

# Bipartisan Infrastructure Law (BIL) State Revolving Fund (SRF) Questions & Answers

#	SRF	Topic	Question	Answer	Date Q&A Added
1.1	CW	2% CWSRF TA reserve	Are the CWSRF 2% technical assistance funds subject to cash draw proportionality rules?	The 2% technical assistance funds are an eligible type of CWSRF assistance. When any funds are drawn from a CWSRF capitalization grant (including funds for this purpose), the CWSRF proportionality rules, as provided in the regulations, apply.	3/21/2022
1.2	CW	2% CWSRF TA reserve	Must CWSRF technical assistance result in a future CWSRF-funded project?	No. Technical assistance provided through the CWSRF does not need to result in a future CWSRF-funded project, but must meet the requirements of section 603(k) of the Clean Water Act.	3/21/2022
2.1	Both	Additional Subsidization	Do the additional subsidy mandates made permanent in the BIL (12% floor for the DWSRF and 10% for the CWSRF) apply to supplemental appropriations in the BIL?	No. BIL provides specific percentages of required additional subsidization under each BIL supplemental funding pot. For the CWSRF General, DWSRF General, and DWSRF LSLR pots, Congress specifically overrode (via the "notwithstanding" language) the statutory percentages contained in CWA section 603(i)(3)(B) and SDWA section 1452(d)(2) to require different percentages of additional subsidy from those three appropriations. This directs states to use the percentages of additional subsidy in BIL for those CWA 603(i) and SDWA 1452(d) purposes, instead of the percentages in the underlying laws.	3/21/2022
2.2	Both	Additional Subsidization	What is the time frame for meeting the BIL additional subsidy requirement?	States must make commitments (i.e., they must sign assistance agreements, such as loans or grants, with eligible recipients), including additional subsidization funds, within one year after the receipt of each capitalization grant payment from EPA. The additional subsidy requirement for a given year's appropriation is considered to be met when the amount of subsidy funds specified in the appropriation have been disbursed. If the required amount of subsidy is not disbursed once construction is completed on all projects, the state must allocate the remaining subsidy to another eligible project.	3/21/2022
2.3	DW	Additional Subsidization	Can the DWSRF set-asides for the BIL DWSRF General and LSLR funds be taken out of the 49% additional subsidy portion (rather than the repayable portion)?	States must use 49% of the capitalization grant award as additional subsidy under the BIL DWSRF General and LSLR pots. States may use up to approximately 31% of those capitalization grant awards for set-asides. If states take the full set-asides, that leaves approximately 20% of funds for the states to use as repayable financing. Both percentages are based upon the capitalization grant award amount received by the state.	3/21/2022
2.4	Both	Additional Subsidization	Can a state apply for only the 49% additional subsidy dollars without taking the 51% loan funds?	No, the BIL statute does not allow this. The additional subsidy percentage is based upon the capitalization grant amount received by the state.	3/21/2022
2.5	Both	Additional Subsidization	Is the BIL CWSRF General, BIL DWSRF General, and BIL DWSRF LSLR additional subsidy requirement (49%) an exact amount, or a floor or ceiling?	The BIL requires states to provide an exact amount of additional subsidy. States must give exactly 49% of the capitalization grant award to eligible entities as principal forgiveness or grants (or any combination of these). However, states may take DWSRF set-asides from the remaining 51% of funds, and some of these DWSRF set-aside funds may be used for LSL inventories and LSL-related technical assistance.	3/21/2022
3.1	CW	Allotments	Will the state CWSRF allocations change following results of the Clean Watersheds Needs Survey (CWNS)?	No. The CWSRF state allocations are strictly defined by the Clean Water Act (CWA) and barring a statutory change by Congress, EPA cannot update the CWA allotment formula to reflect the results of the latest Clean Watersheds Needs Survey.	3/21/2022
4.1	Both	Cash Draws	May a state SRF provide advance payments to a SRF assistance recipient (e.g., a water or wastewater system)?	No. Per regulation at 40 CFR §35.3155(d)(2) and 40 CFR §35.3565(a)(1), SRF assistance recipients (an eligible recipient such as a water or wastewater system) must first incur a cost associated with an executed assistance agreement for the state SRF to have the authority to draw capitalization grant funds from the Treasury and disburse those funds to the assistance recipient. The assistance recipient need not have paid for the cost with their own funds first; instead, the assistance recipient can immediately forward the (unpaid) invoice to the state SRF for prompt review and disbursement of funds. Therefore, there is no need for SRF assistance recipients to pay for the invoices with their own funds first.	3/21/2022
5.1	DW	DWSRF Set-asides	What happens to the reserved set-aside authority after the end of new BIL appropriations and when all BIL funds are expended?	To use reserved BIL set-aside authority in future years, states may use funds from both BIL and base DWSRF capitalization grants. In other words, the use of reserved BIL set-aside fund authority is not limited to actual BIL funds. For example, a state DWSRF may reserve set-asides authority under the FY 2022 BIL DWSRF LSLR capitalization grant and make use of that reserved authority under the FY 2024 BIL DWSRF LSLR capitalization grant, or out of the FY 2024 base capitalization grant (for BIL DWSRF LSLR set-asides eligible activities).	3/21/2022
