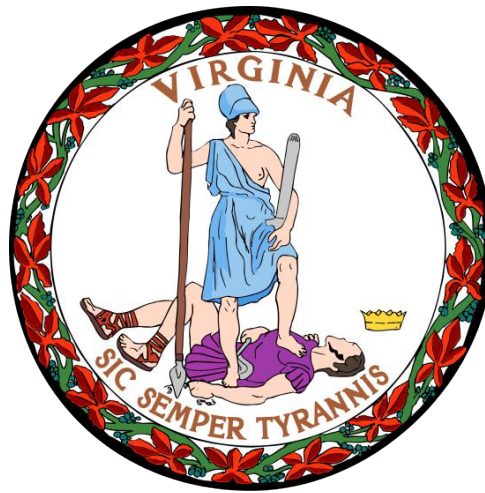


# COMMONWEALTH OF VIRGINIA DRINKING WATER STATE REVOLVING FUND PROGRAM

## PROGRAM DESIGN MANUAL

August 2024



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**Virginia Department of Health  
Office of Drinking Water**

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**Financial and Construction Assistance Programs**

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***Application Packages*** available on VDH’s Website at:

<https://www.vdh.virginia.gov/drinking-water/fcap/drinking-water-funding-program/>

- 1) [Construction Funds Application](#) and [Instructions](#)
- 2) [Lead Elimination Assistance Program \(LEAP\) Application](#) and [Instructions](#)
- 3) [Planning and Design Fund Application](#) and [Instructions](#)
- 4) [Refinancing Loan or Purchasing Application](#)
- 5) [1452\(k\) Loans for Source Water Protection Initiative Application](#)
- 6) [Public Comments and Set-Aside Suggestions Form](#)

***Other Factsheets / Forms*** (available on VDH’s Website) at:

<https://www.vdh.virginia.gov/drinking-water/fcap/drinking-water-funding-program/>

- A. [Income Survey Template](#)
- B. [Cash Flow Template](#)
- C. [Example Resolution](#)
- D. [Certification Regarding Lobbying](#)
- E. [Building Financial Sustainability](#)
- F. [Construction Project Schedule](#)
- G. [User Rates Analysis](#)
- H. [Factsheet MBE/WBE Requirements](#)
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## **I. INTRODUCTION - VIRGINIA DRINKING WATER STATE REVOLVING FUND (DWSRF) PROGRAM**

The federal Safe Drinking Water Act Amendments of 1996 (P.L. 104 -182), referred to as SDWA, established a Drinking Water State Revolving Fund (DWSRF) Program. Funds for the DWSRF are awarded to eligible states through a capitalization grant.

The Virginia Department of Health (VDH) has had primary enforcement responsibility, primacy, for SDWA since 1977. Therefore, VDH is designated as the agency to apply for and administer the capitalization grant for the DWSRF and the associated state funds.

Funds awarded to a state through a capitalization grant are categorized into two uses; (i) non-project funds or set-asides and (ii) project funds that are utilized for construction at public drinking water systems (waterworks). Set-aside funds enhance the ability of the state and owners of waterworks to ensure a waterworks' long-term capacity to produce safe drinking water and to protect construction loan investments. Construction funds for waterworks are utilized to address public health problems and to ensure compliance with the provisions of the SDWA. No application fee is required to access the Virginia DWSRF program.

A 20% state match is required to obtain the capitalization grant. The matching funds must be deposited into a dedicated state loan fund on or before the date the state receives federal grant payments. The *Virginia Water Supply Revolving Fund* (§62.1-233 et seq. of the *Code of Virginia*) has been chosen by VDH as the dedicated state loan fund for Virginia. Under this state law and in conjunction with VDH, the Virginia Resources Authority has certain responsibilities for individual loans.

The development of an annual Intended Use Plan (IUP) is a required part of the application (§1452 (b) of the SDWA) for a capitalization grant. The IUP describes how the capitalization grant funds are expended, including all set-aside and construction funds.

Congress has set the following goals in the use of the DWSRF funds:

1. Assistance to Small Waterworks: A minimum of 15% of the amounts credited to the loan fund as loan assistance to waterworks that regularly serve fewer than 10,000 persons.
2. Green Project Reserve (GPR): A minimum of 20% of the capitalization grant to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities.
3. Additional Subsidization: Twenty percent of the capitalization grant for additional subsidies must be provided to communities that could not otherwise afford such projects. The State has the option to apply up to a maximum of 30 percent of the capitalization grant as additional subsidization. To further ensure sustainability of projects receiving additional subsidies, these subsidies should be directed to: 1) repair, replacement, and upgrade of infrastructure in existing communities; 2) investigations, studies, or plans that improve the technical, financial and managerial capacity of the assistance recipient to operate, maintain, and replace financed infrastructure; and/or 3) preliminary planning, alternatives assessment and eligible capital projects that reflect the full life cycle costs of infrastructure assets, conservation of natural resources, and alternative approaches to integrate natural or “green” systems into the built environment.

The Commonwealth intends on using the described bypass procedure or revise offers if necessary to meet these goals.

**All applicants for financing must comply with all applicable federal and state law, regulation or other requirements.**

## **II. PROGRAM GOALS:**

VDH based this Program on the fact that safe drinking water is essential to public health. The goal of VDH in administering the capitalization grant is to provide a comprehensive and integrated technical and financial assistance program to waterworks owners through a balanced approach of using set-aside funding and construction/project loan funds.

Another important VDH goal is to use the DWSRF Program goal to assist waterworks in building long-term financial sustainability and developing adequate financial capacity for necessary maintenance and infrastructure improvements. As part of the application process VDH recommends all owners use the VDH guidance information to evaluate the current financial health of their waterworks, to evaluate their ability to accept new debt, and to affect changes needed to grow revenues to support these efforts.

VDH reserves the right to require measures that build financial health and financial sustainability of the waterworks as a condition of any loan or principal forgiveness offer acceptance and in compliance with EPA's capacity building expectations.

The final goal is for VDH (in collaboration with the Virginia Resources Authority) to effectively manage the EPA grant, state match, earnings, and repayment funds in a fiscally sound, equitable, and responsible manner so that loan funds will be available in perpetuity to waterworks owners for infrastructure improvements.

## **III. DEMONSTRATION PROJECT FOR STATE OF VIRGINIA**

The Safe Drinking Water Act of 1996 authorized Virginia to establish a special demonstration project to loan funds to a regional endowment to "...finance new drinking water facilities..." in an area of Southwest Virginia encompassing Planning Districts 1 and 2. The Coalfield Water Development Fund, Inc. (CWDF) was established as a 501c(3) non-profit organization to assist in meeting the special needs of Southwest Virginia. Between the years 1998 and 2000 VDH provided \$10 million to the CWDF through a 30 year, zero-interest loan. Zero coupon bonds insure repayment of the loan after 30 years. Private gifts have also been donated to the fund by individuals, companies, and foundations associated with the coal industry.

## **IV. ELIGIBLE APPLICANTS**

Owners of a community waterworks or nonprofit non-community waterworks are eligible, except for state, federal, or tribal governments. Suspended or debarred owners are ineligible. Other requirements may apply.

### **A. Construction Loans:**

1. SDWA in § 1452 states " ...no assistance shall be provided to a public water system that: (i) does not have the technical, managerial and financial capability to ensure compliance with the requirements of this title or (ii) is in significant noncompliance with any requirement of the national primary drinking water regulations or variance." However, a waterworks owner may receive assistance if use of the funds will ensure compliance or if the waterworks owner agrees to undertake appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) to assure compliance. Significant noncompliance is equivalent to EPA Enforcement Targeting Tool (ETT) scores  $\geq 11$ .
2. The *Code of Virginia* requires that a waterworks owner obtain a **permit** from VDH before modifying or establishing a waterworks. VDH's permitting process includes a **waterworks business operation**

**plan**, which addresses the waterworks owner’s ability to supply safe drinking over the long term by identifying sufficient technical, managerial, financial and operational abilities.

**B. Refinance and Consolidation Loans:**

1. Local government owners of a publically-owned community waterworks are eligible. Private, state, federally, and tribally owned waterworks are not eligible.
2. If eligible and funds are available, the offer will be a 20-year (or less) loan with the interest set at the core term rate. VDH reserves the right to offer a 30 year if the waterworks meets disadvantaged criteria.
3. Any savings realized must be utilized to improve the waterworks infrastructure or financial capacity.
4. Debt to be refinanced must have been incurred for drinking water construction with an initiation date after July 1, 1993.
5. Other requirements may apply. See the refinance application.
6. Loans to consolidate (acquire ownership by transfer of assets and liabilities) waterworks may receive special funding if the waterworks to be acquired is considered failing, at-risk of failure, underperforming or has inadequate TMF capacity.

**C. Set-asides:**

The following is a list of activities for which set-aside funds from the capitalization grant may be applied. Also, applicant eligibility requirements are specified, if any.

