan Infrastructure Law (BIL). BIL appropriates capitalization grants to be administered by the Drinking Water State Revolving Fund (DWSRF) including the Lead Service Line (LSL) Capitalization Grant. Per the BIL, this grant will be made available to states to apply for on an annual basis for five years.

The Montana Department of Environmental Quality (DEQ) is submitting this DWSRF Lead Service Line Replacement (LSLR) Intended Use Plan (IUP) as part of the LSL grant application. For State Fiscal Year (SFY) 2023, the state of Montana is applying for the total amount allotted under the LSL grant for Federal Fiscal Year (FFY) 2022 which is \$28.3 million.

The DWSRF program will offer below-market loans for replacement of lead service lines, completion of lead service line inventories, and funding for other eligible activities. Section 5 provides a discussion of eligible LSL projects and activities under the LSL grant and **Appendix 1** provides a list of examples. In addition, similar to the DWSRF base grant, the LSL grant also includes set-aside accounts. Funds from these accounts can be used to administer the LSL grant, provide technical assistance to water systems, provide reimbursement to systems developing their own LSL inventories, and provide administrative support for the Public Water Supply Program (PWSP) regarding activities related to lead service lines. Set-asides are discussed in more detail in Section 10.

The BIL stipulates that states administer the LSL grant funds through the existing State Revolving Fund (SRF) programs. DEQ is responsible for the oversight of the SRF program, and their role consists primarily of providing technical expertise while Department of Natural Resources (DNRC) provides financial administration of project loans.

This IUP contains the following elements:

- Short and Long-term goals of the program pertaining to LSLs.
- LSL project priority list, including description and size of community.
- LSL eligible systems and activities.
- Description of how the program defines a disadvantaged system for the LSL grant and the amount of DWSRF funds that will be used for this type of loan assistance.
- Financial status of the LSL grant.
- Description of the set-aside activities and percentage of funds that will be used from the LSL grant, including DWSRF administrative expenses allowance, PWSP support, technical assistance, etc.

For additional information regarding the DWSRF overall programmatic requirements, please refer to the DWSRF IUP dated August 15, 2022, and found on DEQ's website.

This IUP was posted on the DEQ website for a 30-day public review and comment period. During the comment period, a public meeting to discuss the IUP was held at DEQ on February 2, 2023 as an in-person meeting with the option to join online. No public comments were received regarding the IUP during the meeting or during the 30-day public comment period. Pursuant to state law, the DEQ will also submit this IUP and a summary of public comments, if applicable, to an Advisory Committee for review, comments, and recommendations.

2.0 LSL GRANT LONG-TERM GOALS

1. To continue to work with public water systems to reduce the public's exposure to lead via drinking water.
2. To assist communities with LSL inventories and reduce the number of lead service lines within public water system's distribution systems.
3. To provide financing and technical assistance to help public water supplies achieve and maintain compliance with federal and state drinking water laws and standards regarding lead service lines for the protection and enhancement of Montana's public drinking water.

3.0 LSL GRANT SHORT-TERM GOALS

1. To educate public water systems in Montana of the new LSL requirements.
2. To fund projects that address lead service lines including LSL inventories, planning, and LSL replacement.
3. To provide outreach to communities and utilize the set-aside funding by:
 - a. Providing technical assistance to water supplies who request help with LSL activities.
 - b. Assisting communities with the next phases of implementation of new LSL requirements
4. To ensure the financial integrity of the LSL program through the review of the financial impacts of the set-asides, disadvantaged subsidies, and individual loan applications and the ability for repayment.
5. To ensure compliance with all federal, state, and local safe drinking water rules and regulations related to LSLs.

In SFY 2023, Montana expects to execute five new binding commitments and close five loans for a total of approximately \$36 million in lead service line replacement and/or lead service line inventory projects that will serve a total population of approximately 213,831. (Please see LSL Grant Anticipated Funding List, Section 7).

