



The State of New Hampshire  
**Department of Environmental Services**

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**Robert R. Scott, Commissioner**

October 23, 2020

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Environmental Services (NHDES) to amend a Memorandum of Agreement (PO# 1065756) with the NH Department of Education (VC# 177900-B001) relative to the *Grants to New Hampshire Private and Public K-12 Schools to Reduce and Remove Lead in their Drinking Water* by extending the project period to December 31, 2022 from December 31, 2020, effective upon Governor and Council approval. No additional funding is involved in this request. The original grant was approved by Governor and Council on January 23, 2019, Item #76 and amended on June 5, 2019, Item #5G. 100% Drinking Water and Groundwater Trust Fund.

**EXPLANATION**

The current Memorandum of Agreement (MOA) and Amendment No. 1 with the Department of Education (DOE) has the project ending on December 31, 2020. NHDES was recently awarded \$870,000 from a federal grant program, the Environmental Protection Agency's Water Infrastructure Improvements for the Nation (WIIN), to perform a second round of lead testing in drinking water in schools and licensed childcare facilities. This testing is mandated by NH RSA 485:17-a, the provisions of which became effective July 1, 2019. It is anticipated that through the new outreach and sampling efforts, more schools will be identified that require and request assistance to perform lead remediation. By extending this MOA through December 2022, DOE will be able to continue to provide funding assistance to schools as needed. To date, only \$63,970.79 of the \$1,600,000 in grant funds have been disbursed.

This amendment was approved by the Office of the Attorney General as to form, execution and content. We respectfully request your approval.

  
Robert R. Scott, Commissioner

**MEMORANDUM OF AGREEMENT  
BETWEEN  
DEPARTMENT OF ENVIRONMENTAL SERVICES  
AND  
DEPARTMENT OF EDUCATION**

This Memorandum of Agreement (MOA) describes activities that have been agreed to between the New Hampshire Department of Environmental Services (NHDES) and the Department of Education (NHDOE) to utilize funding provided through the Drinking Water and Groundwater Trust Fund (DWGTF) funds received from NHDES for the purpose of providing grants to New Hampshire private and public K-12 schools to reduce and remove lead in their drinking water. This MOA will become effective upon approval by Governor and Executive Council. The project completion date is December 31, 2020.

NHDES issued recommendations for voluntary testing of lead in drinking water at all schools and daycares in Spring 2016, following increased awareness of lead toxicity to children from the water crisis in Flint, Michigan. On February 8, 2018, NH adopted Senate Bill 247 Preventing Childhood Lead Poisoning from Paint and Water. This law requires, among other actions, that all K-12 schools and licensed childcare facilities test lead in drinking water at all locations where water is available for consumption by children. The first round of testing is required to be completed by July 1, 2019, and every 5 years thereafter, until at least 3 consecutive rounds are below the standard.

Any locations showing 15 ppb (0.015 mg/L) or higher must be remediated. Remediation plans must be submitted and approved by NHDES and implemented within 30 days of the notification of test results to parents / guardians or as approved by the state. To support the lead remediation efforts in NH schools, a grant program totaling one million six hundred thousand dollars (\$1,600,000) was applied for and awarded from the DWGTF to reimburse public, public-charter, and non-public schools, K-12, for 50% of the lead remediation costs, where needed and as shown through testing.

For the purposes of this MOA, NHDES and NHDOE agree as follows:

1. NHDES and NHDOE shall assign appropriate staff to oversee the implementation of this MOA.
2. NHDES and NHDOE shall individually and collaboratively seek and utilize opportunities to disseminate information about availability of funding under the grant program.
3. NHDES will transfer to NHDOE the total of \$1,600,000 (the funds) to be administered by the DOE School Safety & Facility Management Bureau (SSFMB).