1. Administration of the DWSRF program and general technical assistance - 4% maximum of grant.
2. Technical assistance to small waterworks – 2% maximum of grant.
3. Assistance to state programs – 10% maximum of grant:
  - a. for the public water system supervision programs. - None specified
  - b. to provide technical assistance through source water protection programs – None specified.
  - c. to develop and implement a capacity development strategy under section 1420(c) – any waterworks owner is eligible except for the federal government
  - d. for the operator program of section 1419. - None specified.
4. Combination of the following - 15% maximum of grant:
  - a. loans to acquire land or a conservation easement to protect source water. – Community and nonprofit non-community waterworks owners are eligible.
  - b. loans for community water systems to implement voluntary source water protection measures. - Any community waterworks owner is eligible
  - c. loans to implement source water protection partnership program - Any community waterworks owner is eligible.
  - d. technical and financial assistance to a water system as part of the capacity development strategy in section 1420(c). - Any community or nonprofit non-community waterworks owner is eligible. Small waterworks are given priority.
  - e. make expenditures from grants available in FY 96 and 97 to delineate and assess source

- water protection areas as mentioned in section 1453. - None specified.
- f. make expenditures to establish and implement wellhead protection programs. - None specified.

D. Attendance/viewing is recommended at our workshop/training session on program requirements for execution of awards for construction or other activities. Information about upcoming workshops/training sessions can be found at the following website: <https://www.vdh.virginia.gov/drinking-water/fcap/drinking-water-funding-program/> An initial meeting to review the project specifics is also part of the award process.

## V. ELIGIBLE COSTS/ELIGIBLE PROJECTS

VDH may reduce loan eligibility or reduce scope and size of a project to ensure the greatest benefit to as many waterworks as possible. VDH reserves the right to limit funding participation to the least cost of the feasible alternatives.

Regardless of the size of the community served, successful applicants must comply with the Virginia Public Procurement Act, our program requirements, and procurement procedural guidelines.

Loans from the construction fund may be utilized for upgrading, rehabilitation or reasonable expansion of a waterworks. SDWA (§1452(g)(3)(C)) excludes funding to expand any waterworks in anticipation of future (or speculative) population growth. However, the federal DWSRF Program guidance (February 28, 1997) states that if the primary purpose of the project is to solve a compliance or health problem, the entire project is eligible, including that portion to accommodate reasonable growth over the project's useful life. Funding may be utilized to consolidate waterworks or nonpublic drinking water systems if the water is contaminated or inadequate in quantity or if the system is not able to maintain compliance for financial or managerial reasons.

The DWSRF construction program allows for associated planning and pre-design costs if procurement meets program requirements. Expenses incurred on an approved project prior to execution of a loan agreement may be eligible if VDH requirements have been met. Expenses for any of the following may be eligible if meeting program requirements:

- System conditional assessment studies,
- Asset Management Plans (AMPs),
- Capital Improvement Plans (CIPs),
- Waterworks Business Operations Plans (WBOPs),
- Water Audits,
- Rate Studies,
- Security assessments/studies and portable generators, and
- Other studies.

The purchases of land, easements, or rights-of-way are eligible costs if they are an integral part of the project. In addition, a waterworks owner may purchase land under the special set-aside provision of section 1452 for source water protection.

VDH will review all costs for eligibility. To be considered for reimbursement all cost items must be eligible under program guidelines, specific to the project, and necessary for the infrastructural improvement. Costs determined to be associated with any type of operation and maintenance activities are ineligible.

## VI. TYPES OF FINANCIAL ASSISTANCE

As authorized in SDWA section 1452, the Virginia DWSRF Program will allow:



1. direct loans for project planning and construction,
2. the buying or refinancing of municipal debt obligations if the drinking water construction was started and such debt was incurred after July 1, 1993,
3. guaranteeing or purchasing insurance for a local obligation, and
4. being a source of revenue or security of state bonds if proceeds are deposited in the loan fund.

The Virginia DWSRF Program evaluates annually the need for establishing a leveraging program depending on infrastructural needs as evidenced in the response during the annual application process. Any leveraging program would be based on EPA's review and approval.

Direct loans will have below market rates with terms normally for 20 years but may extend to 30 years for a disadvantaged community.

## **VII. CONSTRUCTION AND REFINANCE LOANS**

The VDH recommends that the scope of work for each construction project be consistent with the waterworks asset management plan and be adequate to resolve the construction needs of the waterworks over the next 5 years.

Construction loan funds are disbursed on a cost reimbursement basis. All requests for disbursement of loan funds must be substantiated by invoices reviewed and approved by the owner. VDH will review and approve such requests prior to the actual disbursement of funds. All submittals for disbursement are to be made in accordance with the latest version of VDH's Procedural Guidelines.

VDH will have preliminary engineering conferences, review and approve preliminary engineering reports and any required business plans, review and approve project plan design, issue construction permits, have a field presence during construction as well as conduct a final project evaluation before issuance of a new operating permit, all under the Board of Health's Waterworks Regulations. VDH will oversee the **environmental review**. This effort, in conjunction with owner's and consultant's inspectors, will produce a quality product.

Typically refinance loans will be 20-year loans at the core term interest rate. VDH reserves the right to offer a 30 year if the waterworks meets disadvantaged criteria.

### **A. Terms**

The loan must be fully amortized not later than twenty years (up to 30 years for a construction project serving a **disadvantaged waterworks**) after completion of the project. In addition, the loan repayment period must not exceed the life of the assets being constructed or replaced.

### **B. Payments**

The loan recipient will establish one or more dedicated sources of revenue (or in the case of a privately owned system demonstrate that there is adequate security) for repayment of the loan.

Prior to loan receipt, each applicant's financial credit history will be evaluated so VDH may make a final determination on offering a loan. The applicant's financial history will be assessed to determine their default risk and to determine the appropriate collateral to secure repayment of any loan to be offered. Specific provisions that can be required as a condition to making a loan are: establish and collect rents, rates, fees, and charges to produce revenue sufficient; levy and collect ad valorem taxes on all property; create and maintain special funds for the payment of principal and interest; create and maintain other special funds; require audited financial statements; conveyance of or the granting of liens on or security

interests in real and personal property, together with all rights, title and interest therein; or take other actions as deemed necessary or desirable to secure payment of principal and interest.

VDH reserves the right to apply a \$6,000 loan closing fee on select projects that can be added to the principal of the loan. Part of the interest on a loan (from zero to 1.5%) may be designated by VDH as an administration fee and used by VDH for the administration of the program. Except for the origination and admin fee all other repayments funds will be returned to the Fund for use on future construction or refinance projects. The administration fee will not be applied to interest free loans.

Principal and interest payments on each loan will commence not later than six months after completion of the project. Payment terms and the beginning date of the payment of the loan may be negotiated depending on availability of revenue and the waterworks' financial situation.

### C. Core Program Interest Rate

The repayment of loans is critical to sustaining the revolving loan fund in perpetuity. The Core Program is a 20-year loan with the interest rate set at the time of loan closing. The core program rate is set at 1% below the market interest rate for municipal 20-year AA revenue bonds. Historically the core program rate has been between 1.4% and 3.0%. For 30-year terms, the interest rate is set at ½ of 1% (50 basis points) below the market rate.

### D. Disadvantaged Waterworks Program

#### • General

In addition to the core program, the DWSRF Program allows the state to provide additional subsidization (partial or full forgiveness of principal) to the owner of a waterworks designated as disadvantaged. Twenty percent of the capitalization grant must be used to provide this subsidization in accordance with EPA's requirements. The State has the option to apply up to a maximum of 30 percent of the capitalization grant as additional subsidization. The State has elected to implement a disadvantaged program and will use forgiveness of loan principal to meet the additional subsidization requirement. Forgiveness of principal will decrease available loan funds. However, this will allow waterworks to undertake projects they could not otherwise construct and therefore protect the public health; and, when coupled with a waterworks business operation plan, it will reduce demand on the loan fund by insuring the long-term well-being of the waterworks. VDH will couple principal forgiveness offers with requirements for building long term long financial sustainability.

VDH intends to build long-term financial sustainability at the waterworks by requiring the implementation of rate changes that meet or exceed the target rate criteria, as described below. No principal and interest payments are due on the portion of a loan designated as "Principal Forgiveness".

Disadvantaged waterworks qualifying for 30-year loans are those who meet one of the following criteria:

1. Have or will have monthly user rates that exceed the target rate(s). See section on Target User Rates.
2. Have met the criteria to be designated as serving an Environmental Justice Community. See section on Environmental Justice.

Disadvantaged waterworks qualifying for principal forgiveness will meet the following criteria:

1. Have or will have, after the project is completed, monthly user rates that exceed the target rate(s). See section on Target User Rates.

Waterworks may receive disadvantaged designation if taking over another waterworks which would be determined to be disadvantaged under these criteria, is considered failing, underperforming, or by providing drinking water service to existing unserved areas with public health challenges.

- **Target User Rates**

Target user rates are set as a percentage of Median Household Income (MHI). The MHI utilized for a project will be based upon the latest census figures or latest update for the city, town or county in which the waterworks is located. Applicants may submit specific MHI comparisons for the waterworks' entire service area. VDH will use the average monthly residential water user rate as derived in the required VDH spreadsheet (Attachment J8 of the Application for Construction Funds)

$$\text{Target Rate} = 1.00\% \text{ of the MHI}$$

Waterworks are expected to meet or exceed the target rate criteria at the time of project completion. VDH reserves the right to require an implementation schedule acceptable to VDH for those waterworks that may need additional time for implementation of significant rate increases.

