



ERIE COUNTY WATER AUTHORITY

INTEROFFICE MEMORANDUM

July 10, 2023

To: Terrence D. McCracken, Secretary to the Authority

From: Michael W. Wymer, PE, Senior Production Engineer *MW*

Subject: Board Authorization to File Grant Application
Lead Service Line Replacements
LCRR Program Management - Contract MP-091
ECWA Project No. 202200135

A funding application will be submitted to the New York State Environmental Facilities Corporation under the Water Infrastructure Improvements Grants (WIIA) program to fund the replacement of approximately 50 residential lead service lines.

The project will target replacements in the City of Lackawanna, Towns of Amherst and Cheektowaga, and Villages of Blasdell, Lancaster, and Depew all of which have disadvantaged areas as per New York State Potential Environmental Justice Area (NYSPEJA) standards.

The project will also include lead service line replacements in other municipalities as up to 50% of the funded replacements can be outside the disadvantaged areas. Therefore, in addition to the municipalities identified above, the project will target service areas with high LSL tap sample concentrations (> 10 ppb) and children with elevated blood lead levels (>5 ppb). These communities include the Village of Hamburg and City of Tonawanda.

A complete application for this funding requires a resolution from the Board of Commissioners supporting the planning, design and construction, and funding of the project along with filing the grant application.

Specific to resolution wording as to funding, as debt will not be issued to finance any portion of this project, the resolution must state that the Board authorizes the undertaking of the project and the source of all funding (beyond that provided by the grant) will originate from capital reserves appropriated specifically for the project. The resolution must also designate a representative of the applicant who is authorized to sign the funding agreement with EFC and any associated documents.

The Authority's engineering staff, with the assistance of Arcadis, is in the process of completing the grant application package which is due on July 28, 2023.

Attached for information is a summary document for the 2023 WIIA Grant Program.

MWW:jmf/lal1

Attachment

cc: L.Kowalski

CONT-MP-091-2101-X-07

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GRANT SUMMARY

NYS WATER INFRASTRUCTURE IMPROVEMENT (WIIA) & NYS INTERMUNICIPAL WATER INFRASTRUCTURE GRANT (IMG) PROGRAMS

OVERVIEW

The New York State Environmental Facilities Corporation (EFC) is offering \$425 million in grants for clean and drinking water projects during the 2023-2024 state fiscal year to selected municipalities with infrastructure projects that protect public health and/or improve water quality. EFC and the NYS Department of Health (DOH) will evaluate all applications for projects received by the due date (**5:00 p.m. on Friday July 28, 2023**) based on factors including protection of public health and water quality; median household income; governmental and community support; environmental justice considerations; and the readiness of the project to proceed.

NOTE FOR APPLICANTS INTERESTED IN SRF FINANCING: in order to be listed on the Annual List in the Intended Use Plan and to be eligible for financing in FFY 2024, the applicant must have submitted a listing form, acceptable Engineering Report, and smart growth form by June 16, 2023.

PROGRAM CHANGES:

The following changes have been made for this round of WIIA/IMG grant funding:

- Eligibility criteria for construction dates have been updated.
- Construction start date has been clarified to allow the pre-purchase of equipment prior to the issuance of a Notice to Proceed.
- Eligibility criteria include consideration of a project's impact on a disadvantaged community (DAC) as defined pursuant to the Climate Leadership and Community Protection Act in addition to impact on a Potential Environmental Justice Area.

AVAILABLE FUNDING

WIIA Clean Water Projects

An applicant with an eligible clean water project may receive a WIIA grant award as described below:

- A project, including all phases of the project, may be awarded the lesser of \$25 million or 25% of net eligible project costs (total eligible project costs less any third-party grants awarded in respect of the project).
- Any grants administered through EFC will not be used to calculate net eligible project costs.



Municipalities may apply for this grant on more than one project, but each municipality is limited to receiving no more than a \$5 million allocation per year. If a municipality is awarded grant funds totaling more than \$5 million for a project or projects, the grant(s) will be allocated over multiple years in increments not to exceed \$5 million per year.

If a municipality applies for more than one project during the current round, EFC will prioritize the awards based on the score of the project(s) until all of the projects have received 25% of eligible project costs or the \$5 million cap has been reached. If the award(s) exceed \$5 million, the remaining applications will not be eligible for additional grant in the current round.

