June 12, 2024

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Division of External Services, Community Financial Assistance
Via email: noah.balgooyen@wiconsin.gov

RE: Comments on WIsconsin's Draft SFY25 SDWLP Intended Use Plan

Dear Mr. Balgooyen,

The Environmental Policy Innovation Center (EPIC)[1], on its own behalf and on behalf of the Coalition on Lead Emergency (COLE)[2] and other signatories listed below, offers the following comments on Wisconsin's Draft SFY2025 Safe Drinking Water Loan Program (SDWLP) Intended Use Plan (SFY25 Draft IUP) to the Wisconsin Department of Natural Resources (WDNR). These comments focus on the lead service line replacement (LSLR) portion of the SDWLP.

Effective state policies are key to enabling municipalities and drinking water systems in Wisconsin to take up and utilize these funds equitably, expeditiously, and cost effectively. We commend WDNR for adopting a strong set of policies aimed to ensure the equitable distribution of the LSLR funds so that this assistance, and particularly additional subsidies, are directed where they are needed most. These are equity policies we have championed and commented on in response to prior IUPs. In these comments, we hone in on another equity goal: ensuring the economic benefits of state and local investments in lead service line replacement projects are equitably shared by providing quality jobs for local residents and recommend specific steps WDNR should take to fulfill the workforce goal stated in the current and prior SDWLP IUPs: "Explore avenues to support pre-apprenticeship, registered apprenticeship, and youth training programs the open pathways to employment."

[1] The Environmental Policy Innovation Center (EPIC) is a nonprofit organization working nationwide to build policies to advance the speed and scale of environmental progress. Equitable access to and distribution of State Revolving Funds (SRFs) and expediting the removal of LSLs are among EPIC's focus areas of work.

[2] The Coalition on Lead Emergency (COLE) is a Milwaukee-based coalition of organizations and impacted families working to eliminate lead poisoning in Milwaukee and in Wisconsin. Organizational members include: Black Leaders Organizing for Communities (BLOC), Clean Wisconsin, Community Advocates, Dominican Center, Green and Healthy Homes Initiative (GHHI), Green Homeowners United, Hephatha Lutheran Church, Interfaith Earth Network, Leaders Igniting Transformation (LIT), League of Women Voters of Milwaukee County, Midwest Environmental Advocates, Milwaukee Inner-city Congregations Allied for Hope (MICAH), Milwaukee Repertory Theater, Milwaukee Teachers Education Association, Milwaukee Water Commons, Racine Interfaith Coalition, Revitalize Milwaukee, Sherman Park Community Association, Sixteenth Street Community Health Center, Sister MacCanon Brown Homeless Sanctuary, United Way of Greater Milwaukee and Waukesha County, Walnut Way, Wisconsin Conservation Voters, Wisconsin Green Muslims, Wisconsin Public Health Association.

We also recommend specific steps WDNR can take to help Wisconsin communities remove toxic lead service lines (LSLs) faster and more cost effectively. Congress appropriated $15 billion to replace lead service lines through the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL).[3] These funds (BIL LSLR funds), are allotted to states each year from 2022 through 2026 for the states to, in turn, allocate funds to local entities through their Drinking Water State Revolving Fund (DWSRF) programs. The $15 billion made available through IIJA for lead service line replacement, while substantial, will not be sufficient to remove all of the LSLs in the country, and WIsconsin's share of these funds will be insufficient to remove all the LSLs in Wisconsin. Reducing the per-pipe costs for LSLR projects and ensuring the full take-up of available LSLR funds is essential to enable these limited funds to go as far as possible towards the goal of removing all toxic lead pipes.

The prior funding cycle, for SFY24, was the first SWDLP cycle in which WDNR sought to allocate the BIL LSLR funds. But, as explained in **Section 1**, only around two thirds of the nearly $109 million available to be awarded to LSLR projects in the SFY24 funding cycle was taken up by Wisconsin communities in the prior funding cycle, even through the initial SFY24 project priority list, compiled based upon Intent to Apply letters submitted by Wisconsin municipalities and water systems to WDNR for the SFY24 funding cycle, included LSLR projects with total project costs in excess of $230,800,000. The gap between LSLR replacement needs in Wisconsin – a state with one of the highest per-capita lead burdens in the country – and the relatively low take-up of the LSLR funds likely stems from the inability and/or reluctance of many communities to take on significant debt to replace lead service lines, and so we also recommend further steps WDNR should take to improve the loan-to-principal forgiveness ratio for LSLR project awards.

