NEW YORK STATE | Department of Health

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July 8, 2026

Nadine Morrell
Audit Director
Division of State Government Accountability
NYS Office of the State Comptroller
110 State Street, 11th Floor
Albany, New York 12236

Dear Nadine Morrell:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2024-S-9 entitled, "Lead Service Line Replacement Program and Lead Service Line Inventory."

Please feel free to contact the Office of Governmental and External Affairs at (518) 473-1124 with any questions.

Sincerely,

Johanne E. Morne

Johanne E. Morne, M.S.
Executive Deputy Commissioner

Enclosures

cc: Melissa Fiore
DOH Audit

Department of Health
Comments on the
Office of the State Comptroller's
Final Audit Report 2024-S-9 entitled,
"Lead Service Line Replacement Program and Lead Service Line Inventory"

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2024-S-9 entitled, "Lead Service Line Replacement Program and Lead Service Line Inventory"

Executive Summary

The Department continues to welcome the opportunity to coordinate with OSC but continues to dispute the audit's findings and conclusions. The Department maintains that the lead service line replacement program was a pilot program. The lessons learned from that pilot have informed our management of lead service line replacement funds under the federal Infrastructure Investment and Jobs Act. Many of OSC's findings identify shortcomings in the data and resources available to public water suppliers at the time the program was initiated. Most public water systems did not have service line inventories in 2017 and 2018 when the funds were awarded; they did not know where their lead service lines were. The federal government recognized this as a shortcoming and included in the 2021 Infrastructure and Investment in Jobs Act millions of dollars of grant awards for communities to complete service line inventories so they could apply for additional funds to replace lead service lines, once they knew where they were. The Department continues to disagree that simply providing more guidance and controls would overcome those shortcomings. Similarly, the Department does not agree that severing contracts before the end of the term to reallocate funds to other municipalities was feasible, nor that it would have resulted in more service lines replaced and a higher fund utilization rate. The Department worked to ensure that every municipality awarded funds had the opportunity to spend those funds prior to the end of the pilot term. While not every municipality took advantage of this opportunity, the extra outreach by the Department did result in additional spending in some communities.

State Comptroller's Comment: We did not state in our report that more guidance and controls alone would address our findings. In our report, we discussed many factors that affected the Program, and that better DOH guidance and oversight in various areas may have improved Program effectiveness. Reviewing a pilot helps identify lessons learned and improve guidance and controls before expanding a program, thus reducing the risks of repeating early mistakes. Further, while DOH's response states that it does not agree it had the ability to sever contracts before the end of the term to reallocate funds to other municipalities, this contradicts Program officials' statements throughout the audit. Program officials told auditors they had the ability to rescind funds but chose to follow through with the projects as initially awarded. Furthermore, DOH's additional outreach resulted in increased spending, supporting our finding that if DOH had provided more guidance and reached out to additional counties, more funds may have been utilized.

The Department continues to dispute several of the statements and findings in the report and accompanying online Storymap.

p. 10 "While DOH's funding methodology complied with the Law, the methodology at times left municipalities with high percentages of elevated childhood blood lead levels without an award in favor of ones within the same region with much lower percentages. After identifying the eligible municipalities, DOH weighed the three factors it selected for the scoring methodology equally and, when there was a tie, used the number of houses built before 1939 as a tiebreaker. This means that municipalities with higher rates of childhood lead poisoning were sometimes passed over in favor of municipalities with lower rates of childhood lead poisoning, but more pre-1939 homes."

As discussed with OSC, the leading driver of childhood lead poisoning in New York State is deteriorated lead-based paint and lead dust. Also as discussed with OSC, at the time the LSLRP began, public water systems were not required to have service line inventories and most did not know where their lead service lines were. The Department chose the number of pre-1939 houses as the tie-breaker to maximize the number of lead service lines replaced, since those communities are more likely to have lead service lines to replace. We now know that some of the communities that met initial eligibility criteria (based on relatively higher rates of children's blood lead level exceedances) have reported **zero** lead service lines. This is not surprising because the primary source of lead poisoning in children in New York State is from deteriorated lead-based paint and lead dust in pre-1980 housing, a fact that had been shared with OSC numerous times throughout the audit process.