Approximately 1,053 public water systems may be eligible to receive technical assistance in completing LSL inventories. Technical assistance activities are discussed in detail in Section 10.

4.0 LSL GRANT PROJECT PRIORITY LIST

To develop the Drinking Water State Revolving Fund LSL project list, DEQ sent surveys to all community and not for profit non-community water systems in Montana. The survey asked applicants to identify if the project was a "traditional" SRF project (did not include LSL activities), if the project was only for LSL activities, or if the project encompassed both. For projects that included both non-LSL activities and LSL activities, it was requested that separate cost estimates be provided so that if funding were awarded, the appropriate grant could be applied.

Appendix 2 contains a comprehensive list of public water systems in Montana that have expressed interest in the DWSRF LSL funding. It is not anticipated that all the projects in **Appendix 2** will use the LSL funds. Some systems expect to proceed with their projects in the near future while others may

not be ready for the next few years. In addition, cost information is not always available as some systems may not have completed the financing plans for their projects at the time they are added to the project list. If the need arises, the IUP can be amended throughout the course of the year to include additional projects.

5.0 LSL Grant Eligible Systems and Activities

The Safe Drinking Water Act (SDWA) allows DWSRF assistance to publicly- and privately-owned community water systems and not for profit non-community water systems, other than systems owned by federal agencies.

Under the LSL grant, eligible projects and activities include the following (for examples of eligible projects and activities, refer to Appendix 1):

- Lead service line replacement: Complete removal of lead service lines or service lines made of galvanized iron or galvanized steel or are of unknown material that are currently or have previously been downstream of lead service lines and/or components.
- Associated activities related to lead service line replacement: Including permitting, planning, design, restoration, and non-routine sampling.
- Lead service line inventory development: Completing a comprehensive lead service line inventory for both public and private service lines that will be made publicly available as detailed by DEQ. Activities include locating and mapping publicly owned and privately owned lead service lines to create a comprehensive lead service line inventory. Methods of investigation to develop inventories could include inspecting physical service lines, compiling paper records, water quality sampling, initiating a consumer lead service line identification program, statistical analysis, and other emerging technologies.

6.0 LSL Grant Subsidies to Disadvantaged Communities

Communities seeking a DWSRF loan that meet the disadvantaged community criterion described below may receive an additional subsidy on their SRF loans, beyond the standard below-market rate financing, in the form of some principal forgiveness. This includes communities that will meet the disadvantaged criterion based on projected user rates as a result of the project.

A community will be considered economically disadvantaged when its combined annual water and sewer system or water system only rates are within 60% of their target rates as established by the Montana Department of Commerce. The target rates used for this calculation include new and existing debt service and required coverage, new and existing operation and maintenance charges, and normal depreciation and replacement expenses. Montana could also consider a subset of a community as disadvantage if the project was in an area where customers meet the disadvantaged criteria.

For SFY 2023, to assist these economically disadvantaged communities, the DWSRF loan program will provide to qualifying communities up to 60% principal forgiveness of the loan amount, up to a maximum of two million dollars. An interest rate of 1.5% will apply to the balance of the loan (non-forgiveness loan component). A repayment period of up to 30 years is available to disadvantaged

communities to extend the repayment period from the traditional 20-year loan term.

Only one principal forgiveness subsidy will be provided for a community within a given state fiscal year. Refinancing of existing debt is not eligible for principal forgiveness. Principal forgiveness funding must be utilized to include actual project-eligible activities discussed in Section 5. It cannot be applied to projects that only include engineering design. A project must be ready to proceed before funding is awarded.

The total amount of principal forgiveness that the DWSRF may allocate under the FFY 2022 LSL capitalization grant will be limited to 49% of that capitalization grant. This amount is stipulated in the BIL.

7.0 LSL Grant Anticipated Funding List

Table 1 contains those projects that the DWSRF program anticipates will be funded with the FFY 2022 LSL grant for SFY 2023. This list represents those projects most likely to proceed, starting from the highest ranked projects on the comprehensive priority list (see discussion of ranking criteria in **Appendix 3**). Projects that qualify for potential principal forgiveness are indicated with a “P” beside the proposed project cost.

