



OFFICE OF GROUND WATER AND DRINKING WATER

WASHINGTON, D.C. 20460

MEMORANDUM

SUBJECT: Process for Voluntary De-obligations of Infrastructure Investment and Jobs Act Drinking Water State Revolving Fund Lead Service Line Replacement Funds

FROM: Jennifer L. McLain, Director

TO: Water Division Directors, Regions I-X

This memorandum explains the process for state and Environmental Protection Agency (EPA) actions when states decide to return funds from the Infrastructure Investment and Jobs Act (P.L. 117-58), also known as the Bipartisan Infrastructure Law (BIL), Lead Service Line Replacement (LSLR) capitalization grant awards to the EPA. This process helps to ensure that LSLR funds go to the states with the greatest LSLR-related need.

Congress provided \$15 billion over five years to the Drinking Water State Revolving Fund (DWSRF) program to address lead service lines. These funds were appropriated for the specific purpose of “lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines.” The EPA allotted these funds to states based on the best available data at the time of allocation. Given that quantities of lead service lines vary by state – and that service line information is rapidly evolving as states and water systems develop inventories – states, at their discretion, may choose to return funds from already-awarded BIL LSLR capitalization grants to the EPA. For example, systems recently submitted lead service line inventories to their state and this new information may reduce the previously estimated need for LSL replacement construction projects.

The EPA strongly encourages state SRF managers to communicate with their regional SRF Project Officer (PO) if they are considering returning funds. The EPA headquarters (HQ) requests that the regions keep them aware of such discussions. To fulfill our environmental, public health protection, and fiduciary oversight responsibilities EPA will work closely with states to ensure they sufficiently evaluate the capitalization grant de-obligation prior to taking the action. Relatedly, it is important to confirm that state SRF managers are closely coordinating with the appropriate state leaders. The table in Appendix A shows the process steps and minimum expectations for state and EPA actions for voluntary deobligation of awarded BIL LSLR capitalization grant funds.

Reallotment of Voluntarily De-obligated Funds

The Safe Drinking Water Act provides direction to EPA on how to reallocate funds that are left unobligated to other states. The September 2020 memorandum, [State Revolving Fund Capitalization Grant Reallotment Procedure](#), explains this in further detail. If a state returns funds through this voluntary de-obligation process, those funds will go through the reallocation procedure as described in that memo.

Conclusion

This memo addresses questions the EPA has heard from states and is consistent with reallocation in the DWSRF statute, and the Congressional intent of providing these funds for LSLR and associated activities. If you have questions on implementation of this policy, please contact Kiri Anderer (anderer.kirsten@epa.gov).

cc: SRF Branch Chiefs, EPA, Regions I-X

Yu-Ting Guilaran, EPA, Deputy Director, Office of Ground Water and Drinking Water

Anita Thompkins, EPA, Director, Drinking Water Infrastructure Development Division

Matt Klasen, EPA, Acting Deputy Director, Drinking Water Infrastructure Development Division

Damaris Christensen, EPA, Supervisor, Water Finance Branch

Kiri Anderer, EPA, Supervisor, Water Infrastructure Technical Support Branch

Appendix A: Process for Voluntary Deobligation

Process for Action	
Step 1	<p>State Action: If a state decides to return BIL LSLR capitalization grant funds, in whole or part, the head of the state agency or department (e.g., the Secretary of Health or Secretary of Natural Resources) that received the capitalization grant should submit a signed letter to the EPA regional Water Division Director, with a copy to the EPA regional PO.</p> <p>The letter must 1) confirm the state's intent, 2) provide a short justification for the request, and 3) include the amount of funds that the state is requesting the EPA de-obligate (including any sub-account information, such as the amount to de-obligate from the loan fund and/or specific set-aside accounts).</p> <p>A state may submit this letter to the EPA at any time.</p>
Step 2	<p>EPA Actions:</p> <p>EPA Regional Water Division:</p> <ul style="list-style-type: none"> • Notify the EPA HQ program office about a state's decision to potentially return funds. • Upon receipt of a state's letter, confirm receipt to the state within a week. • Review the letter to ensure it meets the specifications listed in Step 1, including that the appropriate state official has signed the letter. • Share the letter with the HQ program office for their awareness and action within a week. <p>EPA Office of Water:</p> <ul style="list-style-type: none"> • Notify Office of Grants and Debarment to expect the de-obligation. • Update SRF Data System with the adjustments made to the capitalization grant so that award amounts are accurately reflected in the program metrics going forward. <p>EPA Regional Mission Support Division:</p> <ul style="list-style-type: none"> • The Grants Officer must enter the de-obligation into the Next Generation Grants System (NGGS) within 30 days from receipt of the signed letter from the state. • The Grants Officer or PO must notify the state and EPA HQ once the funds are de-obligated.
Step 3	<p>State Action: The state must note this de-obligation, including the amount of funds de-obligated and reason, in their next annual/biennial report.</p>
Step 4	<p>EPA Action: EPA HQ will include the de-obligated funds in the next applicable round of reallocation.</p>
Step 5	<p>EPA Actions: The region will make a note of this deobligation action in the state's next Program Evaluation Report. As needed, EPA will support state SRF managers with responses to questions from auditors or others regarding de-obligation actions.</p>