



# Bipartisan Infrastructure Law Implementation Overview

April 19, 2022

# Implementation Overview

- Key Priorities
- BIL Funding Provisions
- Nuts and Bolts
- Disadvantaged Communities
- Base Program Provisions
- Community Technical Assistance
- Next Steps

# BIL Implementation Key Priorities

- **Provide Flexibility to Meet Local Water Needs:** A fundamental principle of the SRFs—flexibility provided to states and borrowers to addressing varied local water challenges.
- **Increase Investment in Underserved Communities:** Use 49% of DWSRF General Supplemental funds and the DWSRF Lead Service Line Replacement funds and at least 25% of the DWSRF Emerging Contaminants funds as grants and forgivable loans to disadvantaged communities
- **Make Rapid Progress on Lead Service Line Replacement:** Maximize the \$15 billion dedicated to lead service line removal, as well as other funding streams, towards President Biden’s 100% goal
- **Tackle Forever Chemicals:** Invest \$5 billion through the SRFs to reduce people’s exposure to perfluoroalkyl and polyfluoroalkyl substances (PFAS) and other emerging contaminants
- **Focus on Resilience, Climate, One Water Innovation:** Prioritize projects for climate mitigation, adaptation, coastal and drought resilience, flooding, natural infrastructure, and ecosystem preservation and restoration

# BIL Implementation Key Priorities

- **Support American Workers and Renew the Water Workforce:** Renew America's water workforce and create good-paying jobs in communities across America
- **Cultivate Domestic Manufacturing:** Create long-term opportunities for domestic manufacturers and manufacturing jobs and build resilient domestic supply chains for a wide range of products
- **Fully Enforce Civil Rights:** Ensure federal funds are not being used to subsidize discrimination based on race, color, or national origin
- **Refine State SRFs to Build the Pipeline of Projects:** Strategically use new authorities and funds from BIL as a catalyst to continue building and maintaining a robust project pipeline of SRF projects

# The Bipartisan Infrastructure Law (BIL)

*Public Law No. 117-58*

Significant new appropriations for supplemental DWSRF and CWSRF funds for 5 years

Amendments to SDWA 1452 and CWA Title VI

*(the SDWA DWSRF and CWA CWSRF authorizing sections)*

*BIL is also referred to as:*



# State Revolving Fund (SRF) Funding in the BIL

Appropriation	FY 2022 (\$)	FY 2023 (\$)	FY 2024 (\$)	FY 2025 (\$)	FY 2026 (\$)	Five Year Total (\$)
CWSRF General Supplemental	1,902,000,000	2,202,000,000	2,403,000,000	2,603,000,000	2,603,000,000	11,713,000,000
CWSRF Emerging Contaminants	100,000,000	225,000,000	225,000,000	225,000,000	225,000,000	1,000,000,000
<b>DWSRF General Supplemental</b>	<b>1,902,000,000</b>	<b>2,202,000,000</b>	<b>2,403,000,000</b>	<b>2,603,000,000</b>	<b>2,603,000,000</b>	<b>11,713,000,000</b>
<b>DWSRF Emerging Contaminants</b>	<b>800,000,000</b>	<b>800,000,000</b>	<b>800,000,000</b>	<b>800,000,000</b>	<b>800,000,000</b>	<b>4,000,000,000</b>
<b>DWSRF Lead Service Line Replacement</b>	<b>3,000,000,000</b>	<b>3,000,000,000</b>	<b>3,000,000,000</b>	<b>3,000,000,000</b>	<b>3,000,000,000</b>	<b>15,000,000,000</b>

# BIL Implementation Memo

## Cover Memo

### Attachment 1 – BIL Funding Implementation

- CWSRF General Supplemental Funding
- CWSRF Emerging Contaminants Funding
- DWSRF General Supplemental Funding
- DWSRF Emerging Contaminants Funding
- DWSRF Lead Service Line Replacement Funding

### Attachment 2 – CWSRF Base Program Implementation

The BIL amends the CWA to include new provisions applicable to the base CWSRF programs and unless otherwise directed, applicable to projects funded in whole or in part with funds made available by BIL.

### Attachment 3 – DWSRF Base Program Implementation

The BIL amends the SDWA to include new provisions applicable to the base DWSRF programs and unless otherwise directed, applicable to projects funded in whole or in part with funds made available by BIL.