6.1	DW	Eligibilities	Is bottled or trucked-in water an eligible DWSRF expense, from either the revolving loan fund or the set-asides?	No. The purchase of bottled or trucked-in water is not an eligible use of funds under the DWSRF. By law (SDWA 1452(a)(2)(B)), DWSRF funds can only be used to "facilitate compliance with national primary drinking water regulations (NPDWRs) applicable to the system." EPA regulations at 40 CFR 35.3520(b) describe the types of projects eligible for DWSRF funding, and all involve infrastructure. Bottled or trucked-in water is not a capital investment nor does it help drinking water systems achieve or maintain SDWA compliance, the central purpose of the DWSRF. Given that bottled or trucked-in water does not help build the technical, managerial, nor financial capacity of water systems, it is also not an eligible expense under the DWSRF set-asides.	3/21/2022
6.2	DW	Eligibilities	Are owners of private wells and capital work at private wells (e.g., repair or installation of a private well) eligible for DWSRF assistance?	State DWSRFs may fund limited infrastructure (from the revolving loan fund) that may be necessary for trucked-in water (i.e., storage, piping or tap stands) during a "do not drink" order or other emergency situation, as long as the public water system will own that infrastructure and takes out the assistance agreement with the state DWSRF for the infrastructure.	3/21/2022
6.3	DW	Eligibilities	Is water sampling an eligible DWSRF expense?	No. This is not an eligible use of funds under the DWSRF. By law (SDWA 1452(a)(2)(B)), DWSRF funds can only go to public water systems, and public water systems can only use DWSRF funds to "facilitate compliance with national primary drinking water regulations (NPDWRs) applicable to the system." Work on a private well – which is by definition not part of a public water system – does not help a public water system meet the NPDWRs standards. Private wells are not connected to public water systems, nor are private well owner customers of public water systems. Further, private wells are not regulated under the SDWA and are thus not subject to the NPDWRs.	3/21/2022
6.4	DW	Eligibilities	Is sampling at a private well an eligible DWSRF expense?	However, public water systems may get DWSRF financing to extend service to those who were previously on private wells. DWSRF assistance is also available to create new public water systems (i.e., a new public water system composed of customers who were previously on private wells).	3/21/2022
6.5	DW	Eligibilities	Can states use the BIL DWSRF Emerging Contaminant pot for projects for which the primary purpose is to address a contaminant with an established national primary drinking water regulation (NPDWR) maximum contaminant level (MCL) in situations where the state has a more strict (i.e., lower) MCL?	Sometimes. States may use the DWSRF set-asides to conduct special (non-routine) monitoring to establish a baseline understanding of a contaminant of concern (e.g., PFAS). Note that routine compliance monitoring and operations and maintenance expenses are statutorily prohibited (see SDWA 1452(a)(2)).	3/21/2022
				Sometimes. States cannot provide funds to private well owners for sampling. However, states may offer public water systems funding under the DWSRF set-asides for non-routine, not-compliance-related sampling at private wells to determine potential sources of contamination of the public water system's source water. The public water system may share the sampling results with the private well owners. Note that routine compliance monitoring and operations and maintenance expenses are statutorily prohibited (see SDWA 1452(a)(2)).	3/21/2022
				No. For a project or activity to be eligible for funding under the BIL DWSRF Emerging Contaminant appropriation, it must be otherwise DWSRF eligible, and the primary purpose must be to address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS). Projects that address any contaminant listed on any of EPA's Contaminant Candidate Lists are eligible (i.e., CCL1 – draft CCL5).	3/21/2022
				States may use the BIL DWSRF General or DWSRF base program funding for projects that address regulated contaminants where the state has set a more strict MCL.	3/21/2022

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				<p>No, replacement of premise plumbing is not eligible for BIL or base DWSRF funding. SDWA 1452(a)(2)(B) says, "Financial assistance under this section may be used by a public water system only for expenditures (including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, but not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 300g-1 of this title or otherwise significantly further the health protection objectives of this subchapter."</p> <p>Premise plumbing is not part of a public water system. It is not owned, maintained, or controlled by the public water system. Therefore, the DWSRF generally cannot fund anything beyond the service line.</p> <p>However, there are instances in which schools themselves are public water systems. In cases where schools themselves are public water systems, the school owns all of its premise plumbing and that plumbing is part of its system. In those cases, replacement of that plumbing is DWSRF-eligible.</p>	3/21/2022
