

# Considerations for Setting Up a Private Side LSL Replacement Financial Assistance Program

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Learn about the Lead Service Line (LSL) Replacement Program at [dnr.wi.gov/aid/LSLprogram](http://dnr.wi.gov/aid/LSLprogram)

This list of considerations is meant to assist municipalities that are deciding how to establish their own program for private side lead service line (LSL) replacements. Municipalities have options for how they establish a municipally operated customer-side LSL replacement financial assistance program, with the understanding that the LSL funds are required to result in **a completely lead-free service line for that property**. These considerations have been developed based on discussions with and input from various municipalities that developed their own private side LSL replacement program and are **not intended to represent all factors that a municipality may consider when developing such a program**.

## Do you plan to pass an ordinance making LSL replacements mandatory?

Municipalities receiving LSL awards have three pledge options for repayment of the loan portion: a Water Revenue Pledge; a General Obligation Note Pledge; or an Alternative Revenue Pledge. Depending on the pledge choice securing your loan for an LSL replacement project, there may be a requirement to pass a mandatory replacement ordinance before a financial assistance agreement (FAA, AKA loan) can be executed.

- Under section [196.372\(2\)\(a\)](#), Wis. Stats., any municipality that intends to use water utility ratepayer funds to cover a portion of the cost of private LSL replacements is required to enact an ordinance making private LSL replacements mandatory (Water Revenue Pledge option). Note that this option requires approval from the [Public Service Commission](#).
- If a municipality sets up a property owner loan program for replacement of private side LSLs under s. [66.0627\(8\)\(ag\)](#), Wis. Stats., a mandatory replacement ordinance is also required (Alternative Revenue Pledge option and sometimes for General Obligation Pledge option).
- If a municipality does not want to pass a mandatory replacement ordinance, a General Obligation pledge should be considered. Be aware that with a General Obligation pledge, if a mandatory replacement ordinance is not adopted, the municipality will not be able to establish a loan program with homeowners for repayment of any portion of the replacement costs that are not covered by principal forgiveness.

In addition, the Lead and Copper Rule Improvements (LCRI) now mandate that all LSLs must be removed by October 2037, so passing a mandatory LSL replacement ordinance may be necessary eventually.

## Do you want to complete the work through a municipal contract, or would you prefer to prequalify plumbers for the homeowners to contract with directly?

There are pros and cons to either option. Some municipalities may feel more comfortable doing the work entirely through a municipally-bid contract as that is a more traditional approach for which they have experience. Managing a contract takes work and, if desired by the municipality, cost-sharing by the property owner can still be required under this method.

Developing a municipal program with a prequalified list of licensed plumbers and/or utility contractors also takes work including establishing a Request for Qualifications (RFQ) process, developing forms, tracking work that is completed, and disbursing funds to the contractors or property owners after replacements are completed, see:

- [Suggestions for the Request for Qualifications \(RFQ\) \(PUB-CF-055\)](#).



## How do you plan to comply with federal requirements?

As with any federal funding, the LSL funding involves federal requirements and compliance details are available on the [LSL Replacement Program webpage](#).

- Comply with [federal equivalency](#) project requirements, including the Single Audit Act.
- Comply with one of the options for [Enhancing Public Awareness of State Revolving Fund Assistance](#).
- Complete an [environmental review](#) for the property prior to the LSL replacement to ensure eligibility (this review is not done by the contractor).
- Solicit for [Disadvantaged Business Enterprises](#) (includes Minority and Women's Business Enterprises) at all levels of bidding and contracting, and/or during the Request for Qualifications process, including advertising. Suggested language for the bid advertisement or plumber/utility contractor RFQ solicitation: "*We encourage DBEs, including MBEs and WBEs, to submit bid proposals/apply for the purpose of being included on the municipality's list of prequalified licensed plumbers/utility contractors for the LSL replacement program to replace the private side of a lead service line.*"
- Comply with [Build America, Buy America Act/American Iron and Steel](#) domestic procurement requirements.
- Comply with [Davis-Bacon and Related Acts](#) wage rate requirements. Federal wage rates must be paid for all LSL replacements unless an individual replacement costs \$2,000 or less. The "heavy" construction type should be used for wage determinations.
- All replacements must result in a service line that is completely lead free from the watermain to the normal connection point inside the property (usually the water meter).

