
WATER INFRASTRUCTURE IMPROVEMENTS FOR THE NATION
(WIIN) ACT
SECTION 2107: LEAD TESTING IN SCHOOL AND CHILD CARE
PROGRAM DRINKING WATER TRIBAL SET-ASIDE
CONSULTATION SUMMARY

I. Background

Section 2107 of the WIIN Act directs the EPA to establish a voluntary school and child care program lead testing grant “to assist local educational agencies in voluntary testing for lead contamination in drinking water at schools and child care programs under the jurisdiction of the local educational agencies.”

This grant program will provide a tribal set-aside of approximately \$1.2 million for fiscal year 2018 for activities related to assessing lead levels in drinking water in tribal schools and tribal child care facilities, including training, testing, and community outreach. This grant does not provide funding for remediation activities. The EPA will provide a resource list of available funding sources to support remediation activities in the event of a positive lead result.

Participation in this lead testing program is voluntary and at the discretion of tribal leadership and facility owners. This program makes assistance available to schools and child care programs that opt in to the program but does not guarantee funding for testing at all schools and/or child care facilities throughout areas governed by Indian tribes.

Schools and child care facilities serving a tribal population, administered by a tribal government, or in an area governed by tribes are eligible to receive funding under this grant program. Schools administered by the Bureau of Indian Affairs (BIA) are ineligible to receive funding under this grant program according to the definition of eligible entities outlined in section 2107 (1)(B)(ii).

II. Consultation

The EPA sought tribal comments and consultation from Friday, September 21, 2018 through Monday, October 22, 2018. Letters were mailed to all tribal leaders upon initiation of consultation, providing background information about the grant and the consultation plan. The EPA hosted two informational webinars, which included the opportunity to submit comments.

The EPA requested tribal input on the following questions.

1. Factors that the EPA should consider in the prioritization of schools to be included in the project. Examples include prioritization of facilities serving young children aged 0-6 years, size of student population served, and the age of the facility.
2. Factors that the EPA should include in the geographic distribution of funds in order to prioritize the schools and child care facilities that are most in need of this assistance. Examples include: the population of children aged under 4 years and 5-18, or number of public water systems.

III. Opportunities for Comment

The EPA sought tribal comments by submitting written or verbal comments to the EPA's Office of Ground Water and Drinking Water by phone or email to EPA staff. Additionally, the EPA hosted two informational webinars, providing an overview of the WIIN Act Lead Testing in Schools and Child Care Program Drinking Water program and a time to provide comments verbally or in writing.

The informational webinars were hosted on October 11, 2018 and October 17, 2018, from 2:00 – 3:00 Eastern.

IV. Comments Received

The EPA received one letter, three phone calls, and one email providing input from tribes. In addition, the EPA received both verbal and written comments during the two informational webinars. The comments received are as follows.

A. Comments in response request for tribal input 1: "Factors that the EPA should consider in the prioritization of schools to be included in the project."

- Priority should be given to facilities that serve youngest children.
- Children aged 0-6 should receive the highest priority.
- The age of facilities should be included as a secondary prioritization factor. Older facilities should be prioritized over newer facilities.
- Schools constructed prior to the EPA ban on lead solder or lead pipe should receive higher priority.
- Some schools have new additions or different portions with different ages. Grant guidance should include direction on how to consider facilities with a variety of ages.
- Determination of schools serving a tribal population should consider the number of children served, not the tribal percentage of the student population.

- The number of children served within a facility should not be a factor. Tribes should not be penalized for having a low number of students versus a higher number of student population.
- Schools connected to public water systems whose lead sample results are 0.0075mg/L or higher should be given priority.
- Consideration should be given to the remoteness of a tribe, given that rural tribes may have greater needs and more challenges in gaining access to resources. One way to determine the remoteness of a location is the presence (or lack of) an EPA lab within 100 miles.

B. Comments in response request for tribal input 2: “Factors that the EPA should include in the geographic distribution of funds in order to prioritize the schools and child care facilities that are most in need of this assistance.”

- Prioritization for the distribution of funds could be based upon current violations in the systems, and similar age and characteristics of the system.
- Another factor to consider in the prioritization is PWS water chemistry.
- The geographic distribution of ages of facilities could be an additional factor in determining the distribution of funds.
- It is recommended to produce a matrix to incorporate several factors.

C. General comments received.

- Given the burden to each tribe to apply for funding individually, it is preferable to provide the funding to an organization that has the capacity to implement the grant on behalf of many tribes, either regionally or nationally.
- The EPA should provide information on available funding sources for tribal schools and child care facilities for lead remediation activities in the event that a facility identifies sources of lead as a result of a lead testing program.