6.6	DW	Eligibilities	Is premise plumbing eligible for BIL DWSRF funding?		
				<p>Pipe replacement projects involving A/C pipe are subject to the requirements of the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, subpart M. The Asbestos NESHAP is a collection of work practice standards intended to minimize the release of asbestos fibers during activities involving the handling of asbestos. In order to be eligible under the SRF programs and in compliance with federal crosscutters, an A/C pipe replacement project must comply with the Asbestos NESHAP. Neither pipe breaking nor pipe bursting activities comply with the Asbestos NESHAP.</p> <p>There are currently only three options for replacing A/C pipe that comply with the Asbestos NESHAP: open trenching, abandonment in place, and close tolerance pipe slurification (CTPS). Open trenching involves excavating the entire A/C pipe, wet-cutting the pipe into sections using a snap cutter or similar tool, wrapping the pipe for containment, and removing the pipe for disposal. In lieu of open trenching, A/C pipe may be abandoned in place, with the new pipeline laid in a separate area without acting upon the existing A/C pipe. In addition, in 2019, EPA approved CTPS as an alternative work practice. The CTPS alternative work practice is a form of trenchless technology that provides an alternative to open trench for A/C pipe replacement that meets the requirements of the Asbestos NESHAP. Unlike pipe bursting and pipe breaking, CTPS does not leave friable asbestos (defined in the Asbestos NESHAP) in the ground. EPA has not approved an alternative work practice for other trenchless technologies such as pipe bursting, pipe breaking, or other similar methods.</p> <p>Forces such as those required for pipe bursting or pipe breaking of A/C pipe create friable asbestos. Leaving friable asbestos in the ground does not comply with the requirements of the Asbestos NESHAP. For general information about the Asbestos NESHAP, visit: <a href="https://www.epa.gov/asbestos/overview-asbestos-national-emission-standards-hazardous-air-pollutants-neshap">https://www.epa.gov/asbestos/overview-asbestos-national-emission-standards-hazardous-air-pollutants-neshap</a>. For information about CTPS, visit <a href="https://www.epa.gov/stationary-sources-air-pollution/notice-final-approval-alternative-work-practice-standard-asbestos">https://www.epa.gov/stationary-sources-air-pollution/notice-final-approval-alternative-work-practice-standard-asbestos</a>.</p>	3/21/2022
6.7	Both	Eligibilities	Can asbestos cement (A/C) pipe be replaced via pipe bursting or pipe breaking?		3/21/2022
				<p>Must there be evidence that emerging contaminants exist in the water to receive the funds from the BIL CWSRF or DWSRF emerging contaminants pot? For example, if a water or wastewater system wants to add PFAS treatment as a preventative measure, is this eligible?</p> <p>Preventative-focused projects are eligible under these BIL funding pots. However, these projects should rank lower on Project Priority Lists than those projects addressing present contamination.</p>	3/21/2022
6.8	Both	Eligibilities			
				<p>If a state has a project that is large enough to meet the base and BIL appropriations, can states use it as equivalency for both appropriations?</p> <p>BIL supplemental appropriations are federal funds and therefore all equivalency requirements apply to projects funded by each BIL capitalization grant. Projects funded through the base SRF programs cannot be used to meet the equivalency requirements of the BIL capitalization grants. However, if an assistance agreement is made with both BIL funds and base program funds, the project may be used to meet the equivalency requirements for both the BIL and base capitalization grants provided that the amount counted towards each equivalency requirement is proportional to the amount BIL and base amounts in the SRF assistance agreement.</p>	3/21/2022
7.1	Both	Equivalency			
				<p>Will BIL capitalization grants have the same Catalog of Federal Domestic Assistance (CFDA) number, now referred to as "Assistance Listing," as the base CWSRF and DWSRF capitalization grants?</p> <p>Yes.</p>	3/21/2022
8.1	Both	Grants Management			
