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WATER INFRASTRUCTURE IMPROVEMENTS FOR THE NATION  
(WIIN) ACT  
SECTION 2104: ASSISTANCE FOR SMALL AND DISADVANTAGED  
COMMUNITIES, AND  
SECTION 2105: REDUCING LEAD IN DRINKING WATER  
TRIBAL ALLOTMENTS CONSULTATION SUMMARY

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## **I. Background**

Section 2104 of the Water Infrastructure Improvements for the Nation (WIIN) Act directs the EPA to establish a program “to provide grants to eligible entities for use in carrying out projects or activities the primary purposes of which are to meet the requirements of the [Safe Drinking Water Act (SDWA)].”

This grant will provide \$400,000 for fiscal year 2018 to assist tribal water systems in tribal communities determined to be disadvantaged to carry out activities to meet the requirements of the SDWA. Activities may include those that increase technical, managerial, and financial capacity of the public water system, or water quality testing, including for unregulated contaminants. Recipients are required to pay 100 percent of operations and maintenance costs associated with the project or activity.

An underserved community is defined as any political subdivision that has an inadequate system for obtaining drinking water, which can include lack of access to household drinking water or wastewater services or a public water system that violates or exceeds a national primary drinking water regulation.

Section 2105 of the WIIN Act directs the EPA to “establish a grant program to provide assistance to eligible entities for lead reduction projects in the United States.”

This grant will provide approximately \$1 million for fiscal year 2018 to help tribal water systems reduce lead in drinking water. Activities may include testing and planning activities, or replacement of lead service lines (both privately- and publicly-owned), which can include assistance to low-income home owners to replace any privately-owned portion of a lead service line. This program does not provide assistance for partial service line replacement if the remaining portion delivering drinking water to a home contains a lead service line. Eligible entities must identify the source of the lead and outline how the proposed project would reduce the concentration of lead in the water. Priority will be given to disadvantaged communities with

an action level exceedance (e.g. 15 part per billion) in the last three years or to projects that address lead in a school, daycare, or other facility that primarily serves children.

## **II. Consultation**

The EPA sought tribal comments and consultation from Wednesday, February 20, 2019 through Friday, March 22, 2019. To initiate the process, EPA mailed letters to all tribal leaders to announce the initiation of consultation and provide background information about the grant and the consultation plan. The EPA also hosted two informational webinars, which included the opportunity to submit comments. The informational webinars were hosted on March 6, 2019 and March 14, 2019, from 2:00 – 3:00 Eastern.

The EPA requested tribal input on the following questions.

With respect to the WIIN Act Assistance to Small and Disadvantaged Communities grant program:

1. Factors the EPA should consider in the formula to allocate the funds to serve the communities in greatest need. Examples included median household income or remoteness of a community.
2. Tribes' prioritization of implementation to support infrastructure activities or training and technical assistance activities.

Additionally, the EPA sought to better understand tribal priorities with respect to the WIIN Act Reducing Lead in Drinking Water grant program. Specifically, the EPA sought to understand tribal priorities in the following areas:

1. Factors the EPA should consider in prioritizing infrastructure projects to be funded through this opportunity. Examples included: population served (e.g. schools and child care facilities serving young children); the presence of an action level exceedance in the previous 3 years; or the age of the infrastructure.

## **III. Opportunities for Comment**

The EPA sought tribal comments through mail, email and via phone. Additionally, the EPA hosted two informational webinars where participants had the opportunity to provide comments verbally or in writing.

#### **IV. Comments Received**

The EPA received three letters, three phone calls, and two emails from tribes. In addition, the EPA received both verbal and written comments during the two informational webinars.

Regarding the factors the EPA should consider in the formula to allocate the funds to serve the communities in greatest need, the comments received are as follows.

- Consider using HUD qualification household data as an allocation criterion.
- Support and opposition for using median household income. This includes a statement that median household income is the most important factor to consider in determining the distribution of funds throughout the US.
- Water system size should also be considered, giving consideration to small systems.
- Prioritize funding for remote AN/AI communities, and for AN/AI communities where more than 80 percent of homes lack in-home water service.
- Define remote AN/AI communities as more than 100 road miles from a metropolitan (population 50,000 or more) or micropolitan (population 10,000 to 50,000) area.
- Allocation should be independent of capacity indicator requirements, such as a community having certified operators or other operations and maintenance indicators.
- Prioritization should be given to systems with higher cost water quality problems.

Regarding the prioritization of implementation to support infrastructure activities or training and technical assistance activities, the comments are as follows.

- Training and technical assistance are imperative to keeping systems running properly and producing safe drinking water.
- Including cultural and natural resource protections with work under these grant programs.
- Allowing for testing of unregulated contaminants is an important aspect of this program.
- The number of essential connections on a given systems should be considered in the prioritization of projects.
- There should be a priority ranking system based upon water quality issues within a tribe or a water system.
- Prioritize funding for infrastructure projects, especially if WIIN funds can be leveraged to attract other funding sources.

Regarding the factors the EPA should consider in prioritizing infrastructure projects to be funded through the Reducing Lead in Drinking Water opportunity, the comments received are as follows.

- The age of infrastructure and buildings is a critical factor that should be looked at first to determine potential risk.
- Age of infrastructure should be given the highest priority in determining allocation to projects.
- Any system with an exceedance level within the past year should be retested.
- Lead in drinking water being addressed, particularly in areas with children, is an important step in breaking multi-generational health issues.
- Lead replacement funding should include and prioritize in-home plumbing for low-income housing projects, regardless of home ownership. Lead concentration may be particularly high in homes, which exposes children to the health impacts of lead.
- Prioritizing places where children will be using drinking water is imperative. Any community buildings and health centers should also be included in this category.
- Prioritize funding to communities with a high percent of population under the age of 10; communities with populations under 1,000; and remote communities as earlier defined.
- Define remote AN/AI communities as more than 100 road miles from a metropolitan (population 50,000 or more) or micropolitan (population 10,000 to 50,000) area.
- Funding decisions should be independent of capacity indicator requirements.