



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:  
WS-15J

**JAN 30 2018**

Ms. Sonya T. Butler  
Section Chief  
Revolving Loan Section  
Environmental Resource Management Division  
Michigan Department of Natural Resources and Environment  
P.O. Box 30241  
Lansing, Michigan 48909-7741

Subject: Semiannual Program Evaluation Report (PER) for the Water Infrastructure Improvements for the Nation (WIIN) Act Funding

Dear Ms. Butler:

Attached is the U. S. Environmental Protection Agency Region 5 Semiannual Program Evaluation Report for the supplemental funding made available for the City of Flint.

EPA's semiannual review included an interview of MDEQ managers and staff via conference call on December 14, 2017. As expressed in our December 7, 2017, letter to Director Grether, EPA's key concern is the lack of progress in planning the use of these funds beyond the Lead Service Line Replacement Project (\$40 million) and the Set Asides activities (\$1.5 million).

We look forward to our continuing work with you to achieve shared environmental goals. If you have any questions, please contact Laura Cossa, SRF Program Lead, at 312-886-0661.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah C. Baltazar", with a small "fcb" monogram to the right.

Deborah C. Baltazar, Chief  
State and Tribal Programs Branch

Enclosure

**RECEIVED**

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**Flint Supplemental Funding  
Program Evaluation Report for Michigan  
Semiannual Review (December 2017)**

**SCOPE OF THE SEMIANNUAL REVIEW**

The U. S. Environmental Protection Agency completed a semiannual review of the Water Infrastructure Improvements for the Nation (WIIN) Act supplemental Drinking Water State Revolving Funds (DWSRF) to assess the extent to which the Michigan Department of Environmental Quality (MDEQ) has met the requirements contained in the WIIN Act, Section 1452 of the Safe Drinking Water Act, and the supplemental funding terms and conditions. The first review of the supplemental funding took place from May 8 to May 10, 2017, and included the activity prior to May 2017. This semiannual review includes activities performed from May through November, 2017 including the set asides activities, as described in the Supplemental Intended Use Plan (IUP). The review also consists of EPA's discussions with managers and staff, reviewing disbursement requests, and reviewing the inspection report. Additionally, EPA reviewed invoice materials and internal approval documentation that supported two cash draws to fund eligible set-aside activity. All the reviews were conducted in accordance with EPA's State Revolving Fund (SRF) Annual Review Guidance.

To ensure that this review has addressed all the major review elements, EPA used a project file checklist (checklist updated from May 2017) and completed a transaction testing checklist for each of the two cash draws that funded set-aside activity.

**BACKGROUND**

On March 17, 2017, EPA conditionally awarded \$100 million in Supplemental Drinking Water State Revolving Funds to the MDEQ as authorized by the WIIN Act, to be used by Flint, Michigan. These federal funds, combined with the \$20M in required state match are intended to fund the following projects

- 1) Project number 7421-01, Lead Service Line Replacement with the commitment amount of \$40 million,
- 2) Project number 7422-01, Distribution system/ transmission main improvements with the commitment amount of \$10 million, and
- 3) Local Assistance Set Aside in amount of \$1.5 million for the corrosion control studies and asset management program.

The following projects were identified as pending and are still subject to completion of the state Drinking Water State Revolving Fund (DWSRF) application process and subsequent approval by EPA. The City of Flint is currently reevaluating the project selection under WIIN as they have made a final determination of source water.

- 4) Project number 7422-01, Meter Replacement Activity, \$10 million
- 5) Project number 7424-01, Water Treatment Plant Improvements, \$58.5 million

At the time of the semiannual review, only \$192,972.74 had been drawn from the set-asides account. Four disbursements totaling \$11,502,611 had been funded from the \$20 million in state matching funds, as reimbursement for eligible expenses from the Lead Service Line Replacement project. The State plans to draw federal funds for project expenses after the entire \$20 million in state matching funds has been disbursed. At that transition point, the State will provide EPA with all invoice materials and approval documentation that support the disbursement that triggers the initial federal cash draw to fund project expenses, and will continue to provide this material for all future disbursements that support federal cash draws.

## **OBSERVATIONS**

### **Project File Review Observations**

During the May 2017 site visit, EPA reviewed the documentation for the Lead Service Line Replacement project and assessed the project's compliance with environmental crosscutters, bidding requirements, Disadvantaged Business Enterprise (DBE) requirements, as well as Davis-Bacon, American Iron and Steel (AIS), and jobs reporting requirements. No issues were noted. Since then, the MDEQ project manager kept EPA informed of new contractors or contract amendments, AIS inspections, and Davis Bacon compliance for each contractor who submitted reimbursement requests. The Michigan Finance Authority (MFA), MDEQ and City of Flint executed the Supplemental Agreement for the Phase VI Lead Service Line project on May 17, 2017. As there was no progress on the Project number 7422-01, Distribution system/ transmission main improvements or additional projects proposed by the City, there were no additional project files for review.