- **Environmental Justice**

*As defined by the EPA at the following website <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>, Environmental Justice is. "Environmental justice (EJ) is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.*

*Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.*

*Meaningful involvement means: People have an opportunity to participate in decisions about activities that may affect their environment and/or health; The public's contribution can influence the regulatory agency's decision; Community concerns will be considered in the decision-making process; and Decision makers will seek out and facilitate the involvement of those potentially affected."*

Environmental Justice is defined by the Environmental Protection Agency (EPA) website [System of Registries US EPA](#) as: *"The fair treatment of people of all races, cultures, incomes, and educational levels with respect to the development and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no population should be forced to shoulder a disproportionate share of exposure to the negative effects of pollution due to lack of political or economic strength."*

VDH will use the White House Council on Environmental Quality (CEQ) Climate and Economic Justice Screening Tool (CEJST) located at the following web link: <https://screeningtool.geoplatform.gov/en/#10.4/37.0902/-77.9552> to aid in identifying Environmental Justice Communities benefiting from the program. The website indicates *"The tool shows information about the burdens that communities experience. It uses datasets to identify indicators of burdens. The tool shows these burdens in census tracts. Census tracts are small units of geography. Census tract boundaries for statistical areas are determined by the U.S. Census Bureau once every ten years. The tool utilizes the census tract boundaries from 2010. This was chosen because many of the data sources in the tool currently use the 2010 census boundaries. The tool also shows land within the boundaries of Federally Recognized Tribes and point locations for Alaska Native Villages."* This CEJST tool provides eight Environmental Justice Indexes that include issues as varied as Climate Change, Energy, Health, etc. along with the demographics of a community in the determination of a percentile ranking of communities.

The eight CEJST indexes for the community served by the applicant’s project are ranked by most of the burdens using percentiles. A community is considered to be disadvantaged if they are located within a census tract that meet the thresholds for at least one of the tool’s categories of burden.

• **Benefits**

Where waterworks/projects are designated as disadvantaged the following will be considered:

- a. interest rates between zero and three percent,
- b. a repayment term of up to 30 years,
- c. partial or full forgiveness of principal (PF/grant) at the beginning of the loan.

Following the process described under target user rate and blending one or more of these three considerations; a calculated monthly user rate should result that is more than the target and/or the current rate.

VDH reserves the right to extend a 30-year loan offer and/or principal forgiveness to those waterworks/projects that do not meet all of the above criteria. Additional requirements may apply.

**E. Changes due to new Laws and Guidelines**

VDH reserves the right to make required and necessary changes to the program to implement revisions under new state or federal laws.

**F. Projects in the EVGMA only**

In January 2018, the DWSRF Program made the following revision: To conserve water in the Eastern Virginia Groundwater Management Area (EVGMA) created pursuant to the Ground Water Management Act of 1992, VHD reserves the right to give precedence to water projects that do not involve withdrawal of groundwater from the coastal plain aquifer over those projects that do withdraw groundwater in the EVGMA. VDH will only apply this evaluation to any equally ranked projects when both are located in the EVGMA.

**G. Readiness to Proceed**

In February 2023, the DWSRF Program made the following revision: ODW reserves the right not to fund any waterworks owner with more than two open/incomplete DWSRF projects but will review this on a case-by-case basis. We request that applicants focus efforts on completing open DWSRF projects that have already been awarded. Applicants can withdraw from consideration any open projects that they believe are of lesser priority to reduce the number of open DWSRF projects.

**H. Small Construction Projects (revised 2019)**

VDH reserves the right to award 100% Principal Forgiveness to small projects to reduce program requirements and costs by avoiding additional costs associated with the loan program, and to expedite awards and disbursements in accordance with EPA requests. VDH reserves the right to limit 100% PF for small construction projects to projects that have documented acute and/or chronic health issues.

**I. Waterline Extensions to Serve Failing Private Wells**

In January 2018 the DWSRF Program made the following revision: VDH will consider providing Principal Forgiveness (PF)/grant funding up to a maximum of \$12,500 per residence connected for the projects that qualify under disadvantaged criteria using target rates as a percentage of MHI, as specified below. All others may be eligible for low interest loans. Funds are not to be used for private service lines located on the customer’s side of the meter. For January 2019 VDH is adding the following:

- \$0 per connection for actual to target ratio of less than 1.0. Unless they agree to adjust/raise residential rates to target.
- \$12,500 per connection for actual to target ratio of 1.0 to 1.25.

- \$25,000 per connection for actual to target ratio of greater than 1.25.

**J. Asset Management Plans (AMPs)**

In January 2019, the DWSRF Program made the following revision: To address aging infrastructure, Asset Management Plans for waterworks are now required to be completed (or updates if older than 5 years) as part of a project if a waterworks does not already have one. To encourage asset planning and replacement, VDH will make available the lesser of the actual cost of an AMP or \$15,000 as principal forgiveness if requested.

**K. Consolidation/Regionalization**

In January 2019, the DWSRF Program made the following revision: VDH encourages the consolidation of ownership of small, failing, or underperforming systems to better leverage economies of scale and the capacity of existing/larger systems. VDH reserves the right to require regionalization for small systems to improve financial capacity as a condition of the acceptance and receipt of funds. Loans to consolidate (acquire ownership by transfer of assets and liabilities) waterworks may receive special funding if the waterworks to be acquired is considered failing, at-risk of failure, abandoned, underperforming or has inadequate TMF capacity.

**L. Financial Capacity and Sustainability Promotion**

In January 2017 the DWSRF Program made revisions to promote financial capability and sustainability. As a condition of funding VDH reserves the right to require the implementation of rate changes including, but not limited to, annual rate increases in an effort to build long-term financial sustainability at the waterworks. To build waterworks financial capacity, VDH may offer reduced interest rates (up to 25 bps) for recipients that commit to compound annual rate increases of at least 2% a year for five years as long as any additional funds generated are for the use of the waterworks.

**M. Lead Elimination Assistance Program (LEAP)**

In January 2017, in an effort to accelerate the removal of lead in drinking water, the DWSRF Program has made revisions to the priority scoring and ranking criteria. DWSRF funding is available for the complete removal of the public and/or private portion of the LSLs. In conjunction with other available funds, this program intends to provide up to \$5000 dollars as grant funds (of which up to \$500 may be eligible as an admin fee) for each service line replaced on the homeowner's side of the meter. The LSL includes pipe entry into the structure (up to and including a shutoff valve) but excludes the premise plumbing. Up to \$250,000 dollars as grant funds is also now available for the building of an LSL Inventory. Please see Appendix D for details.

**N. Timely Use of Funds**

In January 2017, the DWSRF Program made the following revision: To promote readiness to proceed and timely use of funds, VDH intends to offer reduced interest rates of up to 25 bps for recipients that can close loans within 12 months of the standard award date. The award date is the earlier of the actual award date or the date that the majority of ODW award letters were mailed.

**O. Design Build**

In January 2016, the DWSRF Program made revisions to accommodate Design Build and other alternative project delivery methods. If you are interested, please contact the DWSRF Director or Project Team Leader as early as possible to ensure you will meet our procurement requirements for the Design Build team.

**P. Closings for Multiple Projects**

If an applicant has multiple successful projects, all closings may be scheduled on the same date to reduce Program costs.

#### **Q. Changes to Disadvantaged Criteria:**

In January 2019, the DWSRF Program revised disadvantaged criteria to better accommodate waterworks addressing their aging infrastructure. The following were eliminated from Section D, above, as requirements for being considered disadvantaged:

- Apply for a construction loan to resolve a health or compliance problem,
- Will serve less than 10,000 people on a retail connection basis.
- Have a customer demographic where the median household income (MHI) is 80% or less than the state average MHI.
- Be experiencing financial stress. One indication may be a negative cash flow.

In January 2023, The DWSRF Program revised the disadvantaged criteria to incorporate Environmental Justice criteria.

- The eight Environmental Justice Indexes obtained from the Environmental Quality (CEQ) Climate and Economic Justice Screening Tool (CEJST) for the community served by the applicant's project will be considered. If the community meets the threshold for at least one burden, the applicant may be considered to be serving an Environmental Justice Community.

### **VIII. COMPREHENSIVE PRIORITY LIST**

The Intended Use Plan (IUP) must contain (i) a comprehensive priority list of projects and set-aside activities that are eligible for assistance, and (ii) a list of eligible projects and set-aside activities to receive funding from the capitalization grant. These lists may be combined into a single list that designates those applicants and set-aside activities to receive funding. Loan applications are solicited annually and prioritized in accordance with rating criteria described below.

#### **Application Review and Prioritization**

VDH intends to conduct one round of reviews for all projects received or postmarked by 5PM on the date of the application deadline, which is typically the first Friday of May of every year. Applications should apply for all infrastructure projects they are considering over the next four or five year period. Although average project size is approximately \$1 million, VDH is in a position to fund large capital improvement projects (upwards of \$10 million). Very large projects may need to be phased. The typical loan has an interest rate ranging from 1.5% to 2.5% with a 20-year term and 2.3% to 3.0% for a 30-year term. Project applications received after the deadline may be considered based on the availability of funds. Eligible applications may be retained in an application pool as future funding becomes available.

- The deadline for DWSRF and LEAP funded projects is May 5<sup>th</sup>.
- The deadline for Bipartisan Infrastructure Law (BIL) (Formerly named - Infrastructure Investment and Jobs Act) projects is May 5<sup>th</sup>.