				<p>When states submit capitalization grant applications to EPA, may states use the same Attorney General certification for each application (i.e., is only one state Attorney General certification is required per year)?</p> <p>Yes. Only one Attorney General certification is required per year.</p>	3/21/2022
8.2	Both	Grants Management			
				<p>If a state has spent more in state match for base grants than required, can that excess amount(s) be applied to the match requirement for the BIL supplemental capitalization grants?</p> <p>Yes. If the state provides a match in excess of the required amount, the excess balance may be banked toward subsequent match requirements, including BIL capitalization grants. See 40 CFR 35.3135(a)(4) and 40 CFR 35.3550(g)(5).</p>	3/21/2022
8.3	Both	Grants Management			
				<p>No, states must apply for and EPA must award separate grants for each BIL appropriation and base appropriation. Congress appropriated 5 separate SRF capitalization grants per year via BIL that each have specific purposes. Separate applications and grants are consistent with grants regulations and reporting requirements and needs. Further, the federal government's grants management system does not allow multiple grant awards to be made from one application.</p> <p>To reduce administrative burden, states may use many of the same supporting materials within each application, or incorporate them by reference. For example, states may combine base and/or BIL pot(s) of funding into a single IUP and PPL, or split into separate documents.</p>	3/21/2022
8.4	Both	Grants Management			
				<p>Can the Water Infrastructure Investments for the Nation (WIIN) Small, Underserved, and Disadvantaged Community (SUDC) grant be deposited into a state's DWSRF?</p> <p>No. EPA does not have the authority to combine funds from the DWSRF and the WIIN SUDC programs.</p>	3/21/2022
8.5	DW	Grants Management			
				<p>Is there a limit to the amount of BIL DWSRF LSLR supplemental funds that can be used by states to fund LSL inventories?</p> <p>No. There is no statutory minimum or maximum, but EPA expects IUPs to reflect appropriate statutory priorities.</p>	3/21/2022
9.1	DW	LSLR			
				<p>Are service lines of any material (e.g., copper) eligible for BIL DWSRF funding or must they be made of lead to be eligible for BIL funding?</p> <p>To be eligible for replacement under the BIL DWSRF LSLR pot, service lines must be made of lead or galvanized pipe. To be eligible under the BIL DWSRF General or the DWSRF base program funding, service lines may be made of any material.</p>	3/21/2022
9.2	DW	LSLR			
				<p>If a state has constitutional, statutory, and/or regulatory prohibitions on the use of public money on private property (i.e., prohibitions against using public water system user revenue to replace the privately-owned portion of a LSL), how can states use the BIL DWSRF LSLR funds?</p> <p>In this scenario, states may still be able to use the BIL DWSRF LSLR pot for LSL inventories while working towards eliminating those barriers to LSLR. EPA strongly encourages states to reassess and if needed, eliminate state-imposed barriers to addressing the public health threat of lead in drinking water.</p>	3/21/2022
9.3	DW	LSLR			

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10.1	DW	Small Systems	Does the SDWA 1452(a)(2)(F) 15% small system provision apply to the BIL funds?	SDWA 1452(a)(2)(F) requires that at least 15% of the amount credited to the Fund in any fiscal year be made available for assistance to small systems serving under 10,000 persons, to the extent funds can be obligated for eligible projects. Therefore, the percentage is based on all monies that a state expects to be available for loans as described in a state's IUP. This includes the capitalization grant, state match, bond proceeds, repayments, and interest earnings. In other words, the calculation is based on all monies the state plans to make available for assistance agreements as described in a state's IUP sources and uses table. The total "sources" dollar amount should be used for the calculation's denominator. For example, if a state projects \$50M in available "sources," the state should plan to fund at least \$7.5M of small system projects.	3/21/2022