



FAQ: Bipartisan Infrastructure Law and Oregon's Drinking Water State Revolving Fund December 22, 2021

A. What is the Infrastructure Investment and Jobs Act?

The Infrastructure Investment and Jobs Act, commonly referred to as the **Bipartisan Infrastructure Law (BIL)** is a federal infrastructure funding package that was signed into law on November 15, 2021. The law provides the US Environmental Protection Agency (**EPA**) with grant funds that can be awarded to states for drinking water infrastructure.

B. How will BIL funds for drinking water infrastructure be distributed to the state?

As a result of BIL, the Oregon Health Authority may apply to the EPA for Drinking Water State Revolving Fund (**DWSRF**) moneys in addition to what the state typically received annually. The state will receive enhanced program funding for a period of five years starting in 2022. Additionally, the state may apply for available federal funds to address lead service line replacement and emerging drinking water contaminants.

C. What is the Drinking Water State Revolving Loan Fund?

The DWSRF is a federal-state partnership to help ensure safe drinking water by providing financial support to water systems including infrastructure funding. The program is jointly implemented by the Oregon Health Authority Drinking Water Services (**OHA**) and Business Oregon (**BizOR**) through its Infrastructure Finance Authority. The agencies work together to review and approve projects, administer the revolving loan fund, and undertake related activities. Since 1997, the state of Oregon has received an annual capitalization grant from the United States Environmental Protection Agency (EPA). While the program is known nationally as DWSRF, in Oregon funding for communities is provided through the Safe Drinking Water Revolving Loan Fund (**SDWRLF**) which is managed by BizOR.

D. How much BIL funding will be available for SDWRLF awards?

EPA indicated that \$23.6 million will be available to Oregon in 2022 with increasing amounts for four years thereafter. This is in addition to the amount Oregon receives every year through the DWSRF "base program". In 2021 that base program grant amount was \$14.5 million but could increase in future years. It is important to note that this enhanced funding will be incorporated into an existing program that currently has available funds. Some portion of annual EPA grant funds are used by OHA to manage "set-aside" funded programs and activities to ensure safe drinking water.

Additionally, BizOR receives annual loan repayments and provides required state matching funds which increases funds available for SDWRLF loans.

In addition, BIL will provide funding to address lead and emerging contaminants. Details related to the funding of these specific drinking water objectives are not yet available. This FAQ document pertains to infrastructure projects eligible under the SDWRLF and not the potential lead and emerging contaminant moneys.

E. When will BIL funds be available?

Since the BIL was only recently passed, EPA has not yet communicated to Oregon Health Authority a timeframe to apply for BIL funds. Generally, EPA indicates a window to apply, and OHA makes application. The base program DWSRF annual capitalization grant is traditionally received in late summer or fall.

F. What types of entities and projects are eligible for BIL funding?

Since the funding will be run through the Safe Drinking Water Revolving Loan Fund, the eligibilities of that program apply. Public water systems undertaking drinking water infrastructure improvements are eligible for funding.

For more information about eligible entities and project types see [OHA's DWSRF webpage](#), [BizOR's SDWRLF webpage](#), [EPA DWSRF Eligibility Handbook](#), all of which are applicable to eligible applicants and project types.

G. How are SDWRLF incentives determined and will BIL change offerings? Will 100% grant funding be available?

For the SDWRLF, incentives are provided in the form of below-market interest rates (as low as 1%) and forgivable loan (loan principal that is forgiven and need not be repaid). Incentives are available to all communities, with higher amounts targeted to low-income communities and those with drinking water health and compliance issues. Some forgivable loan is provided to every project, with those that address health/compliance issues or help low-income communities struggling with affordability receiving the largest amounts. In most cases, current financing options limit forgivable loan awards to \$500,000, not to exceed 50% of the total amount financed.

Starting in 2022 BIL funds will be provided in addition to the capitalization grants the state receives annually. EPA has indicated that 49% of BIL funds must be awarded in the form of incentive and 51% must be awarded in the form of a loan. The availability of BIL funds may result in SDWRLF incentives that are more advantageous to low-income communities and those with drinking water health and compliance issues due to increased availability of incentive. While BIL related incentives have not yet been determined, it is anticipated that the program would maintain the combination of loan and forgivable loan for most borrowers and 100% forgivable loan award would not be the standard financing option.

H. Why not just award every project 100% forgivable loan?

EPA specifies the minimum and maximum amount of incentive (%) allowed under each DWSRF grant to the state. BizOR must carefully track forgivable loan awards to ensure compliance with the grant agreement terms and conditions related to incentives. If the SDWRLF were to award too much

forgivable loan in a given year, the ability to award incentives would be restricted for future years which could negatively impact those communities faced with drinking water health challenges.