#### **PER Requirement Revised**

The requirement to have a Preliminary Engineering Report (PER) drafted and submitted with the construction application (or waived) was revised in January 2016. The submission of the PER may be made a condition of the award. VDH believes this will allow greater flexibility in the Program and may allow the funding of the PER as part of the construction award. A Funding Application Discussion is required. VDH expects the Funding Application Discussion to be held **at least 30 days before the application deadline**. Call the appropriate ODW Field Office to schedule your Funding Application Discussion as early as possible, preferably before any project procurement.

#### **Design Build Accommodations**

In an effort to better serve our waterworks owners, the DWSRF Program was revised in January 2016 to accommodate Design Build, Public/Private Partnerships, and other alternative project delivery methods.

### **Lead Elimination Assistance Program (LEAP)**

In an effort to improve support of the replacement of lead service lines (LSLs), VDH made revisions to the Program in January 2017. Please see Appendix D for details.

Changes in EPA grant conditions, guidance, or interpretation thereof may necessitate reevaluation of project eligibility and priority.

### **Emergency Projects:**

As allowed by EPA VDH reserves the right to fund emergency drinking water projects outside of the priority list of projects. Emergency drinking water projects are defined as necessary water production or distribution projects requiring immediate action to correct an urgent condition that poses an imminent danger to public health and welfare. Some examples of emergencies that may impact waterworks and pose an imminent threat to public health are epidemics, conflagrations, significant storms, hurricanes, floods, tornados, earthquakes or other unusual incidents.

The VDH Commissioner determines what constitutes an imminent threat to public health and welfare under an Emergency Order. Typically, an emergency drinking water project will require an Emergency Order from the Commissioner in accordance with § 32.1-175, an Emergency Declaration from the Governor's Office, or be within a disaster area as declared by the Federal Emergency Management Agency (FEMA).

Additional criteria:

- A. The condition must arise from a natural accident outside of human control, act of God, or other unforeseen occurrence or unavoidable condition.
- B. The condition cannot arise as the result of waterworks deterioration, neglect, dilatory action, or the emergency could not have been prevented or substantially mitigated by exercise of reasonable care of the facilities by the owner.
- C. The condition requires immediate corrective action which cannot await completion of the standard application and award procedures.
- D. The condition cannot be addressed in any other way that achieves public health protection (i.e., through issuance of a boil water notice, discontinuing use of a contaminated source, access to an alternate source, etc.).
- E. The work associated with correction of the condition is to be generally limited to critical repairs or necessary construction to restore the waterworks to its condition prior to the accident or incident.

Emergency projects are expected to meet all other program requirements (including but not limited to Davis Bacon prevailing wages, American Iron and Steel, Build America, Buy America, other federal cross cutters, etc.) prior to funding or disbursement. As such, any applicants for emergency funds should not expect funds to be available within eight months from the date of application due to program requirements.

### **IX. BY-PASS PROCEDURES**

VDH reserves the right to add and fund a project or to by-pass any project of a higher priority and make loans to one of a lower priority based on one or more of the following:

- A. Health or compliance problems, resulting from either natural or manmade events, necessitate project being added to the list or funded out of priority order.
- B. The project owner does not have the technical, managerial and financial capability to ensure compliance with the requirements of the SRF Program.
- C. Partial funding for the project has limited financial benefit to the community; but the next community in line for funding can fund most or all of their project with the available funds.

- D. The project owner not able to execute financing agreements or begin construction **within one year** of VDH’s award letter.
- E. Need to obligate funding to meet EPA/Program goals:
  - a. 15% goal to Small Communities (population less than 10,000),
  - b. 20% minimum/50% maximum for Additional Subsidization,
  - c. Other equivalency requirements under the EPA grant.
- F. Detailed project evaluation uncovers information previously unknown or not considered; or level of the required documentation is insufficient to proceed with the decision process. An example is the required prescreening for technical, financial, and managerial capability of an owner may disclose information that would prevent offering a loan to an owner.
- G. A project has secured adequate funding elsewhere.
- H. The owner withdraws the project; project will be identified as “withdrawn”.
- I. The owner is not making sufficient progress on an existing project(s), planning grant(s), or other FCAP activity(ies).
- J. The owner has not completed/closed out an existing project(s), planning grant(s), or other FCAP activity(ies); To promote readiness to proceed ODW may not be offering funding to any waterworks owner with more than two open/incomplete DWSRF projects.
- K. The owner is considered in default with regard to obligations under existing loans. This includes and is not limited to informational requirements to VRA; or federal or state debarment.
- L. The owner has initiated construction activities without complying with program requirements.
- M. The project scope, benefits, circumstances, or intent have been or will be changed causing the project to no longer serve its intended purpose; or any changes that would result in a reduced project score and priority ranking.

VDH reserves the right to reconsider by-passed projects for future allocations. The owner of a by-passed project is eligible to re-apply for future allocations based upon their submittal of another application and in competition with all applicants for that year. All waterworks whose project has been by-passed will receive assistance needed to prepare future applications, if requested and if program requirements can be met. VDH reserves the right to reimburse completed work (e.g., investigation, planning and design, and/or preconstruction costs) of by-passed projects or projects that can’t proceed to construction out of 15% set aside funds at its discretion if the owner has made progress in good faith.

#### **X. CRITERIA UTILIZED IN PRIORITIZING CONSTRUCTION PROJECTS**

In March 2023, the DWSRF Program updated the construction application scoring system changing it from a **Tiered System** to a system based on **Total Points**. Under the previous Tiered System, projects designated as resolving an Acute Health Issue would always be ranked the highest and they would only compete with other projects in this Acute Health category. Then, the Projects in the Chronic Health category would be next, followed by Public Health, followed by projects designated as Other. Using this methodology, the program ensured that all eligible projects would be ranked according to Acute Health, Chronic Health, Public Health, and Other (in that order) to ensure that the most urgent health issues were prioritized. Using a Tiered System, however, a project in the Acute Health Category which may be at the top of our Project Priority List (PPL), may not have the highest total points.



To make the scoring system clearer, the DWSRF Program is now using a system based on **Total Points only**. The milestones reviewing these applications still remains the same: (1) the Application must be received by the deadline; (2) the Application must be complete, and the proposed scope of work must be an eligible activity; (3) then the DWSRF Program will review the Application using the new scoresheet titled the “Project Selection Scorecard DWSRF and BIL.” **Below is a copy of this Scorecard.** Please note that the majority of points are still awarded for Acute Health Priorities first, Chronic Health Priorities second, Public Health Projects third, followed by Other Considerations. This way, the program will continue to ensure that the most urgent health issues are prioritized. At the bottom of the Scorecard, there is a section that indicates that the Maximum Possible Score is **7,876 points** which will ultimately be converted to a Percent Score (0 to 100 percent). With this new Scoring System, the construction applications will be ranked by **Total Points Awarded** from highest to lowest.

For Construction Applications where FCAP staff have reviewed the application (and supporting documentation) and determined that the proposed scope of work should resolve a documented Acute or Chronic Health issue, the applicant will receive points under “Section I – SDWA Compliance” on the Project Selection Scorecard. Applicants receiving points under “Section I – SDWA Compliance” will receive a funding offer. The funding terms for this offer will be determined by the FCAP Director.

**LEAP projects are scored independently. See Appendix D.**

### Project Selection Scorecard DWSRF and BIL

**APPLICANT NAME:**

**REVIEWER:**

**PROJECT NAME:**

**FY:**

Points can only be awarded if the project addresses a documented need. In situations where the waterworks wants to do a project but have no documented need, points should not be awarded. Documentation would include NOV's, enforcement actions/letters, sanitary survey requirements, documented leaks, documented break data, documented problems, etc.

Project Category (Indicate Health or Other)	
Is applicant eligible for funding? (Indicate Yes or No)	
Are all required attachments provided? (Indicate Yes or No)	
Has the owner submitted multiple applications this funding year? (Indicate Yes or No)	
If multiple applications, does one project depend upon obtaining funding for the other? (Indicate Yes or No) If yes, please identify the other project(s)	

<b>Section I - SDWA Compliance (Maximum Possible Score = 3,960 points)</b>	<b>Points Available</b>	<b>Points Awarded</b>
Acute Health Priority - Formal Enforcement Actions or Commissioner's Letter	550	
SWTR Violations/GUDI	510	
Persistent TCR, Nitrate	510	
Continuing Boil Water Notice	510	
Chronic Health Priority - Formal Enforcement Actions or Commissioner's Letter	500	
Persistent PMCL Violations (VOC, SOC, IOC, RAD, etc.)	460	
Pb & Cu Action Levels	460	
Priority System (i.e., ETT score ≥11)	460	
<b>Section II - Public Health Projects (Maximum Possible Score = 3,830 points)</b>		
<b>A Infrastructure Improvement for Cross Connection Reduction and Public Health Improvement</b>		
Reduce Water Loss and increase accountability. Leakage noted as percent ranges, leak rate must be documented, project must be addressing the water loss to award these points: (water loss points are not additive, boil water notice and meter points ARE additive)		
0% to ≤ 10% Loss	0	
Didn't provide leakage data but provided maintenance records of leaks repaired	110	
>10% to ≤30%	110	
>30% to ≤50%	200	
>50% loss and above	300	
Precautionary Boil Water Notice for Pressure Loss	150	
Adding 1 <sup>st</sup> time meters to system	150	
Provide adequate storage capacity or tank repair/rehab	300	
Replacing waterline with lead joints	110	
Replacing asbestos cement waterline	110	
Add a generator for backup power	200	

<b>B Water Regulation Compliance</b>		
Ensure drinking water receives appropriate treatment	400	
Provide adequate pressure (documented by Notice of Violation, Significant Deficiency or hydraulic model)	200	
Resolving conditions of inadequate quality and quantity of a water source	200	
● Enforcement Targeting Tool (ETT) health based score $\geq 5$ and $< 11$	200	
● Preventing or resolving aesthetic problems such as taste, odor, or discoloration of water	200	
● Inadequate individual home water supplies with supporting data/evidence***	500	

\*\*\*To be designated as a priority water line extension in the Public Health category (i.e. additional 250 points in Other Considerations)  $\geq 50\%$  of the potential residential connections in the proposed project area must be sampled for e-coli and/or have issues documented (i.e. inadequate individual supplies, failing wells, documented contamination when compared to a Primary Maximum Contaminant Level, water hauling, etc.)

