

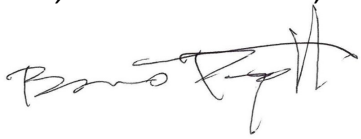


**OFFICE OF WATER**  
WASHINGTON, D.C. 20460

December 20, 2024

**MEMORANDUM**

**SUBJECT:** Response to the Office of Inspector General Final Report, Report No. 25-E-0002, *"Inadequate Execution of the 7th DWINSA Lead Service Line Questionnaire Led to Flawed Data Being Used to Allot Lead Service Line Replacement Funds,"* dated October 21, 2024

**FROM:** Bruno Pigott, Principal Deputy Assistant Administrator 

**TO:** Sean O'Donnell  
Inspector General

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Thank you for the opportunity to review and respond to the U.S. Environmental Protection Agency's Office of Inspector General's final report titled, *"Inadequate Execution of the 7th DWINSA Lead Service Line Questionnaire Led to Flawed Data Being Used to Allot Lead Service Line Replacement Funds,"* Report No. 25-E-0002 dated October 21, 2024.

The following is a summary of the U.S. Environmental Protection Agency's overall position, along with its position on each of the report recommendations. The agency is accepting the OIG's three recommendations and is providing corrective actions and estimated completion dates for each recommendation.

**FY 2023 and FY 2024 BIL LSLR Allotments**

Regarding the FY 2023 and FY 2024 Bipartisan Infrastructure Law's Lead Service Line Replacement funding allotments, the EPA is taking further corrective action with the States of Texas and Florida to perform further quality assurance/quality control evaluations on data supporting those states' 2023 allotments (and for Florida, additionally its 2024 allotment). The agency sent notices to those states requiring that the states submit lead service line inventory data for water systems surveyed under the 7<sup>th</sup> DWINSA by December 31, 2024. The EPA will evaluate the information and take action as appropriate under [2 CFR 200.339](#), such as potentially deobligating funds from the capitalization grants. Once deobligated, those funds would be available to other states through the statutory reallocation process described further below.

These actions with those specific states build upon prior EPA quality control activities. The 2023 update of the 7<sup>th</sup> Drinking Water Infrastructure Needs Survey and Assessment LSL questionnaire was, itself, a reflection of the need to adapt, collect additional data, and perform quality assurance evaluations of LSL data. Throughout DWINSA implementation, the EPA worked with individual states and systems as a

part of the EPA's quality assurance/quality control process. The EPA provided examples of this work with the OIG during field work. As a part of the 2023 update to the 7<sup>th</sup> DWINSA, the agency reviewed publicly available information for several states and individual water systems, including Illinois, which had the highest number of LSLs after the update, to compare this information to the data submitted to the EPA. The agency again worked with individual states and systems as a part of the EPA's quality assurance/quality control process for the 2023 update to the 7<sup>th</sup> DWINSA.

The EPA is continuing its quality assurance/quality control process through effective grant oversight. The agency has required Texas and Florida to provide inventory data for surveyed systems to evaluate those states' 2023 allotments (and for Florida, additionally its 2024 allotment). This action builds upon prior data quality control efforts and more precisely targets states in which both the EPA and the OIG found data flaws.

The EPA recently hosted several engagements with the state Drinking Water State Revolving Fund program and Public Water System Supervision managers to discuss available information on lead service lines from the state perspective. During the engagements, many states expressed views that the EPA should not perform additional quality assurance evaluations or information requests to support the BIL LSLR FY 2023 and 2024 allotments beyond those already taken. Other views included that the collected data reflected the best available information at the time, that there were and continue to be many LSL unknowns, and that attempting to further assess or validate the prior data now would be futile, burdensome, and disruptive. Some state managers described LSL knowledge as a dynamic process that continues to evolve. Many participants described the established reallocation process as a mechanism to address funding mismatches.

#### FY 2025 and FY 2026 BIL LSLR Allotments

At the time of the FY 2023 and FY 2024 allotments, the DWINSA lead service line questionnaire was the best available information regarding states' and systems' evolving understanding of lead service lines. However, as of November 2024 community water systems have submitted service line inventory data to states under the Lead and Copper Rule Revisions (LCRR). Thus, states now have close to a census of water system service line inventories. This information is required to be submitted to the EPA by March 31, 2025. In the EPA's recent engagements with states, many state DWSRF program and PWSS managers expressed greater confidence in the LCRR inventory data as the best available information on lead service lines to date, but there are still many service lines categorized as unknowns.