Table 1. DWSRF Projects Anticipated to Receive FFY 2022 LSL Grant Funding for SFY 2023

Priority Rank	Project	Project Information	SRF Cost
6	Butte Silver Bow	LSL replacement. Expected loan terms are 1.5% interest over a 20-year period. Population 35,411.	\$20,000,000 P
7	City of Great Falls	LSL replacement. Expected loan terms are 1.5% interest over a 20-year period. Population 60,000.	\$1,832,000 P
24	City of Helena	Inventory, LSL replacement & filters. Expected loan terms are 1.5% interest over a 20-year period. Population 33,120.	\$7,996,582 P
25	Missoula Water	Inventory and LSL replacement. Expected loan terms are 1.5% interest over a 20-year period. Population 75,514.	\$4,544,506 P
29	Havre	Inventory, LSL replacement plan and filters. Expected loan terms are 1.5% interest over a 20-year period. Population 9,786.	\$2,108,500 P
	Total		\$ 36,481,588

8.0 Summary of Ranking Criteria for DWSRF LSL Priority List

The SDWA amendments of 1986 and 1996 imposed many new regulatory requirements upon public water suppliers. Public health and compliance problems related to these requirements, affordability, and readiness to proceed were considered in developing Montana's project ranking criteria.

A summary of the ranking criteria and scoring for LSL projects is listed below. The complete set of scoring criteria is included in **Appendix 3**.

1. Documented LSL Health Risks – 60 points maximum
2. Potential LSL Health Risks – 30 points maximum
3. Compliance
 - a. Proactive Compliance – 25 points maximum
 - b. Regulatory Compliance – 50 points maximum
4. Readiness to Proceed – 30 points maximum
5. Disadvantaged Community Status – 60 points maximum

9.0 LSL Grant Financial Status

Unlike the base and supplemental capitalization grants, the BIL waives the requirement in section 1452(e) of the SDWA to provide state match for the LSL grant. As such, states are not required to match the federal funds with state funds and the total funds available to Montana for LSL replacement projects and associated activities is solely based on the awarded grant amounts. To date, Montana has applied for and received the FFY 2022 LSL grant in the amount of \$28,350,000¹. Since Montana is not required to issue state General Obligation bonds for match, it enables the DWSRF program to reduce the interest rate on project loans to 1.5% (compared to 2.5% for project loans under the base and supplemental capitalization grants). The 1.5% interest rate includes a 0.25% loan loss reserve surcharge for any Bond Anticipation Notes (BANs) that may be issued and an administrative surcharge of 0.25% to cover administrative costs not covered by the EPA grants after capitalization grants cease and to pay for administration of recycled projects.

Each year, the state evaluates the financial health of the program by examining both short- and long-term cash flows. Each loan is evaluated, and security is required to ensure that loans will be repaid to the fund. The long-term cash flows extend over 20 years. This demonstrates there will be funding for future projects and that the fund will continue to grow over the life of the BIL. Table 2 shows the funding status for the LSL grant.

¹ Note, in FFY 2024, EPA re-allotted LSL grant funds from states that did not apply for their FFY 2022 LSL capitalization grants. Montana applied for and received their stipulated share of \$2,195,000. With the re-allotted funds, the total funds available increased to \$30,545,000.