State Comptroller's Comment: While DOH claims to have used the number of pre-1939 houses as the tiebreaker to maximize the number of lead service lines replaced, it did not provide any evidence that this methodology resulted in replacing more lead service lines. Further, as explained in the report, while older homes are more likely to have lead service lines, not all pre-1939 homes contain lead pipes, and some newer renovations might still include them. New York City did not ban lead pipes until 1961, and the federal ban was not until 1986. A pilot should evaluate not only how a methodology was implemented, but whether that methodology achieved the intended result, in this case, replacing more service lines—this is crucial in order to learn what works before expanding of the program.

It should also be noted that OSC reviewed and approved the contracts with communities listing the number of pre-1939 houses as the tie-breaker, rather than percentage of children with elevated blood lead levels. Had OSC informed the Department at the time of contract review that there was a concern with the funding methodology, DOH would have discussed this with OSC and considered a different approach. Instead OSC, with the benefit of hindsight, is making the observation that there was nothing fundamentally wrong with DOH's methodology while opining that it could have been more effective.

State Comptroller's Comment: OSC's role in approving contracts focuses on ensuring agencies are complying with State procurement rules and laws. During its review of contracts, OSC provides significant deference to a State agency in matters within that agency's expertise, including the establishment of award methodologies to meet program objectives. State agencies initiating the grant are responsible for developing the grant award methodology, including defining the evaluation criteria and choosing grantees.

p. 14 “DOH reimbursed one town “$9,296 to replace a full lead service line in one quarter, and 1 year later, reimbursed the town $1,100 for investigation costs at the same address.”

As shared with OSC via email, this address had a water line leak less than one year after the service line was replaced. The cost to excavate the line and remediate the digging location to prior condition was allowed as it could have been related to the replacement of the lead service line the year before. This was investigation of a leak, not investigation of service line material. Copies of email and photo documentation were provided to OSC on 9/4/2025. The purpose of this observation in OSC’s final report is unclear.

State Comptroller’s Comment: DOH is mistaken—it never provided us with documentation supporting this explanation for the additional $1,100 it reimbursed to this town for investigation costs at the same address where it had previously reimbursed the town $9,296 for replacement of a lead service line. The information DOH sent us on September 4, 2025 was for a different municipality.

The Storymap on the “Implementation of the Lead Service Line Replacement Program” has an inaccurate amount listed for the total grant funding that was available to communities. The Department requested that OSC correct this in our review of the Storymap. The Storymap still says that there was $30,000,001 when the actual amount was $30,000,000.
https://storymaps.arcgis.com/stories/b4ee7db9644e43589c719d562117343e

State Comptroller’s Comment: While DOH requested a change to the award amount, we determined that the actual amount is $30,000,001, so we did not make any changes. We informed DOH in December 2025 that we would not be updating the Storymap.

OSC states and implies multiple times that the Department should have taken the funds from communities that did not spend it and award it to new communities. However, OSC notes that one community spent $187,000 between October 2024 and May 2025; this community first spent funds six years after they were awarded. Another community who was awarded funds in the first year of the program had many legal questions and did not submit a reimbursement request until January 2024; they were able to spend their full award prior to the pilot program ending. Had the Department rescinded those funds, those high-scoring communities would not have replaced any lead service lines.

State Comptroller’s Comment: We did not recommend that DOH take funds from communities that did not spend them. Instead, we recommended that DOH develop and implement enhanced controls and monitoring practices to ensure that grant funds are spent purposefully, timely, and effectively. DOH’s examples actually support this recommendation. For instance, the municipality referenced by DOH that first spent funds 6 years after it was awarded a grant initially told us that it did not plan to use the funds because the guidance it received from DOH was unclear. According to municipal officials, DOH staff at times confused the Program with other programs and provided inconsistent answers to their questions. After our inquiry, the municipality reached out to DOH again for assistance. Following further clarification, it submitted its first voucher. In total, the municipality spent only about $187,000 of its $535,000 grant award. If DOH had provided clearer guidance, the municipality could have replaced more lines before the deadline. Had we not intervened, the municipality might not have spent any of the allocated funds. By dismissing our findings, DOH is missing an opportunity to strengthen controls for a program that did not utilize nearly a quarter of the available funds.

Overall, OSC's position oversimplifies or outright ignores the complexities associated with contract execution. OSC is a major participant in such contract execution, making their omittance of the complexities in this particular instance curious.

State Comptroller's Comment: As stated above, State agencies initiating grants bear the primary responsibility for developing the grant award methodology, which includes defining the evaluation criteria and selecting grantees. OSC's role in approving contracts is to ensure compliance with State procurement rules and laws.