In short, our recommendations aim to advance three important goals:

(1) **Support pre-apprenticeship, registered apprenticeship, and youth training programs that open pathways to employment**, in line with the stated goal in the Draft SFY25 and prior SDWLP IUPs.

(2) **Reduce LSLR project costs**, to enable Wisconsin communities to use LSLR funds to replace more toxic lead pipes faster and more cost effectively.

(3) **Improve the loan-to-principal forgiveness ratio for LSLR project awards**, to make LSLR awards more attractive for Wisconsin communities that are already heavily encumbered by debt, facing other fiscal constraints, or otherwise reluctant to borrow funds for LSLR projects.

We urge WDNR to take further steps to support these goals through the following policy mechanisms, which are further described in **Section 2**:

- **Expanding the strategic use of set asides** to provide guidance, facilitation, and capacity building to lead-burdened Wisconsin communities to enable them to incorporate workforce development, cost-saving, and LSLR accelerating measures into their LSLR projects.

[3] Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021).

- **Modifying LSL Priority Scoring** to add bonus points for applicants that implement specified steps to advance workforce goals, achieve LSLR cost efficiencies, and/or replace LSLs faster.

- **Modifying project reimbursement policies and processes**, which have generally been designed for conventional fixed-cost projects, to facilitate pay-for-performance contracts and other contracting and procurement innovations that can drive cost efficiencies and faster LSL replacement, while still maintaining high-road labor standards.

The kinds of measures that should be incentivized, facilitated, and for which local capacity should be fostered and strengthened through strategic use of set aside funds are described in Section 3 and include:

- Community-Based Public-Private Partnerships (CBP3s)
- Multi-year funding applications
- Regional partnerships for lead service line replacement efforts
- Workforce Development Plans
- Engineering and other project planning costs for LSLR projects in systems serving small communities
- Pre-apprenticeship programs
- Coordinated replacement of LSLs and sewer laterals

1. Addressing Challenges in Utilizing all Available BIL LSLR Funds

The SFY25 Draft IUP outlines policies that will govern how WDNR will allocate the LSLR funds available in the SDWLP SFY25 funding cycle. This is the second funding cycle during which WDNR will allocate BIL LSLR funds.

In the SFY25 funding cycle, WDNR seeks to allocate roughly $121,426,000 in LSLR funds. These funds are the sum of:

- $83,278,000 allotted to Wisconsin from FFY24 BIL LSLR appropriations
- $4,148,000 in BIL LSLR funds reallotted from FFY22 LSLR appropriations that were initially allotted to other states, but which those states failed to utilize
- Approximately $34 million of BIL LSLR funds (~$20 million in principal forgiveness dollars and ~$14 million in loan dollars) expected to be left over from the prior SDWLP funding cycle.

In the SFY24 funding cycle, WDNR sought to allocate a total of $129,522,000 in BIL LSLR funds from Wisconsin's FFY22 ($48,319,000) and FFY23 ($81,203,000) allotments of the BIL LSLR funds. Of this total, $20,719,375 (roughly 16 percent of the federal FFY22 and FFY23 LSLR allotments) was designated as set aside funds to support the SDWLP administration of the BIL LSLR funds, state programs to implement regulations to prevent exposure to lead from drinking water, and local assistance to help communities update their LSL inventories and provide community outreach and education related to LSLR projects. After setting aside these funds, $108,802,625 remained available to allocate to LSLR project awards. From this amount, $63,465,780 was available for principal forgiveness. To unlock the full amount of this principal forgiveness, however, the state had to issue at least $45,336,845 in repayable loans for LSLR

projects. This is because, as explained in **Section 2b**, IIJA requires states to provide 49 percent of the LSLR funds as grants or principal forgiveness to state-defined disadvantaged communities, with the remaining 51 percent provided as repayable loans to eligible communities *or* deployed as set asides. **What this means is that, under the SFY24 IUP, the state needed to issue $35 in repayable loans for every $49 provided as principal forgiveness.**