Table 2. DWSRF LSL Grant Funding Status

	Projected thru SFY 2022	Projected for SFY 2023	Total
SOURCE OF FUNDS			
Federal Capitalization Grants	\$0	\$28,350,000	
Set-Asides (Section 10)	\$0	(\$7,371,000)	
Total to Loan Fund	\$0	\$20,979,000	\$20,979,000
<i>Other Funding Sources</i>			
Loan Loss Reserve Sweeps	\$0	\$0	\$0
Loan Repayments	\$0	\$0	\$0
Interest on Fund Investments	\$0	\$0	\$0
Total Source of Funds	\$0	\$20,979,000	\$20,979,000
USE OF FUNDS			
<i>Loans Executed</i>			
Direct Loans	\$0		\$0
Funds Available for Loan			<u>\$20,979,000</u>
<i>Projected IUP Loans</i>			
Direct Loans (SFY 2023)		\$36,481,588	\$36,481,588
Projected Balance Remaining			<u>(\$15,502,588)</u>

10.0 LSL Grant Set-Asides

States are given flexibility to set aside specified amounts of the LSL grant for specific purposes outlined in the BIL including for administration of the grant and for meeting the statutory purpose of the grant funds (i.e., lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead services lines). Table 3 lists the types of set-asides and associated amounts that Montana will fund using the FFY 2022 LSL grant. A detailed description of each set-aside is discussed following the table.

Table 3. State DWSRF Set-Aside Activity for the LSL Grant

Set-Aside		Through FFY 2021 Grant	FFY 2022 Set-Aside (for SFY 2023)	% of 2022 Grant	Total for All Grant Years	Reserved Authority (year)	Reserved Authority Applied to Previous Grants	Total Remaining Authority Reserved
4% Administration		N/A	1,134,000	4.0%	1,134,000	-	-	-
10% State Program	Public Water Supply Supervision	N/A	320,000	1.1%	320,000	-	-	-
	Capacity Development	N/A	2,515,000	8.9%	2,515,000			
State Program Subtotal		N/A	2,835,000	10.0%	2,835,000			
2% Small System Technical Assistance		N/A	567,000	2.0%	567,000	-	-	-
15% Local Assistance	Capacity Development	N/A	2,835,000	10.0%	2,835,000	-	-	-
Total		N/A	\$7,371,000	26%	\$7,371,000	\$0	\$0	\$0

Administration

DEQ has the authority to set aside 4% or \$400,000 (whichever is greater) of the FFY 2022 LSL grant for program administration. DEQ has elected to set aside the greater amount (\$1,134,000). This will cover continued operation of the program specific to LSLs, including development of the IUP, review of water system facilities plans, review of construction and bid documents, assistance and oversight during planning, design and construction, loan origination work, administering repayments, preparation of bond issuance, and costs associated with the advisory committee and the public comment process. This set-aside also contributes to the funding of a loan management position at DNRC and engineering positions at DEQ.

State Program – Public Water Supply Supervision

For the FFY 2022 LSL grant, \$320,000 will be set aside for Public Water Supply Supervision program management. Funds from this set-aside will be used for one FTE's salary, benefits, and operating expenses for staff working directly on implementation of the LSL activities. Other activities include:

- Data management system upgrades and maintenance related to lead service line replacement.
- Development of an online portal to accept LSL inventory submittals.
- Development and mapping of electronic forms specifically for LSL activities.

State Program – Capacity Development, Small System Technical Assistance, and Local Assistance – Capacity Development

For the FFY 2022 LSL grant, the state program capacity development, small system technical assistance, and 6.5% of the 10% local assistance capacity development set-aside funds will be combined to create and manage a technical assistance program. The combined funding totals \$4,917,000 and will be used to assist water systems in completing lead service line inventories and/or completing planning documents for lead service line replacement projects at no cost to the system. In addition, these dollars can be used for daylighting activities such as potholing or excavating to determine service line materials. DEQ will contract these services to technical assistance providers through a Memorandum of Understanding (MOU) agreement with the Department of Commerce.