# Capitalization Grants Application Process

- Flexibility for states to combine Intended Use Plans (IUPs) and Project Priority Lists (PPLs) for both the BIL and base funding or submit separate IUPs and PPLs for base and BIL funding
- If combined, states must construct the IUPs and PPLs to ensure that EPA and the public can clearly identify BIL- and base-eligible projects, including identifying additional subsidization and funding amounts
- The IUPs and PPLs must meet existing SRF requirements
- States must submit separate grant applications for each BIL appropriation, and separately from “base” SRF capitalization grant applications in grants.gov
- BIL funds have the same CFDA (now called “Assistance Listing”) number as base SRF capitalization grants to ease the application process



# Timelines

- Per law, states have until September 30, 2023, to apply for *and receive* the FY22 BIL capitalization grants. The statutes require EPA to *obligate* the funds to states within that period of time.
  - States can submit cap grant applications to EPA Regions at any time.
  - It is important to submit applications in time for the EPA to process the award.
- Per law and regulation, states have 1 year to commit funds (i.e., sign funds into final loans) after each capitalization grant payment from EPA to the states.
- Once EPA obligates the capitalization grants to the states, the funds will be available to states pursuant to grant regulations.
- States should make effort to draw down those capitalization grant funds within 2 years of cap grant payments.



# Bipartisan Infrastructure Law

## Drinking Water State Revolving Funds

# 3 Pots of Supplemental DWSRF Funds for 5 Years



GENERAL SUPPLEMENTAL



EMERGING CONTAMINANTS  
(FOCUS: PFAS) SUPPLEMENTAL



LEAD SERVICE LINE  
SUPPLEMENTAL

# DWSRF General Supplemental



“\$11,713,000,000 for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act”

FY22	FY23	FY24	FY25	FY26
\$1.9B	\$2.2B	\$2.4B	\$2.6B	\$2.6B

“Provided further, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12)”

# DWSRF General Supplemental

- 10% state match required for the first two years; match returns to the standard 20% for the remaining three years
- All DWSRF eligibilities
- States may take set-asides
- As directed by BIL, exactly 49% of this capitalization grant must be provided as additional subsidy in the form of principal forgiveness or grants (or a combination of those)
  - States must provide additional subsidization to water systems that meet the state's disadvantaged community criteria as described in section 1452(d) of the SDWA
  - States have flexibility to determine the amount of additional subsidization provided in a given assistance agreement

# DWSRF Emerging Contaminants (PFAS Focus) Supplemental



“\$4,000,000,000 for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act”

FY22	FY23	FY24	FY25	FY26
\$800M	\$800M	\$800M	\$800M	\$800M

“That funds provided under this paragraph in this Act shall be to address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances through capitalization grants under section 1452(t) of the Safe Drinking Water Act for the purposes described in section 1452(a)(2)(G) of such Act: Provided further, That funds provided under this paragraph in this Act deposited into the State revolving fund shall be provided to eligible recipients as loans with 100 percent principal forgiveness or as grants (or a combination of these)”

# DWSRF Emerging Contaminants (PFAS Focus) Supplemental

- No state match requirement
- As directed by BIL, can only be used for DWSRF-eligible projects that “address emerging contaminants in drinking water with a focus on perfluoroalkyl and polyfluoroalkyl substances.”
- Set-asides, if taken, must be used to either administer this capitalization grant or meet the stated purpose of these funds
- As directed by BIL, 100% of this capitalization grant, net of set-asides taken, must be provided as additional subsidy in the form of principal forgiveness or grants (or a combination of those)
  - States must direct at least 25 percent of these funds to disadvantaged communities (as defined by the state under SDWA 1452(d)) or public water systems serving fewer than 25,000 persons
  - States have flexibility to determine the amount of additional subsidization provided in a given assistance agreement
- Eligible:
  - DWSRF-eligible projects for which the primary purpose is to address PFAS or contaminants on any of EPA’s Contaminant Candidate Lists
  - Note statutory PFAS focus; states must actively solicit for PFAS-focused projects
- Not Eligible: Projects for which the primary purpose is to address contaminant(s) with a [National Primary Drinking Water Regulation](#)

# DWSRF Lead Service Line Replacement Supplemental



“\$15,000,000,000 for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act”

FY22	FY23	FY24	FY25	FY26
\$3.0B	\$3.0B	\$3.0B	\$3.0B	\$3.0B

“Provided further, That the funds provided under this paragraph in this Act shall be for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines: Provided further, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12)”



# DWSRF Lead Service Line Replacement Supplemental

- No state match requirement.
- As directed by BIL, can only be used for DWSRF-eligible “lead service line replacement projects and associated activities directly connected with the identification, planning, design, and replacement of lead service lines.”
- Set-asides, if taken, must be used to either administer this capitalization grant or meet the stated purpose of these funds
- As directed by BIL, exactly 49% of this capitalization grant must be provided as additional subsidy in the form of principal forgiveness or grants (or a combination of those)
  - States must provide additional subsidization to water systems that meet the state’s disadvantaged community criteria as described in section 1452(d) of the SDWA
  - States have flexibility to determine the amount of additional subsidization provided in a given assistance agreement
- Lead service line inventories are also eligible from both the loan and set-asides.
- Any project involving the replacement of a lead service line must replace the entire lead service line, not just a portion, unless a portion has already been replaced.
- To address household affordability concerns, we encourage states to fund the private portion of service line replacements at no additional cost to the homeowner.