In the Draft SFY25 SDWP IUP, WDNR proposes to set aside roughly 18 percent of the state's LSLR grants from the FFY24 allotment and reallotted funds ($15,368,177) for the same set of set-aides activities as for the SFY24 set asides, leaving $72,057,823 available to fund LSLR projects. Adding in $43,000,000 left over from the SFY24 funding cycle, brings this to $106,057,823. Of this total, roughly $62,838,740 is available for principal forgiveness. To unlock the full amount of this principal forgiveness, however, the state will need to issue at least $43,219.083 in repayable loans. **That is, under the Draft SFY25 IUP, the state will need to issue roughly $34 in repayable loans for every $49 provided as principal forgiveness.**

The SFY25 project priority list (PPL), compiled based on Intent to Apply (ITA) letters submitted by Wisconsin municipalities and water systems to WDNR for the SFY25 funding cycle, includes LSLR projects with estimated total costs of over $177,400,000 indicating that sufficient projects have been identified that could utilize the LSLR funds available for distribution in the SFY25 funding cycle. It should be noted, however, that LSLR projects with total costs over $230,800,000 were listed on the initial SFY24 PPL, but only around two-thirds of the BIL LSLR funds available in the SFY24 funding cycle were dispersed, leaving roughly $34 million of BIL LSLR funds on the table. We believe the reason WDNR was unable to disperse more of the BIL LSLR funds available for SFY24 turned on applicants' inability or reluctance to borrow significant amounts for lead service line replacement, in light of other needs and fiscal constraints (both water-related and otherwise). **This reality underscores the importance of both reducing project costs and improving the loan-to-principal forgiveness ratio to make LSLR project awards more attractive for lead-burdened, but fiscally constrained, communities.**

As will be explained further in **Section 2b**, states are allowed to set aside up to 31 percent of their federal LSLR grants. In **Section 3**, we suggest additional activities for which additional set aside funds could be strategically allocated – activities that should help to make LSLR project more cost effective and/or help the state achieve its stated workforce goals. **If WDNR could strategically set aside 31 percent of its BIL LSLR allotments from the the state's current and future BIL LSLR funds, as allowed by federal law, then for every $49 provided as principal forgiveness, the state would need to issue only $20 in repayable loans**. This would be a win-win-win for lead-burdened Wisconsin communities:

- More cost-effective LSLR projects to spread the BIL LSLR further, to *remove more toxic lead pipes, faster*
- A more attractive loan-to-principal forgiveness ration for LSLR awards, *reducing the burden on local ratepayers and/or taxpayers to pay for lead service line replacement*
- *More high-quality jobs for local residents* as a result of federal investments in lead service line replacement.

2. Additional Policy Mechanisms WDNR Should Use to Advance the Goals Urged in these Comments

These comments focus on three policy mechanisms WDNR should deploy towards the goals of fostering a more diverse and equitable water infrastructure workforce and supporting faster and more cost-effective Lead Service Line Replacement.

a. Incentivizing desired workforce, cost-efficiency, and pace-accelerating measures with LSLR project ranking points

Federal law already includes requirements for the kinds of workers that can be hired for projects funded by State Revolving Funds (SRFs), their wages or other working conditions, and the source of supplies used on SRF-funded projects. These include, for example, the requirement to comply with wage standards in the Davis-Bacon Act, and to procure supplies compliant with the Build America, Buy America (BABA) Act. These requirements are explained in the SFY25 IUP and enforced by the SDWLP. Some municipalities also incorporate workforce-related requirements into their public procurement policies, which apply to water infrastructure projects.

Some states add further requirements of this nature for SRF-funded projects. Such an approach would be very challenging for WDNR in the context of the SDWLP, given constraints imposed by state law. Alternatively, however, WDNR could offer *incentives* for SDWLP applicants to voluntarily undertake the same kinds of measures that might otherwise be required. This is particularly plausible in relation to so-called 'soft' workforce-related measures. Soft requirements, such as asking applicants to develop and publish a workforce development plan for SDWLP projects, developed in consultation with key stakeholders and made publicly available, can prompt the implementation of desired workforce measures without requiring strict compliance with specific additional workforce standards. As such, soft workforce requirements can be particularly well-suited to an incentive framework.