The EPA has determined to use LCRR lead service line inventory data as the basis for FY 2025 and FY 2026 allotments because it is currently the best available information on the prevalence of lead service lines. The EPA's [\*Guidance for Developing and Maintaining a Service Line Inventory\*](#) (August 2022) includes the "State Checklist for Initial Inventory Submittal." This worksheet helps states determine and document if water systems met all the January 15, 2021, LCRR requirements for their initial inventory, including timely submission, required elements, use of information sources, public accessibility, and public notification of service line materials.

#### Reallotments and Deobligations

The DWSRF has a statutory mechanism in place in which funds not applied for by a state and awarded within prescribed time periods are reallotted to states with demonstrated need. The DWSRF's reallotment process was established by Congress in the SDWA amendments of 1996 to address instances when the DWINSA results may not provide allotments beyond the 1% guaranteed minimum

that are exactly aligned with states' needs and their readiness to use them on eligible projects. Furthermore, states do not automatically receive the funding allotted to them; by law, they must demonstrate in their Intended Use Plan (which is part of their capitalization grant application) that they have enough eligible projects for this funding. Funding not awarded and used by states for lead service line identification and replacement is being reallocated and redistributed by the EPA, as required by SDWA.

The EPA is following this reallocation process and funds are reaching states with demonstrated eligible LSLR-related need. In November 2023, the EPA made an additional \$219 million in FY 2022 BIL LSLR funds available to the 44 states (and the District of Columbia) that applied for and received their full FY 2022 BIL LSLR capitalization grant allotments. See [Reallocation of Fiscal Year 2022 Drinking Water State Revolving Fund Bipartisan Infrastructure Law Funds](#), dated November 2023. Note that the EPA allotted FY 2022 BIL LSLR funds using the "traditional needs" formula from the 6<sup>th</sup> DWINSA. During this first round of FY 2022 fund reallocation, 13 states that were eligible for the reallocation funds declined to apply, citing the lack of sufficient eligible projects. Those 13 states declined a total of \$72 million. The EPA will soon announce a "second round" of availability of that \$72 million to the 31 states (and DC) eligible for these funds (i.e., those that applied for and received their full reallocation amount during the "first round"). In addition, the EPA will be reallocating at least \$231 million of the FY 2023 BIL LSLR funds. These funds will be available to the 42 states (and DC) that applied for and received their full FY 2023 BIL LSLR capitalization grant allotments. Note that this total does not include potential funds that may be deobligated from Texas and Florida.

In situations where a grant recipient (here, the state DWSRF program) determines that previously awarded funds cannot be used for their intended purposes (e.g., for BIL LSLR-eligible activities), those grant recipients may request that the EPA deobligate those funds from the state. This process is not unique to the DWSRF program and instead follows the standard agency grant process, consistent with [2 CFR part 200](#). The EPA is currently drafting a memo to the state SRF programs explaining this procedure. Any returned funds will be reallocated by the EPA to eligible state DWSRF programs, consistent with Section 1452(a)(1)(E) of SDWA.

## **AGENCY RESPONSE TO RECOMMENDATIONS**

**OIG Recommendation 1:** Develop a process to identify unreliable lead service line data obtained from both the 7<sup>th</sup> Drinking Water Infrastructure Needs Survey and Assessment and future lead service line data collection efforts.

### **EPA Response to OIG Recommendation 1 – Accept**

The EPA agrees that it is important to use the best available information under the Drinking Water Infrastructure Needs Survey and Assessment to reliably target DWSRF infrastructure investments in states under the construct provided by Congress. The EPA's process for identifying unreliable service line data is founded on the EPA's existing DWINSA internal controls and informed by the continued evolving nature of information on lead service lines. As a part of the internal control, the EPA has been implementing a quality assurance/quality control process to identify unreliable information on service lines throughout the 7<sup>th</sup> DWINSA.

Proposed Corrective Actions:

1. The EPA's process to identify unreliable lead service line data under the 7<sup>th</sup> Drinking Water Infrastructure Needs Survey and Assessment is to implement the quality assurance/quality control process for service line information, including opportunities for states and systems to update information under the 7<sup>th</sup> DWINSA. Completed May 2024.
2. Engage with DWSRF program and PWSS managers to discuss available information on lead service lines from the state perspective. Expected Completion: December 2024.
3. The EPA's planned process to identify potential unreliable lead service line data obtained from any *future* lead service line data collection efforts will be founded on the EPA's existing DWINSA internal controls, informed by the longstanding DWINSA Coordinator workgroup, and finalized under the 8<sup>th</sup> DWINSA. The EPA will document the planned QA process for 8<sup>th</sup> DWINSA before data collection occurs. Expected Completion: July 2025.