- For extensions that would serve 50 or more individual connections: at least 25% of those sampled/investigated must be e-coli positive and/or have a documented issue.
- For extensions that would serve less than 50 individual connections: at least 50% of those sampled/investigated must be e-coli positive and/or have a documented issue

<b>C. Regionalization (consolidation of non-complying waterworks - pick 1. NOT additive)</b>		
Taking over, or providing water service to, customers of an abandoned waterworks.	300	
Consolidation of multiple non-complying waterworks	200	
Consolidation of one non-complying waterworks	110	
Consolidation or interconnection of complying waterworks	110	
Service to areas with individual homes having quality/quantity problems	200	
PWS Created (Indicate Yes or No)		
PWS Eliminated (Indicate Yes or No)		
PWS Created/Eliminated Comments:		
<b>Section III – Other Considerations (Maximum Possible Score = 86 points)</b>		
<b>Affordability (Points are not additive)</b>		
<\$30,000 MHI	15	
\$30,000 $\leq$ MHI $\leq$ \$37,000	12	
\$37,001 $\leq$ MHI $\leq$ \$45,000	10	
\$45,001 $\leq$ MHI $\leq$ \$54,000	8	
\$54,001 $\leq$ MHI $\leq$ \$66,000	6	
MHI > \$66,001	0	
<b>Average Water Rates as % of MHI</b>		
Avg Water Rate $\geq 1\%$ MHI	5	
Avg Water Rate < 1% MHI	0	
<b>Environmental Justice</b>		
Climate and Economic Justice Screening Tool (CEJST) indicates project area disadvantaged	15	
<b>Readiness to proceed (Points for user agreements are not additive, P&amp;S points are not additive)</b>		

User agreements/mandatory hookup ordinances - (# of signed user agreements) ÷ (# of potential users in project area) (must be >50%):		
0-50% - Application Incomplete	0	
51-79%	1	
80-100% or no user agreements required	2	
Engineering procurement has been submitted and approved	1	
Environmental Review accepted (by VDH, USDA-RD or DMME)	1	
PER, letter report, or design memo has been submitted, approved or waived	1	
Approved P&S / Construction Permit Issued	1	
A biddability review has been completed and approved by DWSRF	1	
P&S not required (supported by ODW Letter)	1	
<b>Other Funds Available (Points are not additive)</b>		
<5%	0	
5% to <10%	1	
10% to <15%	2	
15% to <20%	3	
≥ 20%	4	
<b>Projected Cost per Connections Served (Points are not additive)</b>		
<\$500/household	5	
\$500-\$2500/household	3	
\$2501-\$5000/household	1	
>\$5000/household	0	
<b>Asset Management Plan (AMP)</b>		
Waterworks has an AMP approved by VDH-ODW	20	
Proposed project is identified in VDH-ODW approved Asset Management Plan	10	
<b>Green Project Reserve (Points are not additive)</b>		
Green Project Reserve (Business Case must be presented) (% of construction cost)		
0-10%	0	
11-20%	1	
21-40%	2	
41-60%	3	
61-80%	4	
81-100%	5	
	<b>Max. Possible Score</b>	<b>Total Points Awarded</b>
<b>TOTAL</b>	<b>7,876</b>	<b>0</b>

Percent Score = 0.0%

10% construction contingency used? (Indicate Yes or No)	
(If bids have already been received contingency should equal 5% of actual construction costs)	
If no, calculate revised Total Project Cost (TPC) using 10%: Revised TPC =	

Initials Date

2nd reviewers Initials & Date:		
Project Team Leader Initials & Date:		
Final Reviewer Initials & Date:		

## **XI. PLANNING AND DESIGN AWARDS**

The 1996 Amendments of the Safe Drinking Water Act (SDWA) encourages States to provide technical assistance to waterworks. In addition to other forms of technical assistance, VDH created an activity to annually provide planning and design funding awards, especially for small, financially challenged, community waterworks. Eligible projects may include preliminary engineering planning, design of plans and specifications, performance of source water quality and quantity studies, drilling test wells to determine source feasibility, or other similar technical assistance projects. Applicants interested in this program should review ODW's *Planning and Design Funding* Program which is provided on our website as a separate document.

## **XII. 1452 (k) LOCAL ASSISTANCE AND OTHER STATE PROGRAMS (15%)**

“A State may fund several other categories of activities to assist development and/or implementation of local drinking water protection initiatives (section 1452). A State may use up to 15% of the capitalization grant amount...with the stipulation that not more than 10% of the capitalization grant can be used for any one activity.” Applicants interested in this program should review ODW's *Planning and Design Funding* Program which is provided on our website as a separate document.

## APPENDIX A

### Synopsis of Program Requirements

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#### **Introduction:**

There are a number of Federal and State requirements which are applicable to projects funded through the Program. It is the intent of the Virginia Department of Health (VDH) to ensure compliance with all of these requirements by our Loan Recipients. **In order for this goal to be achieved, it is important that our Recipients fully understand these requirements and that they follow through in meeting these requirements in a timely manner.**

The Purpose of this synopsis is to provide a very brief summary of the program requirements as they relate to the Recipients. The Synopsis is not intended to explain all of the details of meeting these requirements, as that information is provided in the *Procedural Guidelines*. It is imperative that the Recipient read, understand and follow the procedures presented in the *Guidelines*. This document provides a review of the requirements for easy reference in one location. The guidance documents contained within the *Procedural Guidelines* are referenced as appropriate (as PG #s).

#### **Financial (PG #'s 3, 4, 5, 6)**

The financial requirements of the Program include:

1. Compliance with the *Virginia Public Procurement Act*. (Recipients must comply with all the requirements of this Act regardless of population size).
2. Compliance with *Office of Management and Budget Circular A-102*.
3. Compliance with the *Uniform Financial Report Manual*.
4. Compliance with the *Single Audit Act*.

An adequate recordkeeping/filing system is the only way to ensure that required records related to the above requirements are maintained and accessible. There are no specific recordkeeping/filing requirements regarding the manner in which files are kept. The *Procedural Guidelines* contains a summary of the type of information that will be reviewed during VDH monitoring visits, and a sample filing system.

#### **Planning and Design**

There are six (6) Program requirements related to project planning and design. It is important to note that all planning and design requirements must be satisfied prior to closing a loan through the Program. The requirements are as follows:

1. *Environmental Review (ER) (PG #7)* - This requirement is intended to ensure that projects funded through the Program are environmentally sound and is one of the major planning requirements. It involves a review of the environmental impacts of the project alternatives along with any preventive or mitigative measures which could be taken to minimize the adverse impacts. There are three types or levels of environmental review in the Program based on the project's potential for significant environmental impacts: ranging from a relatively simple Categorical Exclusion to the more complex Environmental Impact Statement. The review includes procedures for soliciting public participation into the process and final review and approval.

2. Permit Application - Notification of Intent (PG #8) - This form is submitted by waterworks owners to initiate the project evaluation process. The *Code of Virginia* Section 32.1-172B requires a person to apply to the Field Office of VDH prior to the establishment, construction or operation of a waterworks. Applications also may be completed by telephone and signed during the Preliminary Engineering Conference.
3. Funding Application Discussion (PG #8) - The Funding Application Discussion provides for an exchange of information between all parties and is normally held at the Field Office of the VDH with the environmental engineering staff. The envisioned project will be discussed in its entirety. The applicant's engineer shall be prepared to set forth water supply problems and the proposed solution in such a manner as to support the conclusions and recommendations. Discussions regarding system problems and technical design standards and construction requirements and ongoing financial commitments will help determine if the project is feasible and, if so, the scope of work for the envisioned project.

The effort will enable the owner to consider many elements that will affect the long-term economic viability necessary to ensure stability of the project. Preliminary thoughts for design exceptions should be formulated at this step.

Funding Application Discussions are encouraged for all projects involving treatment processes or complex hydraulics. For routine waterline extensions, a telephone conference may suffice at the discretion of VDH.

4. Waterworks Business Operations Plan (WBOP) (PG #8) - The Program restricts assistance to a waterworks that lacks the technical, managerial or financial capability to maintain compliance with the SDWA and the *Waterworks Regulations* (see PG #1).