The LSL Priority Scoring set out in the SFY25 Draft IUP models how this might be done. The LSL Priority Scoring already incorporates policies that incentivize applicants to take measures WDNR seeks to encourage by awarding project prioritization points for applicants that implement the desired measures. For example, applicants receive an additional 10 points if they have enacted a mandatory LSL replacement ordinance, 20 points if the proposed project is aimed to replace all remaining LSLs within the applicant's system, and 5-15 points for applicants that provide matching grants from non-SDWLP sources for residential LSL replacements.

Similarly, incentive points could be provided for applicants that take specified measures that directly support, or create more optimal conditions for, equitable workforce goals. Likewise, bonus points could be provided for measures that make LSLR projects more cost effective and/or accelerate the pace of lead service line replacement. Examples of desirable measures that would support these goals and which could be incentivized with bonus project prioritization points are set out in Section 3.

Projects listed at the top of the LSL project priority list are more likely to receive the full amount of LSLR principal forgiveness for which they are eligible. In contrast, projects lower on the list may not receive any LSLR principal forgiveness if there are not sufficient applicants willing to take on loans needed to "unlock" the full amount of available principal forgiveness, or if the LSLR funds are otherwise exhausted

before projects lower on the list are funded. Therefore, applicants should be highly motivated to acquire as many project prioritization points as possible.

b. Expanding the Strategic Use of LSLR Set-Asides to Provide Guidance and Capacity Building for Workforce Development, Cost Efficiencies, and LSLR Acceleration

The Bipartisan Infrastructure Law requires states to provide 49 percent of their allotted BIL LSLR funds in the form of grants or principal forgiveness to state-defined disadvantaged communities. The remaining 51 percent of their BIL LSLR grant must be provided to communities as repayable loans or, alternatively, a portion of the funds that would otherwise need to be issued as loans can be set aside and used for administration, technical assistance, state program management, and/or local capacity building related to lead service line replacement. States need to strictly adhere to this 49:51 percent ratio. That is, states can only utilize the 49 percent of the funds available for grants or principle forgiveness if they are also able to use the remaining 51 percent for repayable loans and set asides.

Notwithstanding the urgent need to replace toxic lead service lines, many communities are reluctant (or unable) to take on substantial debt to replace lead service lines. Indeed, this dynamic has been evident in Wisconsin. As explained above, Wisconsin is unlikely to be able to utilize all of the LSLR funds that were made available to fund LSLR projects during the SFY24 funding cycle because an insufficient number of communities were willing to take on the loan portion of the funding awards offered. Where the state is unable to expend 51 percent of its LSLR funds as loans or set asides, it is also not able to offer the full 49 percent of its BIL LSLR federal capitalization grant for principal forgiveness.

A key strategy for addressing this reluctance to take on debt for LSLR projects is to maximize funds allocated through set aside channels. Doing so helps to make LSLR offers more attractive for LSLR project applicants in two important ways: (1) The activities supported by the LSLR funds can reduce the costs of LSLR projects and (2) Maximizing the use of LSLR set asides can dramatically improve the loan-to-principal forgiveness ratio for LSLR project awards.

States are allowed to set aside up to 31 percent of funds from their DWSRF capitalization grants, including from the BIL LSLR funds. Funds can be set aside for

- Administration and technical assistance (4% of federal grant)
- Small System (<10,000) Technical Assistance (2% of federal grant)
- State Program Management (10% of federal grant)
- Local capacity development (which can include local workforce development) (15% of federal grant).

If a state were to utilize the full 31 percent available to be channeled through set asides, then instead of a requirement to issue $51 out of every $100 in loans in order to issue the remaining $49 as principal forgiveness, the funds would be issued as follows:

- $31 of every $100 would be channeled through set asides to lay the foundation for community-supported, cost-effective, quality-job producing LSLR projects.
- $49 of every $100 would be awarded as principal forgiveness or grants.
- $20 of every $100 in LSLR funds would be awarded as loans that need to be repaid.