### **OIG Recommendation 2:**

Based on the process from Recommendation 1, identify actions necessary to address unreliable lead service line data and determine whether further data updates are needed to inform Infrastructure Investment and Jobs Act lead service line allotments for fiscal year 2023 through fiscal year 2026. This should include identifying opportunities to adjust Texas's fiscal year 2023 allotment and assessing whether Florida's fiscal year 2024 allotment is appropriate for fiscal years 2025 and 2026.

### **EPA Response to OIG Recommendation 2 – Accept**

#### **Proposed Corrective Actions:**

1. Implement the quality assurance/quality control process for service line information and release 7<sup>th</sup> DWINSA data in Report to Congress. Completed September 2023.
2. Provide states and systems with the opportunity to update responses to 7<sup>th</sup> DWINSA service line questionnaire. Provide updated information in Updated 7<sup>th</sup> Drinking Water Infrastructure Need Survey and Assessment Lead Service Line Information: Addendum to EPA's Report to Congress Expected Completion: January 2025.
3. Issue Notice of Special Condition on Assistance Agreement to Texas and Florida requiring that the states submit lead service line inventory data for water systems surveyed under the 7<sup>th</sup> DWINSA to inform potential reconsideration of FY 2023 funds allotted to Texas and FY 2023 and FY 2024 funds allotted to Florida. Completed in October and November 2024.
4. If applicable, issue grant deobligation notices to Texas and Florida, stating that the EPA will deobligate any applicable FY 2023 funds awarded. Expected Completion: January 2025.
5. If applicable, issue grant notice to Florida regarding any changes to FY 2024 allotment. Expected Completion: January 2025.
6. The EPA has determined to use LCRR lead service line inventory data, which is currently the best available information on the prevalence of lead service lines, for FY 2025 and FY 2026 allotments. The EPA will issue a memorandum incorporating the LCRR lead service line inventory data into the 7<sup>th</sup> DWINSA. Expected Completion: January 2025.

**OIG Recommendation 3:**

If updates are necessary and appropriate based on the determination from Recommendation 2, adjust the Infrastructure Investment and Jobs Act lead service line allotments for fiscal year 2023 through fiscal year 2026 so that the allotted funds are commensurate with the lead-service-line-replacement needs of each state.

**EPA Response to OIG Recommendation 3 – Accept****Proposed Corrective Action:**

1. For the FY 2023 and FY 2024 allotments:
  - a. The EPA will evaluate submitted data from Texas and Florida and take action as appropriate under [2 CFR 200.339](#), such as potential deobligation of funds from the capitalization grants. The EPA will issue a reallocation memo for FY 2023 funds, including any potential deobligated FY 2023 funds from Texas and Florida. Expected Completion: March 2025. The EPA will issue a reallocation memo for FY 2024 funds, including any potential deobligated FY 2024 funds from Florida. Expected Completion: March 2026.
  - b. The EPA will send a memo to the state SRF programs (i.e., the capitalization grant recipients) explaining how they can voluntarily return already-awarded capitalization grant funding when the Federal award cannot accomplish the purpose for which the Federal award was made (i.e., if the state has found that it does not have sufficient eligible projects). This process will be consistent with 2 CFR part 200. Expected Completion: January 2025.
2. For the FY 2025 and FY 2026 allotments:
  - a. The EPA will release the allotment memo for FY 2025 funds. Expected Completion: May 2025.
  - b. The EPA will release the allotment memo for FY 2026 funds. Expected Completion: March 2026.
3. For the FY 2022 through FY 2026 allotments:
  - a. The EPA will continue to reallocate available (i.e., unobligated) funds through the statutory reallocation process. The EPA will issue the second round FY 2022 reallocation memo. Expected Completion: January 2025.

Thank you again for the opportunity to respond to the recommendations in the final report 25-E-0002. If you have any questions regarding this response, please contact me or have your staff contact OW's Audit Follow-Up Coordinator Carla Hagerman, at [Hagerman.Carla@epa.gov](mailto:Hagerman.Carla@epa.gov).

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