In addition, Section 32.1-172 of the *Code of Virginia* states that “an application for a permit shall include a comprehensive business plan detailing the technical, managerial, and financial commitments to be made by the owner in order to assure that the waterworks’ performance requirements for providing the water supply will be met over the long term”.

In addition, the *Code* allows for waiving the comprehensive business plan portion if an applicant has demonstrated an acceptable history of compliance with the *Waterworks Regulations*.

The Program staff, with concurrence with the Field Director, will determine whether a WBOP or another form of certification of technical, managerial and financial capability is required of the applicant. If a WBOP is required of the applicant, the Program staff will provide a document outlining the requirements of such a plan. The field office staff will perform the evaluation.

5. Preliminary Engineering Report (PER) (PG #8) - A PER may be required or waived by the ODW Field Office. Information required in the PER is listed in the current version of the *Waterworks Regulations*. Reports submitted for approval shall be prepared by or under the supervision of a licensed professional engineer legally qualified to practice in Virginia. The field office environmental engineering staff will perform the technical evaluation of PERs.
6. Plans and Specifications (PG #8) - Plans and specifications based on the approved PER are required of all projects. Information required in the plans and specifications is listed in the current version of the *Waterworks Regulations*. Plans and specifications submitted for approval shall be prepared by or under the supervision of a licensed professional engineer legally qualified to practice in Virginia. ODW environmental engineering staff will perform the technical evaluation

of plans and specifications. The Program staff will do a biddability review of the plans, specifications and addenda and review all change orders for compliance with the Program requirements.

### Construction Documents

1. *Virginia Waterworks Regulations* - The design of the waterworks facilities must be in conformance with the *Virginia Waterworks Regulations*.
2. *Inclusion of the State Contracts Inserts* - The specifications for the project must include the Contract Inserts provided in the *Procedural Guidelines*. These inserts address the following requirements which must also be mentioned in the Information to Bidders section of the contract documents:
  - (a) *Compliance with Equal Employment Opportunity*
  - (b) *Certification on Non-Segregational Facilities*
  - (c) *Compliance with Minority and Women’s Business Enterprise Goals (MBE/WBE)*
  - (d) *Compliance with the Civil Rights Act of 1964*
  - (e) *Compliance with Age Discrimination Act of 1975, Rehabilitation Act of 1973, and the Prohibition against Sex Discrimination*
  - (f) *Utilization of Small Businesses in Rural Areas*

The Recipient must follow the Virginia Public Procurement Act in procuring the goods and services related to project construction. Once the Recipient has selected the contractor for the project, they must submit a bid package to the VDH for review. The bid package must contain evidence of bid advertisement, the bid tabulations, documentation regarding contractor selection, the bid bond, the bid proposal, and documentation verifying solicitation of MBE/WBE firms.

**It is very important to note that the Recipient and Prime contractor must both demonstrate a “good faith effort” in the solicitation and utilization of Minority Business Enterprises / Women’s Business Enterprises (MBE/WBE) during the bid process. Efforts such as public notice, telephone or postal solicitations must be undertaken, and evidence of these efforts must be provided in order to ensure VDH participation in the project. Information regarding the anticipated utilization of MBE/WBE firms must also be presented and must demonstrate “good faith effort”.**

Through the course of project construction, the Recipient must monitor contractor solicitation and utilization of MBE/WBE businesses and services. The MBE/WBE Utilization Report Forms must also be submitted by the Recipient to the VDH on a quarterly basis. The VDH will periodically monitor the Recipient’s performance in regard to these requirements.

3. *Final Project Evaluation* - VDH will conduct a final project evaluation to determine whether all program requirements and loan conditions have been satisfied, and that construction of the project was completed in substantial accordance with approved plans, specifications, and change orders. The final evaluation will be conducted after notification by the Recipient that construction is complete and, if appropriate, will be conducted in conjunction with the Final Inspection referenced in the Waterworks Regulations. Disbursement of Fund proceeds is held to the 95% level until a Final Project Evaluation can be conducted.

### Summary

The requirements associated with the Program are detailed in the Program Guidance. VDH staff are available to assist recipients during this process.



## **APPENDIX B**

### **FEDERAL CROSS-CUTTING REQUIREMENTS<sup>1</sup>**

#### **ENVIRONMENTAL AUTHORITIES:**

Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended.

Clean Air Act, Pub. L. 84-159, as amended.

Coastal Barrier Resources Act, Pub. L. 97-348. and Coastal Zone Management Act, Pub. L. 92-583, as amended.

Endangered Species Act, Pub. L. 93-205, as amended.

Environmental Justice, Executive Order 12898.

Farmland Protection Policy Act, Pub. L. 97-98.

Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended.

Floodplain Management, Executive Order 11988, as amended by Executive Order 12148.

National Environmental Policy Act, Pub. L. 91-190.

National Historic Preservation Act of 1966, Pub. L. 89-665, as amended.

Protection of Wetlands, Executive Order 11990.

Safe Drinking Water Act, Pub. L. 93-523, as amended.

Wild and Scenic Rivers Act, Pub. L. 90-542, as amended.

#### **ECONOMIC AND MISCELLANEOUS AUTHORITIES:**

Audit Requirements under 2 CFR 200 Subpart F, (replaces OMB Circular A-133)

American Iron and Steel, see <https://www.epa.gov/cwsrf/state-revolving-fund-american-iron-and-steel-ais-requirement>

Build America, Buy America (BABA) see <https://www.epa.gov/cwsrf/build-america-buy-america-baba>

Debarment and Suspension, Executive Order 12549.

Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Exec. Order 12372.

Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans.

Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended.

#### **SOCIAL LEGISLATION:**

Davis-Bacon Act and Related Acts, see <https://www.dol.gov/whd/contracts/dbra.htm>

Age Discrimination Act of 1975, Pub. L. 94-135.

Anti-Lobbying Provisions (40 CFR Part 30) [applies only to capitalization grant recipients].

Equal Employment Opportunity, Executive Order 11246.

Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act).

Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, Pub. L. 100-590.

Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250).

The Drug-Free Workplace Act of 1988, Pub. L. 100-690 (applies only to the capitalization grant recipient).

Title IV of the Civil Rights Act of 1964, Pub. L. 88-352.

Women's and Minority Business Enterprise, Executive Orders 11625, 12138 and 12432.

<sup>1</sup>This information is provided for guidance and may not include all federal legislation as of this printing.

### APPENDIX C- SAMPLE SCENARIO FOR POTENTIAL GREEN PROJECT RESERVE APPLICATIONS

To qualify as Green Project Reserve (GPR), a waterworks must show that the proposed project has significant (not incidental) green benefits. The project must provide green infrastructure, promote water and/or power efficiency, or provide other innovative environmental benefits. To determine if your proposed project can be classified as a GPR project, the first step is to determine which project elements and their associated costs meet GPR criteria. After determining which project elements (and costs) are potentially GPR, a business case showing how the project element is green on both technical and financial grounds. When making a business case for GPR consideration, the supporting information should be as specific and detailed as possible.

#### Sample Scenario

The town of Anywhere, Virginia serves 100 residential customers, and has applied for \$100K in State Revolving Funds through the VDH-DWSRF. Their proposed project will replace 100% of the aging 6" water mains serving the town and replace 50% of the water meters currently in use with touch-read meters.

Water loss through leakage is a significant problem for the town: water audits show 60% of average daily production cannot be reconciled. The town produces and treats 100,000 gpd, of which only 40,000 gallons reach customers. Pipe replacement accounts for \$90K of the total project cost. Replacement of the existing meters with touch-read meters accounts for \$10K of the total project costs. The key benefit will be labor savings for the town meter reader.

In this scenario the water line replacement element may qualify as GPR, because it promotes water efficiency, while the meter replacement element does not, because its primary purpose is to modernize the utility's management practices. The technical basis for the water line replacement is expected reduction in water loss due to leakage from 60% of daily production to no more than 10% loss. The financial basis for the line replacement is expected savings in water production costs (lowering the cost of treatment chemicals, improving the life expectancy of pumps, reducing expenses for electricity) and costs of spot repair and maintenance.

Below is a sample format for organizing your information. Please note that figures shown are for illustration purposes only. Under Financial Component document your systems expected cost savings in the same time unit throughout, where possible (as shown, except for pump life expectancy, cost savings are expressed on per month basis).