Maximizing the strategic use of LSLR set aside funds was strongly endorsed by the U.S Environmental Protection Agency (EPA) in a May 2024 memorandum as a best practice for implementing the BIL LSLR funds. We commend WDNR for already deploying this strategy, to some extent, by setting aside roughly 16-18 percent of the state's BIL LSLR grants to pay for inventory work and community outreach and education related to LSLR projects as well as for administration of the BIL LSLR funds and for state program management to implement state and federal regulations aimed to reduce the risk of exposure to lead through drinking water.

WDNR should explore additional uses of set aside funds, however, for activities that would help to reduce LSLR project costs, support workforce goals, and enable communities to replace more toxic lead pipes faster. If WDNR can set aside closer to the allowable 31 percent of its BIL LSLR grants, the loan-to-principal forgiveness ratio of LSLR project awards will be improved proportionately. Additional measures that could be supported with set aside funds are described in **Section 3.**

c. Modifying project reimbursement policies and processes to facilitate pay-for-performance contracts and other contracting and procurement innovations to drive cost efficiencies and faster LSL replacement.

SDWLP project reimbursement policies and processes have generally been designed for conventional set-cost projects, wherein a set cost was established in relation to a set construction project. As noted above, however, finding ways to make LSLR more cost-efficient and to accelerate the pace of LSLR is essential to make available LSLR funds go further and reduce repayment burdens for LSLR projects on local communities. Innovative project procurement and contracting methods, such as CBP3 contracts reimbursed on a pay-for-performance basis, can play a crucial role in driving down project costs while still maintaining high-road labor standards and fulfilling equitable workforce goals.

Wausau is already developing a CBP3 model for lead service line replacement, and other communities, including Shorewood, are planning to do so. The SDWLP's conventional project reimbursement policies and processes pose a significant barrier to pay-for-performance contracts for LSLR and other procurement and contracting innovations geared to drive down per-pipe costs and increase the pace of LSLR projects. Under a pay-for-performance LSLR contract, the contractor is incentivized to lower the per-pipe lead service line replacement costs because the contractor gets to share the resulting cost savings with the contracting municipality. The contractor is similarly rewarded for accelerating the pace of lead service line replacement. Contract terms to ensure cost savings are not achieved by comprising high-road labor standards can also be included and, indeed, more stringent workforce protection standards and goals are often coupled with pay-for-performance mechanisms in CBP3 contracts. To unlock the cost-saving and LSLR acceleration potential of these innovative contracting methods, WDNR must revise its project reimbursement policies and processes to facilitate these innovative procurement methods.

3. Measures that WDNR should Support with Incentives and Set-Asides to Advance Workforce, Cost Effectiveness, and LSLR Acceleration Goals

The kinds of measures that WDNR should support are briefly described below, including how each recommended measure would advance one or more of the goals highlighted in these comments. This is not an exhaustive list, but provides an indication of the types of measure that can and should be encouraged and facilitated.

WDNR is already dedicating set aside funds to help Wisconsin communities update LSL inventories and to undertake community outreach and education activities related to LSLR projects. Using set asides to support these activities reduces the need to pay for these activities with LSLR project funds and lays the foundation for more cost-effective LSLR projects. WDNR should continue to utilize set aside funds for these activities, and should explore using additional set aside funds for the activities described below. Measures described below that could be effectively supported with set-aside funds are denoted with "SA" after the heading.

For some of the measures described below, incentives in the form of LSL project ranking bonus points would be a more appropriate, or additional, way for the SDWLP to foster the implementation of these measures, which are denoted with "BP" after the heading.

Community-Based Public-Private Partnerships (CBP3s) or other innovative contracting and procurement methods that include equitable workforce, cost reduction, and/or LSLR acceleration goals and incentives. SA, BP

The Community-Based Public-Private Partnership (CBP3) approach, originally developed by the U.S. EPA over ten years ago, involves a partnership between the public and private sectors to deliver infrastructure while prioritizing community-based benefits. This approach aims to generate superior results in terms of speed, efficiency, cost-effectiveness, and equity. Currently, CBP3s are more common in the context of green infrastructure projects.