WIIA Drinking Water Projects

An applicant with an eligible drinking water project may receive a WIIA grant award as described below:

- A project addressing an emerging contaminant (EC) above the current State determined Maximum Contaminant Level (MCL) would be awarded 60% of net eligible project costs with no cap.
- A project that does not address EC above the State MCL, including phases of the project, would be awarded the lesser of \$5 million or 60% of net eligible project costs. Municipalities may apply for this grant on more than one project, but each municipality is limited to receiving no more than \$5 million per year.

Excluding EC projects, municipalities are limited to \$5 million of combined Drinking Water State Revolving Fund (DWSRF) Base grant, DWSRF Bipartisan Infrastructure Law (BIL) General Supplemental grant, and WIIA grants annually.

IMG Clean Water and Drinking Water Projects

Cooperating municipalities with an eligible project may receive an IMG grant award as described below:

- The lesser of \$30 million or 40% of net eligible project costs.

Municipalities may apply for this grant on more than one project, but each municipality is limited to receiving no more than a \$10 million allocation per year. If a municipality is awarded grant funds totaling more than \$10 million for a project or projects, the grant(s) will be allocated over multiple years in increments not to exceed \$10 million per year.

ELIGIBILITY REQUIREMENTS

A WIIA grant or IMG grant is available only to a municipality, which is defined to include a county, city, town, village, district corporation, county or town improvement district, school district, Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York State, any public benefit corporation or public authority established pursuant to the laws of New York or any

agency of the State that is empowered to construct and operate a water quality infrastructure project.

Eligible projects include water quality infrastructure projects at municipally-owned sewage treatment works¹ OR municipally-owned public water systems² for:

- Construction, replacement, or repair of infrastructure; or
- Upgrades to comply with environmental and public health laws and regulations related to water quality;
- System upgrades and innovative pilot technologies to combat EC, such as PFOA, PFOS and 1,4 dioxane; and
- System upgrades to repair to address combined and/or sanitary sewer overflow impacts from sustained rain events.

Each WIIA and IMG project must meet the following criteria:

- Result in construction for the requested scope;
- Not be for the construction of water infrastructure that exclusively supports residential or commercial development;
- Must not have issued a Notice to Proceed before October 1, 2022 for construction of the project;
- Not have completed construction before July 28, 2023; and
- Include the applicable EFC terms and conditions in all contracts.

Each IMG project must meet the following criteria:

- Serve multiple municipalities;
- Be a shared drinking water or sewage treatment infrastructure project, such as:
 - More than one municipality undertaking a capital improvement project jointly for the consolidation of infrastructure or services,
 - Consolidation of intermunicipal facilities,
 - Shared water quality infrastructure,
 - Regional wastewater treatment facilities, or
 - The interconnection of multiple municipal water systems.
- Have a valid and binding project Intermunicipal Agreement (IMA) between at least two cooperating municipalities related to financing of the IMG project that describes the proposed project, the role of each municipality, and the costs attributable to each municipality; and
- Designate a “lead municipality” that applies on behalf of all cooperating municipalities.

¹ Sewage treatment works as defined in ECL § 17-1903.

² Eligible project as defined in paragraphs (a), (b), (c), and (e) of subdivision 4 of § 1160 of the Public Health Law.



PROGRAM REQUIREMENTS

Program requirements for WIIA and IMG recipients include minority- and women-owned business enterprise (MWBE) participation, equal employment opportunity (EEO), service-disabled veteran-owned business (SDVOB) participation, and smart growth and environmental review.

There are additional program requirements for recipients of WIIA and IMG grants that also utilize SRF financial assistance, including BIL funds, including those related to procurement of Architectural/Engineering (A/E) services American Iron and Steel (AIS), and Davis-Bacon federal prevailing wage requirements.

All contracts entered into by recipients that are to be paid for with WIIA funds, IMG funds, or SRF financial assistance must demonstrate compliance with EFC's program requirements and must include the required contractual language from the applicable terms and conditions. Any contracts, including those that are executed prior to grant application, that do not include the required contractual language will be disqualified from funding.

Additional information on program requirements is available on EFC's website at www.efc.ny.gov, including EFC's terms and conditions and the current Intended Use Plans for the SRF programs.

Please Note: Projects co-funded with BIL federal grant or loan funds are subject to additional federal programmatic requirements. BIL funds will be administered with SRF funds and additional information and updates on BIL are available on EFC's website at www.efc.ny.gov/BIL.