Local Assistance – Capacity Development

For the FFY 2022 LSL grant, the remaining local assistance capacity development set-aside of \$1,000,000 (3.5% of the 10% set-aside) will be used for:

- Creating and managing an LSL inventory reimbursement program for small systems serving less than 10,000 people. The program will allow systems who prepare their LSL inventories internally to be reimbursed for the cost of labor and materials. Systems can be reimbursed for up to a maximum of \$10,000. Approval of the reimbursement will depend on properly documented labor hours and materials used and the submittal of a completed LSL inventory (\$200,000).
- DEQ Staff salaries to provide outreach, training and coordination related to lead service line activities including but not limited to baseline LSL inventories, LSL replacement plans, and LSL

inventory validations. In addition, staff will implement upgrades to the data management system used for lead service line inventories and lead service line replacement tracking as well as continuing work on developing the online portal for LSL inventory submittals, baseline LSL inventory submittals, and LSL replacement plans (\$800,000).

11.0 DWSRF LSL Priority List Bypass Procedures

If it is determined by DEQ that a project or projects are not ready to proceed or that the project sponsors have chosen not to use the DWSRF funds, other projects may be funded in an order different from that indicated on the LSL priority list. If DEQ chooses to bypass higher ranked projects, it will follow the bypass procedure.

The bypass procedure is as follows:

1. DEQ shall notify, in writing, all projects which are ranked higher than the proposed project on the DWSRF LSL priority list, unless it is known that a higher project will not be using DWSRF funds.
2. The notified water systems shall have 15 calendar days to respond in writing with any objections they may have to the funding of the lower ranked project.
3. DEQ shall address, within a reasonable time period, any objections received.

LSL Emergency Bypass Procedures

If DEQ determines that immediate attention to an unanticipated failure is required to protect public health, a project may be funded with DWSRF funds whether or not the project is on the DWSRF LSL priority list. DEQ will not be required to solicit comments from other projects on the LSL priority list regarding the emergency funding.

APPENDIX 1: EXAMPLES OF ELIGIBLE LSL PROJECTS AND ACTIVITIES

- Complete removal of lead service lines (public and privately owned portion) or service lines made of galvanized iron or galvanized steel or are of unknown material that are currently or have previously been downstream of lead service lines and/or components and replacement with piping 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 items that are removed as part of full LSLR.
- Restoration of a site where the removal of landscaping, sidewalks, driveways, etc. was necessary to replace the lead service line.
- 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 to reduce lead during or for a short time period after LSLR projects.
- Development or updating of lead service line inventories, including locating and mapping lead service lines. 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 a LSLR project.

APPENDIX 2: DWSRF LSL COMPREHENSIVE PROJECT LIST—SFY 2023 - 2026

Rank No.	Ranking	System Name	Project Description	Amount	Population
1	175	Flaxville	Inventory, LSLR plan, LSLR and filters.	\$218,100	100
2	175	Roundup	Inventory, LSLR plan, LSLR and filters.	\$1,363,200	1,790
3	175	Harlowton	LSLR	\$552,400	899
4	175	Philipsburg	Inventory, LSLR plan, LSLR and filters.	\$1,205,000	1,020
5	145	Butte Silver Bow	LSL replacement	\$20,000,000	35,411
6	145	Wibaux	Inventory and LSLR	\$99,725	600
7	145	Great Falls	LSLR	\$1,832,000	60,000
8	120	Kalispell	LSLR	\$3,119,205	29,886
9	115	Sheridan	Inventory, pigtail, and LSL removal	\$170,000	869
10	115	Wolf Point	LSLR and filters	\$1,866,000	2,774
11	115	North Valley County WSD	Inventory, LSLR plan, LSLR and filters	\$627,100	598
12	115	Opheim	Inventory, LSLR plan, LSLR and filters	\$218,100	96
13	115	Roberts/Carbon County WSD	Inventory, LSLR plan, LSLR and filters	\$381,600	299
14	115	Circle	Inventory, LSLR plan, LSLR and filters.	\$539,300	615
15	115	Fairfield	Inventory, LSLR plan, LSLR and filters	\$1,257,100	755
16	115	Richey	Inventory, LSLR plan, LSLR and filters.	\$200,100	186
17	115	Choteau	Inventory, LSLR plan, LSLR and filters	\$6,328,500	1,061
18	115	Dutton	Inventory, LSLR plan, LSLR and filters	\$472,100	270
19	115	Shelby	Inventory, LSLR plan, LSLR and filters	\$4,088,600	3,196
20	115	Dodson	Inventory, LSLR plan, LSLR and filters	\$216,900	94
21	85	Power-Teton County Water & Sewer District	Inventory, LSL replacements	\$305,000	186
22	85	Cascade	LSLR and filters	\$619,200	700
23	85	Thompson Falls	Inventory, LSLR plan, LSLR and filters	\$1,345,700	1460
24	55	Glasgow	Service Line replacements	\$200,000	3,200