4. CRITERIA FOR USE OF FUNDS: The following process and criteria will be used by NHDOE to select projects to receive DWGTF lead remediation grant funding:
- a. Schools shall be eligible for funding for lead remediation projects approved by NHDES since February 8, 2018, which is when the law was signed.
  - b. Eligible projects include permanent lead removal solutions including, but not limited to, the removal/replacement of faucets, fixtures, fountains, solder, piping, and plumbing components as long as there is justification that what is being replaced is contributing to the lead levels.
  - c. Administrative costs shall be absorbed by NHDOE and shall not be charged against any of the transferred funds.
  - d. The school shall submit a remediation plan for any drinking water locations showing the presence of lead for NHDES approval. Any locations with levels of 15 ppb or higher are required to be addressed, but funding assistance will be eligible for remediation of levels of 5 ppb and higher. The remediation plan must include a budget and a request for grant funds.
  - e. Minimum grant amount that can be applied for is \$250 (total remediation cost \$500).
  - f. NHDES will approve the remediation plan and grant amount. NHDES will notify the school and NHDOE of approval. NHDOE will seek approval from Governor and Council for a list of grant projects approved by NHDES. The list will include the SAU number, school name, amount of grant, and a short description of the project.
  - g. After the work is completed the school will submit a signed request for reimbursement to NHDES along with all invoices, an acceptable post-remediation water sample, and an affidavit signed by all school board members attesting that the project is complete and the amount spent was in accordance with the approved remediation plan. If the request is complete NHDES will notify NHDOE to process payment.
  - h. NHDOE will reimburse the school up to 50% of the total eligible costs approved by DES, but not to exceed 50% of the estimated costs identified in the NHDES approved remediation plan.
5. GRANT ROUNDS: NHDOE and NHDES will partner to solicit grant applications in order to expend the funds, and will continue to do so until the funds are expended or the expiration of this agreement. Grant applications can be submitted year round and funds will be awarded on a first come first served basis.

6. FUND TRANSFERS: Upon execution of this MOA, NHDES will make the funds designated for this program available to NHDOE as a reimbursement:
- a. NHDOE will seek Governor and Council approval to expend the funds for each grant award.
  - b. NHDES will approve payment of the grant amount to the grantee after the remediation work has been completed and the post-sample result is satisfactory. Payment request must include a signed request for payment from authorizing agent, an affidavit signed by all school board members attesting that the project is complete and the amount spent was in accordance with the approved remediation plan. NHDOE will pay the amount approved by NHDES.
  - c. NHDOE will submit invoices on a monthly basis to NHDES. This shall include:
    - i. A cover letter requesting the payment of the funds with a current total being requested.
    - ii. An invoice consisting of a balance sheet with a line item for each award and payment processed.
  - d. NHDES will pay the NHDOE invoice from the obligated DWGTF funds.
7. AMENDMENT OR TERMINATION: This agreement may be amended by mutual consent of the Commissioners of NHDES and NHDOE, in writing, at any time. Either party may terminate this MOA upon providing written notice to the other, thirty (30) days prior to termination. Upon termination, NHDOE will be paid for any grants issued prior to termination.
8. DURATION: The project duration extends from the date of approval by Governor and Council through December 31, 2020 for program activities, invoicing and program year closeout, unless terminated by either party, or extended in writing by subsequent agreement of the parties and acceptance by Governor and Council.

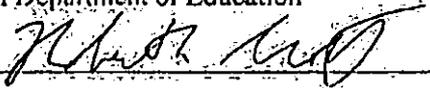
IN WITNESS WHEREOF, the respective parties have hereunto set their hands on the dates indicated.



Frank Edelblut, Commissioner  
NH Department of Education

12/16/18

Date

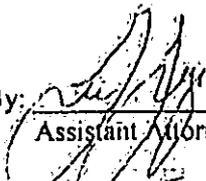


Robert R. Scott, Commissioner  
NH Department of Environmental Services

1/9/19

Date

OFFICE OF THE ATTORNEY GENERAL

By:   
Assistant Attorney General  
Date: January 9, 2019

I hereby certify that the foregoing agreement was approved by the Governor and Council of the State of New Hampshire at their meeting on \_\_\_\_\_.

OFFICE OF THE SECRETARY OF STATE

By: \_\_\_\_\_

Title: \_\_\_\_\_