## How do you plan to deal with domestic procurement requirements?

[Build America, Buy America \(BABA\) Act](#) compliance is required regardless of how the contracting occurs. If a municipality is considering a prequalified list, it's a good idea to check in with the plumbers/utility contractors on the list to see if they are willing to handle BABA compliance or if the municipality needs to purchase the materials for the project in order to stay compliant. Note that the [American Iron and Steel \(AIS\) requirements](#) in the Safe Drinking Water Act continue to apply to all SDWLP and LSL projects, including non-federal equivalency projects and projects covered by a BABA waiver. For projects where the total of the FAA (loan) is less than \$250,000, BABA is not required as the [Small Project General Applicability Waiver](#) applies.

## How do you plan to deal with Davis-Bacon wage requirements?

The [Davis-Bacon and Related Acts](#) (federal wage rates) apply to *all* lead service line replacements at each property that will receive funding from the LSL Replacement Program. Note that the Department of Labor informed DNR that all LSL replacements, even replacements just being done on the private side, must use the "heavy" construction type for wage determinations. If utilizing a prequalified list, Davis-Bacon requirements only apply if the cost of the replacement is greater than \$2,000.

## If you plan to spot replace LSLs (not tied to a specific watermain replacement project) and you potentially have more LSLs to replace than the available funding can cover, how will you prioritize who gets their LSL replaced?

Municipalities have many options for determining the LSLs that will be replaced through their program. It makes sense to prioritize assistance to individuals over businesses, as a business or non-profit generally will have more ability to cover the LSL replacement cost on their own. Prioritization could be done as first-come, first-served; it could be income based; or you could prioritize for households with young children since they are more at risk from lead exposure. How replacements are prioritized is a local decision but be aware that if a Water Revenue Pledge is utilized, [Public Service Commission](#) approval is required and s. [196.372 \(3\)\(e\)](#), Wis. Stats., requires all customers in a class to be treated equally.

## If you will be bidding a municipal contract but also requiring property owners to pay of a portion of the replacement cost, you'll need to develop a form for that.

Necessary form:

- Loan/repayment agreement with property owner.

**If your decision is to run a municipal program using a list of prequalified licensed plumbers/utility contractors, you need to decide what forms will be needed to run your program, then develop those forms.**

Necessary forms include:

- [Request for Qualifications \(RFQ\)](#) used to prequalify plumbers/utility contractors for participation in the municipality's private side LSL replacement funding program.
- Certifications for the plumbers/utility contractors to sign regarding various federal requirements including, but not limited to, Davis-Bacon wage rates and BABA (or AIS) domestic procurement.
- Municipal agreements between the municipality, the plumber/utility contractor, and the private property owner (as one agreement or several).
- Payment request form to be submitted to the municipality once the work is completed.
- Anything else the municipality feels is needed including permit applications.

**Contact Information**

Direct questions about setting up a municipally operated private side LSL replacement financial assistance program to Kate Leja-Brennan, SDWLP LSL Replacement Program specialist, at [Kathryn.Leja@Wisconsin.gov](mailto:Kathryn.Leja@Wisconsin.gov) or 608-261-7434.

**Resources**

- Learn about the Lead Service Line (LSL) Replacement Program at [dnr.wi.gov/aid/LSLprogram](http://dnr.wi.gov/aid/LSLprogram).
- Find additional funding options and resources for LSL replacements at [dnr.wi.gov/aid/documents/EIF/leadServiceLineFunding.html](http://dnr.wi.gov/aid/documents/EIF/leadServiceLineFunding.html).