I. When will any new SDWRLF incentives resulting from BIL take effect?

EPA has only recently engaged with states on the BIL funding opportunity and the timing when funds will be received is unknown. Business Oregon will work with partner OHA to communicate planned incentives and will ultimately consult with its Infrastructure Finance Authority Board prior to instituting new financing options. Projects on OHA's project priority list are eligible for funding under SDWRLF. Communities interested in funding should submit a SDWRLF Letter of Interest to be added to OHA's [Project Priority List \(PPL\)](#).

J. How can an eligible water system apply for BIL (SDWRLF) funds?

Any community (i.e., water systems) interested in taking advantage of BIL should submit a no-obligation [SDWRLF Letter of Interest \(LOI\)](#) to establish project eligibility. LOIs are reviewed quarterly. The LOI is a relatively short form that is intended to allow assessment of project eligibility and provide necessary information for OHA rating and ranking of projects on the PPL. Once a project is on the PPL, Business Oregon can invite application and proceed in the funding process.

K. What is the OHA Project Priority List?

OHA's PPL includes projects that have been deemed eligible for SDWRLF funding. OHA ranks new projects along with previously submitted LOIs. Those infrastructure projects that address a risk to human health and ensure compliance with the Safe Drinking Water Act receive the highest rating. Other infrastructure rating categories include drinking water source protection, community affordability, cost effectiveness, and the consolidation of two or more water systems. After a project is placed on the PPL and undergoes a 10-day public comment period, BizOR may proceed with inviting an application for SDWRLF funding. BizOR utilizes OHA's PPL to make funding decisions when demand for the program exceeds available funds.

L. How long does it take to secure SDWRLF infrastructure funds?

The SDWRLF is a federal funding program and as such includes required procedures prior to funding award. After initial OHA review, rating, and ranking, EPA requires that OHA assess the managerial and technical capacity of prospective borrowers prior to a project moving forward to contract. Business Oregon must perform loan underwriting to assess financial capacity. Funding awards of \$3 million or more are approved by Business Oregon's Infrastructure Finance Authority Board. Awards of \$6 million or more also require approval by OHA's Drinking Water Advisory Committee. Historically, projects have taken at least six months to secure a funding contract, but this can be impacted by applicant responsiveness, required board/committee approvals, and agency staff capacity. Due to these factors, securing a funding contract could take longer than six months.

If a community has an urgent infrastructure funding need or timing concern they are encouraged to contact their [Business Oregon Regional Development Officer](#) to discuss the full suite of funding programs that may be available to fund the project.

M. How much funding may a community request under the Safe Drinking Water Revolving Loan Fund?

There is no limit to the amount of funding that can be requested in a SDWRLF LOI, but the program is sometimes unable to meet the largest funding requests. BizOR monitors both program demand, as well as projected federal capitalization grants and loan repayments in order to determine how much can be awarded. Historically, when funds are ample, the SDWRLF has targeted awards of up to \$10 million with the opportunity to apply for an additional \$10 million loan through the BizOR's Special Public Works Fund. As a result of BIL, the federal government will be making an unprecedented investment into SDWRLF. This could allow funding awards in excess of \$10 million, subject to analysis of program demand and available funds.

If an LOI is submitted with a large funding request, BizOR will work with the community to determine if the project can be funded in smaller phases (assuming each phase has a standalone benefit). For those large projects that cannot be phased, BizOR must ensure plans are in place to secure all funds needed to complete the project. Communities are encouraged to reach out to their [Business Oregon Regional Development Officer](#) with any questions about project phasing or other funding options for large projects.

N. Are there any special requirements for this funding (“strings attached”)?

Funding awards through this federal SDWRLF program are subject to a variety of federal requirements, including Davis Bacon and American Iron and Steel. The [Environmental Review Process](#) must be addressed prior to construction work. A comprehensive list of funded project requirements can be found in the [SDWRLF Drinking Water Handbook](#). Since the Drinking Water Handbook's most recent publication, federal funds may no longer be used for the purchase of telecommunications equipment produced by Huawei Technology Companies or ZTE corp. Additionally, along with BIL funding there will be a new requirement “Build America Buy America” (**BABA**) that will replace American Iron and Steel and expand the type of materials that must be domestically sourced. EPA has not yet provided the state guidance on how BABA will be implemented. Even if a project is only partially funded through SDWRLF, the full project must adhere to all federal requirements.

O. Who can I contact with questions?

- If you may be interested in applying for SDWRLF funding and have a project to discuss, please contact your [Business Oregon Regional Development Officer](#).
- The Oregon Health Authority - Drinking Water Services contact for BIL specific questions is Adam DeSemples at (503) 956-8287 or Adam.Desemples@dhsosha.state.or.us.
- The Business Oregon contact for BIL specific questions is Jon Unger at (503) 507-7107 or Jon.Unger@biz.oregon.gov.