

Considerations for Setting Up a Private Lead Service Line (LSL) Replacement Program

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This list of considerations is meant to assist municipalities that are deciding how to establish their own private LSL replacement program. Municipalities have options for how they establish a private LSL replacement program, with the understanding that the LSL principal forgiveness (PF) can only be used for the cost of replacing private LSLs which result in *the full replacement of the lead service line for that property*. These considerations have been developed based on discussions with and input from various municipalities as they have developed their private LSL program and are not intended to represent all factors that a municipality may consider when developing such a program.

Will the municipality be covering 100% of the cost of the private LSL replacement or only a portion?

In general, covering 100% of the cost relieves the property owner of any financial burden and will most likely increase participation, but only covering a portion would allow the funds to stretch further.

Another consideration you will have to make is whether you wish to continue funding the replacement of private LSLs after the funds from the Private LSL Replacement Program have been exhausted. Due to the nature of the program, the Private LSL Replacement Program is limited to approximately \$64 million in funding. If you do wish to continue funding private LSL replacements, you could look to the Public Service Commission (PSC) for approval to use rate-payer fees to fund no more than 50% of the cost of private LSL replacement. By doing so, there may be issues of fairness if 100% of the cost was covered initially from the DNR Private LSL Replacement funds but only 50% can be covered going forward.

Do you plan to pass an ordinance making LSL replacements mandatory?

Whether an ordinance is desirable or necessary for participation in the private LSL replacement program is very much an individual municipal decision. If the LSL replacements will be tied to street projects, making the replacements mandatory under that circumstance may help things go more smoothly, but if the municipality is not covering 100% of the cost, mandatory replacements could be very controversial. Municipalities may also be wondering whether replacing all lead service lines will become a new federal requirement. If that occurs, replacing them now could be advantageous. In addition, now that 2017 Wisconsin Act 137 has become law, any municipality that intends to use rate-payer funds to cover a portion of the cost of private LSL replacements is required to enact an ordinance making private LSL replacements mandatory.

Do you want to complete the work through a municipal contract, or would you prefer to prequalify plumbers for the homeowners to contract with directly?

There are pros and cons to either option. Some municipalities may feel more comfortable doing the work entirely through a municipally-bid contract as that is a more traditional approach for which they have experience. Managing a contract takes work and requires Davis-Bacon compliance at each property. Developing a municipal program with a prequalified list of plumbers also takes work including establishing

an RFQ process, developing forms, tracking work that is completed, and disbursing funds to the contractors or homeowners after replacements are completed.

If implementing a municipal program with a list of prequalified plumbers, how do you plan to deal with potential Davis-Bacon wage requirements?

One option would be to restrict your LSL replacements to only properties that are owned by individuals since these properties are not subject to Davis-Bacon requirements if the homeowner contracts directly with the plumber. In municipalities where there are more LSLs to replace than the available funding can cover, it makes sense to prioritize assistance to individuals over businesses, as a business or non-profit generally will have more ability to cover the cost on their own. If you do not wish to restrict funding to properties owned in the name of individuals, then you need to be certain the plumbers are aware that Davis-Bacon requirements will apply for replacements at properties that are under business ownership. The exception to this would be if there are plumbers that are sole proprietors (or some other business structure where there are no employees) and hence are not subject to Davis-Bacon requirements. In those situations, the sole proprietor plumber could replace LSLs at business-owned residential properties. In addition, any individual LSL replacement that totals less than \$2,000 is not subject to Davis-Bacon requirements.

See the [Davis-Bacon Applicability in the Private LSL Replacement Program](#) for more information.

If you plan to do spot replacements of lead service lines (not tied to a specific watermain replacement project) and you have more potential LSLs to replace than the available funding can cover, how will you prioritize who gets their lead service line replaced?

Municipalities have many options for determining the LSLs that will be replaced through their program. Prioritization could be done as first-come, first-served; it could be income based; or you could prioritize for households with young children since they are more at risk from lead exposure. At least one municipality has chosen to set up a scoring system that gives priority to lower income households and those with young children. How homes are prioritized is a local decision.

If your decision is to run a municipal program using a list of prequalified plumbers, you need to decide what forms will be needed to run your program, then develop those forms.

Necessary forms include:

- the Request for Qualifications (RFQ);
- certifications for the plumbers to sign regarding various federal requirements such as Disadvantaged Business Enterprise (DBE) solicitation, Davis-Bacon wage rates, and the use of American Iron and Steel (AIS);
- agreements between the municipality, the plumber, and the homeowner (as one agreement or several);
- payment request form to be submitted to the municipality once the work is completed; and
- anything else the municipality feels is needed, including permit applications, etc.