# Bipartisan Infrastructure Law

SRF Nuts and Bolts

# BIL – Supplemental Funding Nuts and Bolts

- **Build America, Buy America Act:** BIL creates the Build America, Buy America (BABA) Act domestic sourcing requirements for Federal financial assistance programs for infrastructure. EPA will issue a separate memorandum for BABA after OMB publishes its guidance.
- **Federal Civil Rights Responsibilities, including Title VI of the Civil Rights Act of 1964:** EPA has a responsibility to ensure that recipients and subrecipients of federal financial assistance from EPA comply with federal civil rights laws.
- **Allotment:** Per statute, EPA will use the existing SRF allotment formulas for all BIL SRF appropriations. For the DWSRF, the allotment formula will change upon release of new data derived from the Seventh Drinking Water Needs Survey and Assessment.
- **Period of Capitalization Grant Availability and Reallotment:** Per statute, funds will remain available for obligation to states for the fiscal year in which they are appropriated and the following fiscal year, per the Clean Water Act (CWA) and Safe Drinking Water Act (SDWA). After that time, EPA will reallot any unobligated funds.

# BIL – Supplemental Funding Nuts and Bolts

- **Reporting:** States must use EPA’s SRF Data System to report key BIL project characteristics and milestone information, no less than quarterly. Additional reporting may be required.
- **Recycled Funds:** Once assistance recipients repay BIL funds to the state SRF program, those repaid funds may be used for any SRF-eligible purpose.
- **Equivalency:** Each BIL capitalization grant must meet the equivalency requirements separately.
- **Inter-SRF Transfers:** States may only transfer funds between the CWSRF and DWSRF General BIL capitalization grants and between the CWSRF and DWSRF BIL Emerging Contaminant capitalization grants. Because there is no similar CWSRF appropriation to the DWSRF BIL Lead Service Line Replacement appropriation, no funds may be transferred from or to the DWSRF BIL Lead Service Line Replacement appropriation. States may not transfer BIL appropriations to or from base appropriations.

# BIL – Supplemental Funding Nuts and Bolts

- **Green Project Reserve:** If provided for in the annual appropriation, the green project reserve (GPR) is applicable to the BIL capitalization grants for the corresponding fiscal year.
- **Blending Funds and Cash Draws:** States may craft single assistance agreements (e.g., loans) that contain multiple types of construction components and activities. BIL and base funds must be separately managed and tracked for accounting purposes.
- **Reservation of DWSRF Set-Aside Authority:** Consistent with the DWSRF regulations, states may reserve the *authority* (under the 2%, 4%, and 10% set-asides) to take from future capitalization grants those set-aside funds they have not included in workplans. However, given the narrower eligibilities under the BIL Emerging Contaminants and Lead Service Line Replacement appropriations, future use of authority reserved under those BIL capitalization grants will be limited to eligible uses under those grants.
- **Structuring Assistance Agreements:** Assistance agreements may include any combination of additional subsidization (i.e., principal forgiveness or grant) and repayable financing, subject to the limitations of the BIL. States have flexibility to determine the amount of additional subsidization provided in a given assistance agreement.

# Disadvantaged Communities

- Effective Integration of the Program to Reach Disadvantaged Communities
  - Utilizing various funding sources and SRF eligible activities to support project planning and design and pre-project costs
- Review Disadvantaged Community Definition and Affordability Criteria
  - Evaluate criteria to meet requirements and address community needs
- Review Priority Scoring and Ranking Criteria
  - Evaluate criteria to meet requirements and address community needs
- Reaching Disadvantaged Neighborhoods within Larger Communities
  - Target benefits to individual ratepayers

# Implementation Memo Appendices

- **Appendix A:** Allotment tables
- **Appendix B:** CWSRF definition of emerging contaminants
- **Appendix C:** DWSRF emerging contaminant project and activity examples
- **Appendix D:** DWSRF lead service line replacement project and activity examples
- **Appendix E:** Additional Information to Assist States with Developing a Disadvantaged Community Definition and Affordability Criteria



# Bipartisan Infrastructure Law

## DWSRF Base Program Changes



# Attachment 3: Amendments to SDWA 1452 (DWSRF Base Program Amendments)

*Reauthorizes* the program at the following annual amounts:

- **2022:** \$2.4B; **2023:** \$2.75B; **2024:** \$3.0B; **2025 & 2026:** \$3.25B

Note: these are not actual appropriations

Expands allowable forms of SDWA 1452(d) Disadvantaged Additional Subsidy

- Grants, negative interest loans, other loan forgiveness, buying, refinancing, restructuring debt

Raises minimum SDWA 1452(d) Disadvantaged Additional Subsidy floor from 6% to 12%

American Iron & Steel procurement requirement made permanent

Build America, Buy America procurement requirement added



# Bipartisan Infrastructure Law

## Next Steps

# Next Steps

- Ongoing Q and As and other memos as needed
- Ongoing webinars (states and interested parties)
- Ongoing trainings
  - SRF 101/201
  - BIL
- Ongoing discussions and meetings/suggestions for forums and topics?