States can play a role in helping communities seeking stronger workforce development or other community co-benefits from water infrastructure investment to consider whether a CBP3 approach might meet their needs and, if so, get them started on first steps. For example, Washington State Department of Ecology recently initiated the Stormwater Community-Based Public-Private Partnership (CBP3) Funding Program. As part of this program, Washington's Department of Ecology is holding Learning Network workshops. These workshops will lead to a CBP3 working group for Washington State, with the goal of building local capacity for assessing and implementing these contracting mechanisms.[4] WDNR could undertake similar CBP3 capacity-building efforts using funds set aside from their BIL LSLR grants for technical assistance or local capacity building.

The Environmental Policy Innovation Center (EPIC) has urged that the CBP3 approach is well suited for LSLR projects. And, in October 2023 the City of Wausau announced a pioneering initiative to bring the CBP3 approach to lead service line replacement. In addition to replacing lead service lines, the City of Wausau is implementing key elements into its program such as community outreach, workforce development, local business development, and public health.

[4] Environmental Policy Innovation Center, *Standing Up Community-Based Public-Private Partnerships for Green Stormwater Infrastructure* (2024), available at https://www.policyinnovation.org/blog/didwuul5qdr22a3k6g8bftbqhyf8mm.

Outside of CBP3s, there are other innovative procurement approaches that municipalities could take tod drive down per-pipe LSLR costs. For example, rather than 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, and provide incentives to contractors that actually end up replacing more LSLs, or at a faster pace, for the same contrast price.

As noted in section 2.c. above, however, the SDWLP's project reimbursement system, which was designed with more conventional project contracting models in mind, has presented hurdles for the Wausau CBP3 project. The state's project reimbursement policies and processes need to be reformed to accommodate the pay-for-performance metrics incorporated into CBP3 contracts.

Multi-year Funding Applications BP

The SDWLP allows for multi-year awards for LSLR projects.[5] This enables longer planning and project implementation windows for LSLR projects, which supports the cost effectiveness goal because it allows for greater funding certainty from year to year, and thus a longer planning window for procuring supplies and contractors, which can result in cost savings. It also enables water systems to set up multi-year contracts for LSLR projects, which could include incentives to replace LSLs faster or more cost efficiently. Greater funding certainty over a series of years also creates better conditions for workforce development goals, because large-scale, longer term projects create better conditions for investments in apprenticeship and pre-apprenticeship programs. Moreover, multi-year funding applications also reduce the administrative burden on SDWLP staff and applicants alike, because the parties only needs to assemble and process the paperwork for and SRF application and finalization of an SRF award agreement one time, rather than repeating the effort for each year.

WDNR could go beyond allowing multi-year funding applications to incentivize applicants–through the provision of bonus LSL project ranking points–to apply for multi-year funding awards.

Regional partnerships for workforce development and cost-saving joint procurement efforts. SA, BP

The promotion of regional collaboration across drinking water systems for capacity building and cost effectiveness is a priority for DWSRF programs in many states, including Wisconsin. Often this entails the consolidation of failing water systems into neighboring systems with stronger technical, managerial, and/or financial capacities. It can also include other kinds of more issue-specific capacity sharing and cost-savings efforts, however, and states have used various categories of DWSRF set aside funds to support such efforts.[6]

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[5] Draft SFY25 IUP, p.19.

[6] U.S. EPA, *Drinking Water Revolving Fund Eligibility Handbook*, Appendix E, pp. 65. Available at https://www.epa.gov/dwsrf/drinking-water-state-revolving-fund-eligibility-handbook (accessed June 12,2024). See also U.S. EPA, *Analysis of the Use of DWSRF Set-Asides: Capacity Building*, pp. 40. Available at https://www.epa.gov/sites/default/files/2017-10/documents/final_dwsrf_2017_report_508compliant.pdf (accessed June 12, 2024).

In the LSLR context, regional efforts to understand local workforce capacities and constraints and to combine LSLR needs across several small- and medium-sized drinking water systems in a county or region could achieve significant cost savings.[7] Regional efforts could include joint procurement of LSLR supplies and/or contractors as well as information and lesson sharing.

WDNR should dedicate set aside funds to facilitating the development of regional solutions that improve LSLR cost savings and workforce development outcomes, and also reward applicants who self-aggregate into regional partnerships to create regional economies of scale for LSLR projects with bonus LSL project ranking points.