OSC also stated multiple times that the Department did not provide adequate guidance and communication with awardees. The Department explained to OSC that we have thousands of emails between Department staff and awardees. The Department provided examples from three LSLRP recipients and offered to provide more. Department staff also offered to meet with OSC to show additional samples of support provided to recipients. OSC indicated the information provided was sufficient to reflect timelines of conversations and topics discussed with all awardees, yet continues to state that the Department did not provide adequate guidance and support to recipients. OSC's position in this instance appears overwhelmingly to be predicated on the responses to a simple three question survey sent to LSLRP grant recipients. DOH considers this assessment to be rushed, incomplete, short-sighted, and an affront to the efforts of the staff that carried out this program.

State Comptroller's Comment: Our report indicates the various ways DOH assisted awardees throughout the process. However, we found that, despite these efforts, more could have been done. While our survey supported this conclusion, with 20 of the 33 counties responding to our email indicating that DOH could have provided more guidance, our assessment was not only supported by the survey responses, but also by the various examples that we discussed with officials during the audit and highlighted throughout our report.

The Final report notes on p. 17 that the Department requested five positions for lead service line inventory tracking, review, compliance and posting to the web. As indicated in the report, DOH did not receive any of these positions. Additionally, the Department requested funds for data support to post the inventories and required map online. The Department did not receive these resources either and used existing resources to create the mapping system posting it by October 2024, two years ahead of the required October 2026 deadline established in Public Health Law 1114-b.

It must also be noted that the Department did not receive any staff or other resources to develop and implement the Lead Service Line Replacement Program. Staff who completed this work were diverted from other critical drinking water protection assignments.

Audit Recommendation Responses:

<u>Recommendation #1</u>

Develop and implement enhanced controls and monitoring practices for grants administered by DOH. This may include, but not be limited to, developing policies and procedures and promoting enhanced participation in programs by providing clear guidelines and support to awardees to ensure funds are spent purposefully.

Response #1

This recommendation is misdirected and ignores not only the robust NYSDOH internal controls applied during administration of the LSLRP, but the decades long history of NYSDOH's successful implementation of state and federal drinking water infrastructure funding (which has undergone numerous federal audits). NYSDOH particularly objects to the implication that the funds were spent without purpose.

State Comptroller's Comment: Nowhere in our report did we indicate that funds were spent without purpose. Instead, we identified ways to enhance grant program effectiveness. Evaluating a pilot is an opportunity to learn what works, address identified weaknesses, and improve the program before expanding it.

All drinking water funding currently administered by the Department is done so in coordination with the New York State Environmental Facilities Corporation (EFC). This process leverages existing funding structures, controls and systems and is more efficient and effective than executing contracts at the Department level with each municipality. Administering funding in coordination with EFC promotes separation of duties and checks and balances.

EFC and the Department have expanded the Community Assistance Teams program to assist public water systems with applying for funding and understanding program terms and conditions. This is a very successful and highly-rated initiative.

Although it is the Department's preference to administer funding through this well-established mechanism with EFC, should water funding be administered through contracts with municipalities in the future, the Department will adhere to sound internal controls as it has done so successfully for decades.

Recommendation #2

Develop and implement formal procedures to ensure all covered water systems submit complete and accurate service line inventories and provide annual updates when required. Take steps, such as providing additional support to help water systems accurately identify the material composition of service lines, to increase the number of service lines with known and verified materials.

Response #2

Lead service line inventory compliance is administered in conjunction with the United States Environmental Protection Agency (EPA). The EPA, with assistance from the Department, has contacted public water systems that have submitted inventories with a high percentage of unknown service lines and have offered both State and Federal technical assistance to improve inventory quality.

As of May 4, 2026, 99% of covered public water systems submitted their service line inventories in the required format for compliance with Public Health Law Section 1114-b. This is a monumental achievement on the part of the Department and public water system operators across the state to reach 99% compliance less than two years after a new law went into effect. This is especially impressive, given that the Department received no resources to draft guidelines, conduct training and outreach to water operators, distribute Notices of Violations to those who did not initially comply, and to create an online tracking and mapping system.

The federal lead and copper rule improvements require that public water systems submit a baseline inventory by November 2027. The Department is actively working on guidance and compliance tools for water systems to comply with these additional federal requirements.