### **Financial Observations**

MDEQ shared with EPA the documentation for the first four project disbursements and discussed all the errors encountered. The invoices were paid from the state match funds; therefore, the errors are not improper payments under the Federal Improper Payments Elimination and Recovery Act of 2010 (IPERA) Statute. MDEQ worked to ensure that the invoices paid are connected to work done on the correct address (e.g. WIIN - funded addresses versus Children's Health Insurance Program - funded addresses) and that the work on invoices is eligible for payment.

### **Reporting**

MDEQ has reported the loan activity in the Project Benefits Reporting (PBR) system in a timely manner. The only project ready to be reported was the Service Line Replacement Project (\$40 million).

The NIMS data was submitted timely and accurately. As the data reported by the State to the EPA DWNIMS database includes activity from the supplemental funding for Flint, EPA will manually adjust the DWNIMS results for 2017 (and in future years) to allow for evaluation of the base DWSRF program on a consistent basis.

MDEQ reported the federal funding information as required by the Federal Funding Accountability and Transparency Act (FFATA) in the FFATA Subaward Reporting System on August 30, 2017.

As required by the grant, MDEQ submitted 2 quarterly reports to EPA for the activities from April 1 to June 30, 2017 and from July 1 to September 30, 2017. The annual report (including an annual report on the set asides activities) is due on December 31, 2017.

### **Federal Crosscutters**

At the time of the annual review, on May 8, 2017, MDEQ issued an Environmental Assessment Supplement for the Lead Service Line Replacement program to allow a 30-day comment period for an expansion of the project to the entire city limits. No comments were received and the decision became final on June 8, 2017.

### **American Iron and Steel (AIS) Requirements/ Inspection**

MDEQ ensures compliance by requiring each contractor during the bidding process to attest compliance with AIS requirements. MDEQ verifies the self-certifications to make sure they include all the necessary elements. MDEQ staff also performed a visit on June 27, 2017, to verify AIS compliance. No issues were noted in the inspection report. On August 16, 2017, and on May 19, 2017, MDEQ staff performed compliance visits and took photos that included AIS stamped materials. Lastly, members of the Fast Start team and Flint inspectors were on-site daily to ensure that all AIS requirements were followed.

### **Single Audit**

For the Supplemental Grant, the State must report to the City of Flint the amount of federal expenditures in each calendar year. As the City of Flint has likely received, during 2017, total federal expenditures that exceed the \$750,000 threshold for single audit reporting, the State indicated they plan to request and review the 2017 single audit for the City of Flint, and to follow up with the City to ensure that the City addresses and resolves any findings related to SRF funding.

### **Set Asides Activity Review Observations**

In March 2017, EPA approved the set-aside workplan (included in the intended use plan) in the amount of \$1.5M. The workplan was based on the Arcadis contract dated December 20, 2016, to prepare the Water Distribution System Optimization Plan. The contract budget was \$1,497,635. During conversations with MDEQ in October 2017, EPA was made aware that Arcadis revised their contract on February 3, 2017, for a budget of \$819,490 (Amendment 1). However, no updates to the workplan were sent to EPA.

On November 22, 2017, MDEQ submitted an updated workplan to EPA, but only for the work in an amended Arcadis contract dated October 25, 2017 (Amendment 2), with a budget of \$680,437. Although the set asides amount remains unchanged (\$1.5 million), EPA required MDEQ to submit one updated State workplan that included both amendments 1 and 2 to the original contract, and an update on the activities performed so far. MDEQ provided the revised workplan on December 15, 2017, and EPA found it acceptable.

Two draws from the federal funds for the set asides activities were made on September 11, 2017 and November 9, 2017 for \$48,817.30 and \$144,155.44, totaling \$192,972.44.

### Transaction Testing

EPA conducted transaction testing on two federal cash draws that funded set-aside activities (see below for detail), and found that the underlying invoice material and internal approval documentation was in order. EPA did not identify any improper payments.

Cash Draw Date	Draw Amount	Set-aside
9/11/17	\$48,817.30	Local Assistance
11/9/17	\$144,155.44	Local Assistance
<i>Total drawn:</i>	<i>\$192,972.74</i>	

### Old DWSRF Debt

On August 1, 2017, EPA responded to a MDEQ request indicating that it is the State's option whether and how much of the outstanding DWSRF debt could be forgiven pursuant to the Consolidated Appropriations Act of 2017, Pub. Law 115-31. On November 15, 2017, in a letter from MFA to Flint, the state announced that \$20,770,336 in debt from four DWSRF loans originated between 1999-2003 has been forgiven. City of Flint has no other outstanding SRF loans.

### Michigan/Flint Settlement Summary

MDEQ indicated that the Phase V lead service line replacement program would be funded with state funds and not include WIIN funding.

### CONCLUSION

We did not discover any programmatic or financial issues with Michigan's implementation of the supplemental funding requirements for the Service Line Replacement program. However, EPA has 2 recommendations:

- 1) MDEQ should notify EPA of any changes in any of the activities approved as part of the grant application. This includes the set asides activities.
- 2) We recommend that MDEQ work with the city of Flint to expedite the planning and implementation of critically needed infrastructure improvement projects.