Applicant	Anytown Water Utility – Water Main and Meter Replacement Project - <b>Project 299</b>								
Contact Name and Phone	John Smith, Utilities Director (703) 123 4567								
Project Description and associated costs	<ol style="list-style-type: none"> <li>1. Replace 100% of 6" water mains currently in service to 100 residential and business connections (\$90K)</li> <li>2. Replace 50% of existing rotary water meters with touch-read meters. (\$10K)</li> </ol>								
What project elements can be classified as potentially green?	Water line replacement, at a cost of \$90K.								
Technical Component	<p>By replacing existing 6" water mains that were originally installed in 1930, we expect to reduce documented water loss through leakage by approximately 50%. The waterworks produces and treats an average of 100,000 gpd. Water meter readings show residential use of approximately 400 gpd per residential connection. The waterworks serves 100 households.</p> <table> <tr> <td>Current daily production</td> <td>100,000 gpd</td> </tr> <tr> <td>Average daily usage (conn.)</td> <td>- 40,000 gpd (400 gpd/ conn. X 100 conn.)</td> </tr> <tr> <td>Water loss goal after line replacement</td> <td>- <u>10,000 gpd</u> or less</td> </tr> <tr> <td>Expected water <u>savings</u> after replacement</td> <td>= <b>50,000 gpd</b></td> </tr> </table> <p>It is expected that water use and efficiency will be significantly improved by replacing the existing, ageing pipe as described in the project application.</p>	Current daily production	100,000 gpd	Average daily usage (conn.)	- 40,000 gpd (400 gpd/ conn. X 100 conn.)	Water loss goal after line replacement	- <u>10,000 gpd</u> or less	Expected water <u>savings</u> after replacement	= <b>50,000 gpd</b>
Current daily production	100,000 gpd								
Average daily usage (conn.)	- 40,000 gpd (400 gpd/ conn. X 100 conn.)								
Water loss goal after line replacement	- <u>10,000 gpd</u> or less								
Expected water <u>savings</u> after replacement	= <b>50,000 gpd</b>								
Financial Component	<ol style="list-style-type: none"> <li>1. 40% reduction in treatment chemical costs. Current average monthly costs = \$350. Savings after project = <b>\$140 per month.</b></li> <li>2. 30% reduction in Average monthly electric costs. Current average monthly costs = \$1000. Savings after project = <b>\$300 per month.</b></li> <li>3. Maintenance crew currently spends 20 hours/month on spot repairs at labor cost of \$800/month. Savings after project = <b>\$800 per month.</b></li> <li>4. Improved life expectancy on submersible well pump by reducing frequency of cycling. Replacement cost = \$4000 every four years = \$84/month. The waterworks expects to <u>double</u> pump life expectancy after pipe replacement. Savings after project = <b>\$42 per month.</b></li> </ol>								
GPR Dollars Claimed	<b>\$15,400/annually</b> <b>17.1%</b> (as % of VDH funded project)								
Signature/Date	John Smith, April 10, 2017								

## **APPENDIX D**

### **Lead Elimination Assistance Program (LEAP)**

The Safe Drinking Water Act (SDWA) requires EPA to determine the level of contaminants in drinking water at which no adverse health effects are likely to occur with an adequate margin of safety. These non-enforceable health goals, based solely on possible health risks, are called maximum contaminant level goals (MCLGs). EPA has set the maximum contaminant level goal for lead in drinking water at zero because lead is a toxic metal that can be harmful to human health even at low exposure levels. Lead is persistent, and it can bio-accumulate in the body over time. In support of the MCLG the American Waterworks Association (AWWA) encourages communities to develop a lead reduction strategy that includes identifying and removing all lead service lines over time.

Beginning in 2017, the VDH/ODW implemented a lead service line replacement rebate program under the Water Supply Assistance Grant (WSAG) Program and/or the State Revolving Loan Fund (DWSRF) Program to support the goal of removing all lead service lines. This program was implemented to help defray the service line replacement costs as a cost sharing program to home/property owners and assist the waterworks in reducing potential risks related to lead exposure in drinking water to its customers. In 2020, the original lead service line replacement program was expanded and renamed the Lead Elimination Assistance Program (LEAP). In addition to continuing to provide funding for lead service line replacement, there is also now additional funding available for waterworks to build lead service line inventories to assist them in meeting requirements for the upcoming Lead and Copper Rule Revisions (LCRR).

The presence of a lead service line connecting a residence/home to the main in the street can lead to elevated lead levels in tap water, especially if that water sits stagnant for an extended period. While the service line from the meter to the residence is the responsibility of the property owner, the costs to replace this line may be as high as \$10,000 for each connection with average costs of \$3500 to \$5000. For many property owners this is cost prohibitive and as a result service lines are not replaced. In Virginia there are thousands of lead service lines that would be eligible for replacement. For waterworks the challenge has been finding property owners who wish to cooperate in service line replacements as partial line replacements are not recommended. The lead lines tend to be in older communities constructed prior to 1980s. The American Waterworks Associations has proposed a best practices goal for waterworks of replacing 10% of lead service lines each year in its *Get the Lead Out Program*.

These program guidelines and requirements were developed by a stakeholder's group, reviewed by the Waterworks Advisory Committee, and underwent a 60-day public comment period, followed by a public hearing.

### **Bipartisan Infrastructure Law – Lead Service Line (BIL-LSL) Funding**

From FY2022 through FY2026, the Lead Elimination Assistance Program (LEAP) will be supplemented by additional funding through the Bipartisan Infrastructure Law – Lead Service Line (BIL-LSL) funds, also known as the Infrastructure Investment and Jobs Act (IIJA). The BIL was signed into law by President Biden on November 15, 2021. It has delivered more than \$50 billion through EPA towards water infrastructure investments. Of this amount, \$15 billion has been designated nationwide to the Drinking Water State Revolving Fund (DWSRF) for LSL projects. In general, LEAP funding is awarded as 100% principal forgiveness (grant), while BIL-LSL funding may contain a loan portion. In addition, LEAP eligibility is slightly more flexible compared to BIL-LSL eligibility. The key differences between the LEAP and BIL-LSL are outlined in the next sections.

**Differences Between LEAP and BIL-LSL Funding Terms:**

The following table summarizes the differences between LEAP and BIL-LSL funding terms:

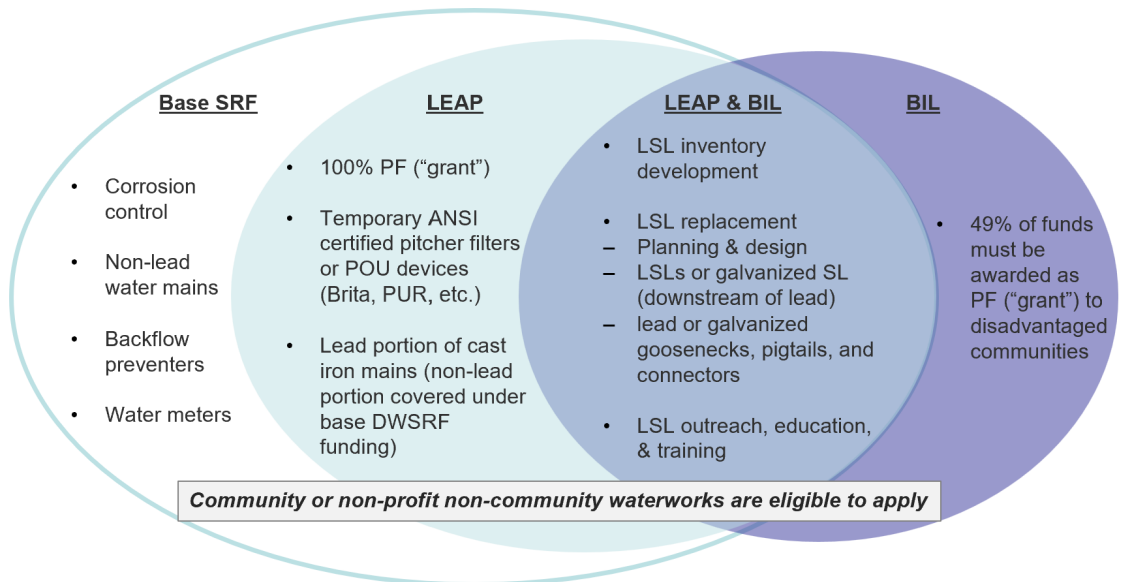
	LEAP	BIL-LSL
Funding Source	DWSRF - \$2M reserved annually	BIL – approximately \$40M available annually for the next few years
Type / Terms	100% PF – extremely competitive and intended for systems with most need (disadvantaged communities)	PF only to those who qualify as disadvantaged Flat 1% interest rates: - 10-yr for inventory - 20-yr for replacement
Max Amount per Applicant	Up to \$250k for LSL inventory Up to \$500k for LSL replacement Up to \$750k total for both	No cap on requested funding amount Portfolio financing may be an option
Availability / Duration	Permanent – until FCAP revises	Temporary – from FY22 to FY26

**Differences Between LEAP and BIL-LSL Eligibilities:**

The following Venn diagram summarizes the differences and areas of overlap between base DSWRF, LEAP, and BIL-LSL eligibilities:

**Non-Eligible Items**

- Installation or replacement of premise plumbing
- Routine, compliance-related sampling or testing of lead
- Bottled or trucked-in water
- Partial LSL replacement (unless it results in a complete replacement)



**Scoring Criteria and Methodology:**

LEAP projects (LSL Replacement and LSL Inventory) are scored and evaluated independently of Construction Projects. Each item has a total of 10 points available. Refer to the table below for an explanation of the LEAP Project scoring criteria. Highlighted sections are either new or have been updated since the last application solicitation cycle. The LEAP Scorecard has four weighted categories: General Information (25%), History of Lead (15%), Vulnerable Populations (50%), and Readiness to Proceed (10%). The weighted totals are summed to produce a base score. If the proposed project includes LSL replacement work, they may receive up to an additional 20 bonus points. LSL Replacement projects are awarded bonus points because removing LSLs decreases the chance of exposure to lead and improves overall public health. If the proposed project is accompanied by a Construction Funding Application, then 5 points are deducted because the applicant will have two opportunities to receive funding. The final score is calculated by combining the base score, the LSLR bonus, and the Independent LSL Project categories.