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 IIJA's new Build America-Buy America requirements.

It is notable that WDNR has opted not to utilize the 2 percent set aside allowance available for technical assistance targeted to water systems serving populations smaller than 10,000. It is also worth noting that regional collaboration on LSLR would be particularly beneficial to small systems. We strongly urge WDNR to utilize the set aside allowance for assistance to small systems to fund the regional collaboration ideas outlined here.

Engineering and other LSLR project planning costs for systems serving fewer than 10,000 people SA
In addition to the benefits small systems could obtain through regional collaboration, many small systems need help formulating LSLR project proposals and putting together SDWLP applications including all the necessary supporting documents such as engineering reports and financial statements.

[7] Male, T., Cunningham, M., et al (2021) 'Replacing Toxic Lead Pipes Faster: Innovative Procurement and Financing Approaches are just as Important as Federal Funding.' Environmental Policy Innovation Center: Washington, D.C.. Available at: https://www.policyinnovation.org/publications/replacingtoxicleadwaterpipesfaster (Accessed June 12, 2024).

We note that WDNR routinely utilizes the small-system set aside allowance from its base and general supplemental grants to to help small systems identify and plan water infrastructure projects eligible for SDWLP funding through and providing technical assistance including a wide range of technical, financial, and managerial capacities. WDNR should take full advantage of the small-system set aside allowance from its BIL LSLR grants to extend its existing technical assistance program for small systems to ensure small lead-burdened communities can access the BIL LSLR funds.

Workforce Development Plans Drafted in Consultation with Key Stakeholders BP, SA

Just as existing SDWLP policies incentivize applicants that adopt the best practice of preparing and periodically updating an asset management plan, the program could provide bonus points as an incentive to encourage applicants to develop a workforce development plan for the proposed project. Such plans should be developed in consultation with key stakeholders and draft as well as final plans should be made publicly available by the local water system.

WDNR should also provide guidance on what a quality workforce development plan should include and this guidance should be developed in collaboration with key stakeholders. Set aside funds could be used to support the development of guidance materials through a collaborative process.

Other states have already implemented such measures. For example, a 2023 Minnesota statute establishing a state grant program to supplement SRF funding for LSLR projects requires grant applicants to submit a workforce development plan with their application materials. The plan must include a description of how the applicant will maximize the use of registered apprentices and workers from populations under-represented in the construction industry in the LSLR projects.[8]

Technical Assistance on steps local communities can take to expedite more cost-efficient block-by-block LSLR projects SA

Many cities in Wisconsin have policies in place to charge all or part of the cost of replacing the private-side LSL to the property owner. This cost share can cause property owners to resist authorizing the replacement of the private-side LSL, particularly for rental properties where it is the tenant, rather than the property owner, who bears the risk of exposure to lead from the LSL. Because lower-income communities are more likely to have a higher portion of rental properties, private cost share requirements make LSLR projects present obstacles in the very same neighborhoods that need to be prioritized because residents in these neighborhoods are more likely to experience severe impacts from lead poisoning due to compounding social vulnerability factors.

Cities that have had the greatest success in systematically removing LSLs from their systems, such as Newark,[9] report that eliminating private-side cost shares coupled with the adoption of local ordinances

[8] Minn. Stat. § 446A.077(6) (2024).

[9] Cunningham, M.. (2022) Echoing Newark: How American Cities Can Replicate Newark's Success in Replacing Over 23,000 Lead Pipes in Under Three Years. Available at: https://www.policyinnovation.org/blog/echoing-newark-how-american-cities-can-replicate-newarks-success-in-replacing-over-23000-lead-pipes-in-under-three-years?rq=Newark

allowing tenants, rather than landlords, to provide permission and meter access for LSLR[10] has been instrumental in reducing per-pipe costs for LSLR replacement, with cost savings approaching 20 percent. 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 legal processes to override the lack of authorization in communities with mandatory LSLR ordinances) but also to 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.