APPLICATIONS

Applicants who would like to be considered for a WIIA and/or IMG grant must submit a grant application and the following required documentation to EFC no later than 5:00 p.m. on **Friday, July 28, 2023:**

- Engineering Report³, including a current project schedule and budget
- Environmental Review Documentation
- SHPO Project Review Determination Letter

³ The Engineering Report for projects must conform to EFC's Engineering Report Outline, available at <http://www.efc.ny.gov/cleanwater> for clean water projects, and <http://www.health.ny.gov/environmental/water/drinking/water.htm> for drinking water projects.



- Bond/Funding Resolution⁴:
 - *Bond Resolution*: If debt will finance any portion of the project, you must submit a bond resolution that includes the total project costs to be financed, including any SRF financing.
 - *Funding Resolution*: If debt will not be issued to finance any portion of the project, you must submit a resolution that authorizes: the undertaking of the project and the total funding appropriated for the project. The resolution must also designate a representative of the applicant who is authorized to sign the funding agreement with EFC and any associated documents.
- If under construction, executed construction contract(s) including applicable EFC Terms and Conditions.
- If applying for IMG, a valid and binding Intermunicipal Agreement (IMA) between at least two cooperating municipalities related to the financing and necessary for the project.
- If seeking SRF financing in addition to grant funds, a complete SRF Financing Application.
- If available, district formation documentation for new or expanded districts.

Applications must be submitted using the online Application Form located on EFC's website at www.efc.ny.gov/WIIA or www.efc.ny.gov/IMG. Applications that are submitted without all required information and documentation may be deemed unacceptable and may not be processed.

CONTACT US

Please direct all questions about the WIIA or IMG grant programs and application to:

Máire Cunningham
New York State Environmental Facilities Corporation
625 Broadway
Albany, New York 12207-2997
Phone: (518) 402-6924
E-mail: NYSWaterGrants@efc.ny.gov

⁴ For certain WIIA/IMG Grant Only applications, please note the following: Certain applicants may not have the authority to incur debt on their own and pass a bond resolution but may plan to finance the balance of their project with debt issued by a third-party governing municipality. In such a case, a board resolution from the applicant is required with the initial application which formally requests the governing municipality adopt a bond resolution for the project. The bond resolution from the governing municipality, if not adopted at the time of the application, must be received by EFC no later than 6 months from the date of any WIIA award to the applicant.

ERIE COUNTY WATER AUTHORITY
AUTHORIZATION FORM
For Approval/Execution of Documents
(check which apply)

Contract: MP-091 **Project No.:** 202200135
Project Description: Lead and Copper Rule Revisions (LCRR) Program Management

Item Description:





<input type="checkbox"/> Agreement	<input type="checkbox"/> Professional Service Contract	<input type="checkbox"/> Amendment	<input type="checkbox"/> Change Order
<input type="checkbox"/> BCD	<input type="checkbox"/> NYSDOT Agreement	<input type="checkbox"/> Contract Documents	<input type="checkbox"/> Addendum
<input type="checkbox"/> Recommendation for Award of Contract	<input type="checkbox"/> Recommendation to Reject Bids		
<input type="checkbox"/> Request for Proposals			
<input checked="" type="checkbox"/> Other <u>Board Resolution for Grant Application</u>			

Action Requested:


<input type="checkbox"/> Board Authorization to Execute	<input type="checkbox"/> Legal Approval
<input type="checkbox"/> Board Authorization to Award	<input type="checkbox"/> Execution by the Chairman
<input type="checkbox"/> Board Authorization to Advertise for Bids	<input type="checkbox"/> Execution by the Secretary to the Authority
<input type="checkbox"/> Board Authorization to Solicit Request for Proposals	
<input checked="" type="checkbox"/> Other <u>Board Resolution for WIIA Grant Application</u>	

Approvals Needed:

APPROVED AS TO CONTENT:

<input checked="" type="checkbox"/> Sr. Distribution Engineer	<u></u>	Date: <u>7/10/2023</u>
<input type="checkbox"/> Chief Operating Officer	_____	Date: _____
<input checked="" type="checkbox"/> Executive Engineer	<u></u>	Date: <u>07/10/2023</u>
<input type="checkbox"/> Director of Administration	_____	Date: _____
<input type="checkbox"/> Risk Manager	_____	Date: _____
<input checked="" type="checkbox"/> Chief Financial Officer	<u></u>	Date: <u>07/10/2023</u>
<input checked="" type="checkbox"/> Legal	<u></u>	Date: <u>7/10/2023</u>

APPROVED FOR BOARD RESOLUTION:

<input checked="" type="checkbox"/> Secretary to the Authority	<u></u>	Date: <u>7/10/2023</u>
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Remarks: _____

Resolution Date: _____ **Item No:** _____