<b>Explanation of Scoring Criteria</b>	
<b>General Information = 25%</b>	<b>Age of Service Lines</b>
	Congress banned the use of lead pipes and leaded solder in 1986. Therefore, homes built before 1986 have a higher likelihood of containing lead service lines. The greater the estimated number of service lines installed prior to 1986, the higher the applicant should score.
	<b>Material of Pipes and Connections - Locality Side</b>
	The locality side is more commonly referred to as the "public" side of the service line. The locality and homeowner sides may have been installed/replaced at different times. The greater the estimate of pipe material to be lead, the higher the applicant should score.
	<b>Material of Pipes and Connections - Homeowner Side</b>
	The homeowner side is more commonly referred to as the "private" side of the service line. The locality and homeowner sides may have been installed/replaced at different times. Under the LCCR, "unknown" materials would be considered lead. The greater the estimate of pipe material to be lead, the higher the applicant should score.
<b>History of Lead = 15%</b>	<b>Housing Indicator</b>
	The Housing Indicator is an indicator of housing quality that includes the proportion of housing units built before 1951 and without plumbing facilities, along with the proportion of overcrowded households defined as more than two occupants per room. It is one of the eight indicators comprising the Youth Well-Being Index from VDH. Use of the Housing Indicator is intended to target areas with older homes built prior to the 1986 Federal ban on lead in plumbing. The lower the Housing Indicator value, the more likely the area contains homes that have lead or lead components. Furthermore, the lower the housing occupancy, the greater the number of individuals exposed to lead. Therefore, applicants with a lower Housing Indicator value should score higher.
<b>Existing LSLs in System</b>	<b>Existing LSLs in System</b>
	Applicants that have previously encountered lead or lead components in their system (w/ supporting documentation) should score higher than applicants who have not encountered lead in their system.
	<b>Action Level</b>
	Under the Lead and Copper Rule (LCR), water systems must control the corrosivity of the water to prevent lead contamination and also collect tap samples from sites that are more likely to contain lead. According to the LCR, if more than 10% of tap water samples exceed the lead action level of 15 parts per billion, then the water system is required to take actions in the form of optimizing their corrosion control treatment, educating the public, and LSLR. Applicants with higher lead levels above the action level should score higher.

Vulnerable Populations = 50%	<b>MHI (Median Household Income)</b>
	The lower the Median Household Income (MHI), the greater the need for funding. Washington DC recently published a study that found that in areas with lower MHI values, there were also lower rates of voluntary customer initiated LSLRs because the upfront costs were too high to afford. They also found that lower MHI areas represented a higher percentage of African American/Black residents, meaning that this population faced greater environmental injustice compared to the non-African American/Black residents in Washington DC. Applicants reporting a lower MHI value should be scored higher.
	<b>Environmental Justice</b>
	The Climate and Economic Justice Screening Tool (CEJST) released by the White House indicates census tracts that are overburdened and underserved. Any areas that are shaded are considered disadvantaged communities. Potential project areas serving disadvantaged communities indicated by the CEJST should score higher.
	<b>Average Blood Lead Levels in Children (&lt; 6 yr)</b>
	There is no safe level of lead (MCLG = 0). Young children, infants, and fetuses are highly vulnerable to lead and can suffer various physical and behavioral side effects. The CDC recommends that public actions be taken when the level of lead in a child's blood is 3 micrograms/deciliter or more. VDH reports blood lead levels in children under the age of 6 annually. Applicants that are in a county/city with a greater number of higher reported blood lead levels in children should score higher. Blood Lead Level (BLL) data is provided by the Childhood Lead Poisoning Prevention Program (CLPPP) at the Virginia Department of Health.
	<b>Poverty Indicator</b>
The Poverty Indicator is an indicator of stress caused by economic conditions, including measures of the proportion of children living in poverty, living in households receiving Supplemental Security Income and the proportion of households receiving public assistance. It is one of the eight indicators comprising the Youth Well-Being Index from VDH. Use of the Poverty Indicator is intended to target households in disadvantaged areas that may not be able to afford the costs associated with LSL replacement. Furthermore, families living in disadvantaged communities tend to live in older buildings, which are more likely to contain lead or lead components. The lower the Poverty Indicator value, the more likely the area qualifies as disadvantaged. Therefore, applicants with a lower Poverty Indicator value should score higher.	
<b>Pre-K Enrollment Indicator</b>	
The Pre-K Enrollment Indicator is defined as the number of 3- and 4-year-old children enrolled in nursery or preschool programs. It is one of the eight indicators comprising the Youth Well-Being Index from VDH. Use of the Pre-K Enrollment Indicator is intended to target areas with a high proportion of young children. Infants, young children, and pregnant women are the most vulnerable to lead exposure. The higher the Pre-K Enrollment value, the more likely lead remediation efforts will have an effect on decreasing lead exposure to these specific populations. Therefore, applicants with a higher Pre-K Enrollment value should score higher.	

Readiness to Proceed = 10%	<b>LSL Inventory Present</b>
	Applicants with a completed LSL Inventory will score the highest, followed by applicants who have started work on recording their inventory. This helps VDH to address the Lead and Copper Rule Revisions that require Virginia to keep an inventory. LSL inventories should contain the service line material on both the public and private sides as well as the date of service if replacement has occurred.
	<b>Service Line Inspection Methods</b>
	Applicants with a completed LSL Inventory will score the highest as no further work needs to be done, followed by applicants who have started to inspect their service line materials since these projects are much further along in their progress. Those who have not selected a service line inspection method yet will score lower. <i>Note: The selected service line inspection method(s) must be approved by the ODW Field Office staff prior to proceeding forward with the project.</i>
	<b>Project Schedule</b>
Applicants with detailed project schedules reflect the most project readiness and planning and will score the highest.	
Readiness to Proceed = 10%	<b>LSL Replacement Plan</b>
	Applicants with detailed LSL Replacement Plans tend to be further along in progress. They reflect the most project readiness and planning and will score the highest. LSL Replacement Plans are required by the LCRR and must be submitted to the ODW Field Offices by the October 16, 2024 deadline.
	<b>LSL Replacement Model</b>
LSLR Only: 20 Bonus Points	Applicants with detailed descriptions of their LSL Replacement Model (Rebate, Contract, or Hybrid) tend to be further along in progress. They reflect the most project readiness and planning and will score the highest.
	<b>Population Density Indicator</b>
LSLR Only: 20 Bonus Points	The Population Density Indicator is defined as the number of persons per square mile in the census tract. It is one of the eight indicators comprising the Youth Well-Being Index from VDH. Use of the Population Density Indicator is intended to estimate the number of people to benefit from LSL replacement and act as a tie breaker. Multi-unit family homes are more likely to have a greater number of individuals per household/LSL and can contribute to higher Population Density values. The higher the Population Density value, the more individuals will benefit from LSLR. Therefore, applicants with a higher Population Density value should score higher.
	<b>Independent LSL Project</b>
-5 Points	If the LSL application is part of another construction project, it should be given lower priority since the applicant will have 2 chances to be approved for funding (one chance when applying for Construction funding and another chance when applying for LSL funding).

## **General Process and Documentation:**

Overall, LSL projects will proceed through the same process, regardless of whether the project is funded through LEAP or BIL-LSL funding sources.

### *LSL Inventory Projects:*

In order to proceed with project closing with VRA, (1) Procurement (if needed) must be approved and (2) LSL Inventory methodology must be submitted to the VDH-ODW Field Office for review. Disbursement requests may be submitted in a similar manner to Construction projects. VDH-ODW reserves the right to hold a percentage of the final disbursement until the initial LSL inventory is submitted to the Field Office for review. Depending on the outcome of the inventory results, a LSL Replacement plan may also be required.

### *LSL Replacement Projects:*

All LSL Replacement projects will need to complete the same Project Milestones that are required for other Construction Projects, unless stated otherwise. Certain Project Milestones may be deemed not applicable to LEAP projects depending on whether or not the potential LEAP project is structured as a rebate program or if it will utilize a contractor. These non-applicable items will be determined after all potential LEAP projects have been evaluated and will be announced during the Initial Meeting.

Compared to regular Construction Projects, LSL Replacement projects, will require extra documentation that is to be submitted with disbursement requests. Depending on the project model used (rebate, contract, or hybrid), the required documentation may vary. The following list is not exhaustive, but provides examples of LSL Replacement project documentation:

1. Completion of the lead service replacement (e.g., plumbing invoice to property owner or to the waterworks showing the address of the work and total cost of work)
2. Waterworks confirmation completion (e.g., copy of waterworks or final building inspectors report, plumbing permit)
3. Waterworks payment confirmation of past rebates provided to the homeowners or authorized third party to avoid any duplicate payments. Property addresses must be shown.
4. A running tally of all residences/addresses that had service line replacements done under this program to avoid any duplicate payments. Property addresses must be shown.
5. Contractor Compliance Certification Statement to address AIS and/or BABA requirements – provided by VDH
6. Photo documentation at minimum should include:
  - a. Before/after photos of the interior connection on the private property (usually in basement or crawlspace)
  - b. Before/after photos of the service line exterior to the property. New service line should be visible. Old service line should be removed/disconnected.
  - c. Photo of property at LSL address to determine that LSL work was performed at the correct address.

For the latest information, please visit:

<https://www.vdh.virginia.gov/drinking-water/fcap/leap/localities-waterworks/>