
WATER INFRASTRUCTURE IMPROVEMENTS FOR THE NATION
(WIIN) ACT
SECTION 2107: LEAD TESTING IN SCHOOL AND CHILD CARE
PROGRAM DRINKING WATER TRIBAL ALLOTMENT
IMPLEMENTATION
NOVEMBER 18, 2019 TO DECEMBER 20, 2019
CONSULTATION SUMMARY

I. Background

Section 2107 of the Water Infrastructure Improvements for the Nation (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 approximately \$2.6 million for fiscal years 2018 and 2019 for activities related to assessing lead levels in drinking water in tribal schools and child care facilities, including training, testing, and community outreach. This grant does not provide funding for remediation activities. 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.

The America’s Water Infrastructure Act (AWIA) of 2018 further amended the Safe Drinking Water Act (SDWA) to direct the EPA to provide technical assistance to schools and child care facilities in carrying out this grant program. This technical assistance may include identifying sources of lead contamination in drinking water, assistance in identifying or applying for funding that may assist in eliminating sources of lead contamination, or assistance in identifying organizations that may be able to assist with the elimination of sources of lead contamination.

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.

In the preceding, fall of 2018, tribal consultation on this grant program, it was recommended that the EPA allow funding to be awarded to an entity that can provide national or regional

implementation of the grant program on behalf of tribes, tribal schools, and tribal child care facilities, in addition to providing direct grants to interested tribal education agencies. Specifically, it was determined that organizations that provide technical assistance to tribes should be allowed to receive grants to implement the program on behalf of participating eligible recipients.

To implement this recommendation from the 2018 tribal consultation, and to meet the requirements under the AWIA, the EPA is proposing to utilize the Associated Program Support Costs (APSC) authority. The APSC authority allows the EPA to use a portion of the funds available for states and tribes to fund activities that benefit all or a portion of the state and tribal grant recipients at the request of the eligible recipients. See Public Law 105-276.

For the second consultation with tribes, EPA sought comments from tribes on the proposed use of the APSC authority to allow the awarding of grants to organizations that provide technical assistance to tribes and provide broad implementation support to eligible tribal schools and child care facilities. Awarded organization(s) will then provide lead testing services and technical assistance to a group of tribal education agencies according to the terms of the grant. Under this proposed approach, tribal education agencies, tribal governments, and tribal consortia will be eligible to apply for funding, and applicants must describe in their applications if and how they will provide assistance to tribal schools and child care facilities on a national or regional level.

II. Consultation

The EPA sought tribal comments and consultation from Monday, November 25, 2019, through Monday, December 30, 2019. Letters were mailed to all tribal leaders upon initiation of consultation to provide 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. What criteria should the EPA consider when assessing proposed projects to promote broad access to assistance for tribal schools and child care facilities?
2. As discussed above, the EPA is considering using the APSC authority to address the comments received during tribal consultation regarding the burden of managing federal funds. Are there other options the Agency should consider?

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 Leslie Temple. Additionally, the EPA hosted two informational webinars, providing an overview of the WIIN Act Lead Testing in Schools and Child Care Program Drinking Water Grant program and a time to provide comments verbally or in writing.

The informational webinars were hosted on December 5, 2019, and December 18, 2019, from 1:00 PM to 2:00 PM Eastern Time.

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: "What criteria should the EPA consider when assessing proposed projects to promote broad access to assistance for tribal schools and child care facilities?"

- Consideration should be given to reservations in Rural Areas.
- The EPA should consider the building's history of repairs as they may relate to lead in drinking water.

B. Comments in response request for tribal input 2: "As discussed above, the EPA is considering using the APSC authority to address the comments received during tribal consultation regarding the burden of managing federal funds. Are there other options the Agency should consider?" No comments were received in response to this question.