25	55	Helena	Inventory, LSL replacement & filters	\$7,996,582	33,120
26	55	Missoula Water	Inventory and replacement	\$4,544,506	75,514
27	55	Three Forks	Inventory, LSLR plan, LSL replacements and filters	\$3,806,300	1,991
28	55	Black Eagle-Cascade Co W&S	Inventory, LSLR	\$1,100,000	923
29	55	Malta	Inventory, LSLR plan, LSLR and filters	\$880,400	2,090
30	55	Havre	Inventory, LSLR plan, LSLR and filters.	\$2,108,500	9,786
31	55	White Sulphur Springs	Inventory, LSLR plan, LSLR and filters	\$521,000	955
32	55	Harlem	Inventory, LSLR plan, LSLR and filters	\$1,469,900	820
33	25	Westby	Inventory, LSLR plan, LSLR and filters	\$299,800	134
34	25	Froid	Inventory, LSLR plan, LSLR and filters	\$381,600	235
35	25	Ennis	Inventory, LSLR plan, LSLR and filters	\$521,000	849
36	25	Belgrade	Inventory and LSLR	\$5,600,000	13,000

Total of All Amounts:

\$76,454,518

APPENDIX 3: RANKING CRITERIA FOR DWSRF LSL PRIORITY LIST

1. Documented LSL Health Risks – 60 points

Maximum points are awarded for a public water system that reports a documented action level exceedance for lead (90th percentile greater than 0.015 mg/L during compliance sampling) in their distribution system.

2. Potential LSL Health Risks – 30 points

Maximum points are awarded for a public water system that reports one or more potential LSL health risks (see list below) and the proposed project addresses the potential health risk(s).

Potential LSL Health Risks:

- 90th Percentile greater than 0.010 mg/L.
- History of single location exceedances greater than 15 mg/L
- Documented lead service lines.
- Documented lead connectors.

3. Compliance

a. Proactive Compliance – 25 points

Points are awarded for a public water system if the project includes replacement of lead service lines.

b. Regulatory Compliance – 50 points

Points are awarded for a public water system if the project addresses a formal state or federal enforcement action.

4. Readiness to Proceed – 30 points

Maximum points are awarded if the project plans and specifications have been approved by DEQ or the project is scheduled to start within the next 12 months.

5. Disadvantaged Community Status – 60 points

Maximum points are awarded to a community if the community or a specific area in the community where work is to be performed meets the state criteria for being disadvantaged as discussed in Section 6.0.

APPENDIX 4: GLOSSARY OF ACRONYMS AND INITIALIZATIONS

Acronym	Definition
BIL	Bipartisan Infrastructure Legislation
DEQ	Department of Environmental Quality (Montana)
DNRC	Department of Natural Resources and Conservation (Montana)
DWSRF	Drinking Water State Revolving Fund
EPA	Environmental Protection Agency (U.S.)
FFY	Federal Fiscal Year (begins October 1 and ends September 30)
IUP	Intended Use Plan
LSL	Lead Service Line
LSLR	Lead Service Line Replacement
MCA	Montana Code Annotated
MOU	Memorandum of Understanding
PWS	Public Water Supply
PWSP	Public Water Supply Program
PWSS	Public Water Supply Supervision
SDWA	Safe Drinking Water Act
SFY	State Fiscal Year (begins July 1 and ends June 30)
SRF	State Revolving Fund
USEPA	United States Environmental Protection Agency