Cross-Community Lesson-Sharing on Strategies for Improving the Cost-Effectiveness, Pace, and Workforce Outcomes of Lead Service Line Replacement Projects SA

Several Wisconsin communities began to replace lead service lines using the WIFTA funds made available through the SDWLP and, with the flux of the BIL LSLR funds as well as pending improvements to the federal Lead and Copper Rule, more and more Wisconsin communities are looking to replace lead service lines and to do so in ways that are more cost effective, faster, and which return greater economic benefits to their communities in the form of quality jobs and related job training.

In the course of these efforts, communities are trying different things, working with different partners, and learning what works, and what doesn't. WDNR could dedicate set aside funds to build the capacity of water systems to replace lead pipes more cost effectively, faster, and with better workforce outcomes by facilitating lesson sharing across Wisconsin communities–and lifting up lessons from innovative communities in other states, too–through inter-community roundtables or guidance materials highlighting best practices.

Support for pre-apprenticeship programs to cultivate a more equitable, local water infrastructure workforce SA

In some regions, the same towns and neighborhoods plagued by large numbers of lead pipes in their drinking water distribution systems also have large numbers of unemployed residents and a lack of accessible, family-supporting jobs. One goal of the Bipartisan Infrastructure Law is to ensure that the same underserved communities subject to the greatest environmental harms from degraded water infrastructure also share in the economic benefits of the BIL's substantial investments in water infrastructure. For this to happen, however, there is a need to connect underemployed workers with the quality jobs generated by BIL investments. Workforce development programs tailored to the needs of workers from underserved communities can help meet these needs. These often take the form of pre-apprenticeship programs–programs that help workers from underserved communities meet the requirements to enter lucrative apprenticeships and become unionized laborers, plumbers and pipefitters and other kinds of skilled craft laborers needed to construct water infrastructure projects.

Set aside funds can be used to support such programs. For example, Indiana's DWSRF program has used 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

[10] City of Newark Code of Ordinances, Chapter 16:23, available at https://ecode360.com/36709572?noresponsive=false

employment as Certified Operators for water systems.[11] Delaware is another state that is using DWSRF set asides for workforce development. Delaware will use set aides from its BIL general supplemental DWSRF grant to provide a pre-apprenticeship program aimed at high school students to demonstrate the need for young adults to enter the field of drinking water distribution, operations and water treatment. This program will be provided through a grant to the Delaware Rural Water Association.[12]

WDNR could allocate LSLR set aside funds to make similar investments in pre-apprenticeship programs to fulfill the stated SDWLP goal of support[ing] pre-apprenticeship, registered apprenticeship, and youth training programs that open pathways to employment.

Wage subsidies for participants in pre-apprenticeship programs SA

The Indiana DWSRF program's support for the Alliance of Indiana Rural Water's apprenticeship programs includes wage subsidies during the training period. It is important to note that set asides cannot be used to provide wage subsidies for apprentices working on SRF-funded projects, given that these costs are eligible to be covered by SRF construction awards. However, the Indiana example demonstrates that set asides *can* be used to provide wage subsidies for workers participating in workforce development programs as well as the costs of developing and implementing such programs. WDNR should consider supporting pre-apprenticeship programs, and their enrollees, through wage subsidies provided from set aside funds.

Coordinated replacement of drinking water LSLs and leaky sewer laterals BP

Another kind of cross-system collaboration WDNR could promote and facilitate to achieve substantial cost savings for LSLR projects is collaboration across drinking water and sewerage systems serving the same service area. 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 focused on coordinating with local property owners to replace leaky sewer laterals.[13] 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.

[11] See State of Indiana Drinking Water State Revolving Fund Loan Program Intended Use Plan - State Fiscal Year 2024.
[12] See Delaware Drinking Water State Revolving Fund Intended Use Plan, Final - Revised February 15, 2024.
[13] See, for example, the Milwaukee Metropolitan Sewerage District's I/I program, described at https://city.milwaukee.gov/dpw/infrastructure/EnvironmentalSection/Inflow-Reduction-Program

Conclusion

In closing, we appreciate the progress being made towards ensuring a more equitable distribution of SRF assistance in Wisconsin. Towards that end, we hope that you will take the analysis and recommendations offered here into serious consideration, and we look forward to further discussion and collaboration on the issues highlighted.

Sincerely,

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