

From: [Alford, Bobby "Lee"](#)
To: [Daniels-Lewis, Alicia \(she/her/hers\)](#); [Johnson, Priscilla](#); [Herrington, Lester](#)
Cc: [Moody, William "Bill"](#); [Walter, Cassandra](#)
Bcc: [Martin, LaTeshya](#)
Subject: RE: Mississippi State Department of Health - #02D67723
Date: Monday, July 31, 2023 3:02:00 PM

Hi Alicia,

The program utilizes a geographic information system (GIS) to overlay census data with the Drinking Water Systems' certificated areas, as outlined by the MS Public Service Commission, to assist in the determination of subsidy to be provided to systems deemed disadvantaged by our program. I hope this helps. Please let me know if you have any additional questions or feedback.

Thanks,

Lee Alford, Program Director

Drinking Water Systems Revolving Loan Fund Program (U-222)
Bureau of Public Water Supply
Mississippi State Department of Health
(601)576-7738
www.msdh.ms.gov/dwsrf

From: Daniels-Lewis, Alicia (she/her/hers) <Daniels-Lewis.Alicia@epa.gov>
Sent: Thursday, July 27, 2023 9:13 AM
To: Alford, Bobby "Lee" <Bobby.Alford@msdh.ms.gov>; Johnson, Priscilla <Johnson.Priscilla@epa.gov>; Herrington, Lester <Lester.Herrington@msdh.ms.gov>
Subject: RE: Mississippi State Department of Health - #02D67723

Good morning Mr. Alford: I am writing in response to your submission of revised 4700-4 forms for grant applications 02D67723 and 02D68222 respectively. This matter has been forwarded to my attention for review in light of your initial responses to Question VIII that your agency **does not** "maintain ...racial/ethnic, national origin, age, sex, and disability data" in compliance with 40 C.F.R. 7.85(a)(2). Specifically, when Ms. Johnson informed you your agency's response to Question VIII was inconsistent with the requirements of the regulations, you responded that your office "relies" on census data, but you did not address whether your office "collects and maintains" the data as required. Because your response was not definitive and we could not determine your agency's compliance with the requirements of Question VIII, Ms. Johnson sent you clarifying information which stated in part, "[t]o answer "yes" to Question VIII, the applicant needs to be able to show, if asked, that it not only collects data pursuant to 40 CFR 7.85 but maintains data of the population it serves as a matter of the applicant's policy/practice, as well."

Despite your initial submission indicating non-compliance with Question VIII, you have now provided the EPA with two amended 4700-4 forms which assert compliance. To address this discrepancy and proceed with our review, please provide me with your rationale for amending these forms. It is important to note that non-compliance is not fatal to the grant application process or receipt of

grant funds. However, if we determine your agency is non-compliant, we may request that your organization enter into a written agreement with us to provide time for your organization to take steps to come into compliance with the regulatory requirements while processing of the award continues. See, 40 CFR § 7.110(b).

Your anticipated cooperation is greatly appreciated, and I look forward to hearing from you. Please provide your response to me within 5 calendar days of receipt of the date of this email. If you have any questions or concerns, please feel free to contact me at your earliest convenience.

Regards~

Alicia R. Daniels-Lewis,

Supervisory Attorney
General/Criminal Law & Cross-Office Support
U.S. Environmental Protection Agency
Region 4: ORC: Office of Regional Counsel
61 Forsyth Street
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(404) 562-9441

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From: Alford, Bobby "Lee" <Bobby.Alford@msdh.ms.gov>
Sent: Tuesday, July 25, 2023 5:10 PM
To: Johnson, Priscilla <Johnson.Priscilla@epa.gov>; lester.herrington <lester.herrington@msdh.ms.gov>
Cc: Daniels-Lewis, Alicia (she/her/hers) <Daniels-Lewis.Alicia@epa.gov>
Subject: RE: Mississippi State Department of Health - #02D67723

What is the best way for me to update this form? Does a revised submission need to be submitted through grants.gov?

Lee Alford, Program Director

Drinking Water Systems Revolving Loan Fund Program (U-222)

Bureau of Public Water Supply
Mississippi State Department of Health
(601)576-7738
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From: Johnson, Priscilla <Johnson.Priscilla@epa.gov>
Sent: Tuesday, July 25, 2023 4:05 PM
To: Herrington, Lester <Lester.Herrington@msdh.ms.gov>
Cc: Alford, Bobby "Lee" <Bobby.Alford@msdh.ms.gov>; Daniels-Lewis, Alicia (she/her/hers) <Daniels-Lewis.Alicia@epa.gov>
Subject: RE: Mississippi State Department of Health - #02D67723

Dear Mr. Herrington,

Your prompt response is greatly appreciated. Please review the information below for clarification on the required response. If you have any additional questions, I can be reached at (404) 562-9614.

Question VIII on Form 4700-4 relates to EPA nondiscrimination regulation provision [40 CFR 7.85\(a\)\(2\)](#), that every applicant for/recipient of EPA financial assistance “collect and maintain ... racial/ethnic, national origin, age, sex, and disability data,” and the Form 4700-4 Question VIII adds, “of the population it serves.” To answer “yes” to Question VIII, the applicant needs to be able to show, if asked, that it not only collects data pursuant to 40 CFR 7.85 but maintains data of the population it serves as a matter of the applicant’s policy/practice, as well. This is notable because there is also an obligation for recipients to provide OECRC (identified as OCR in the regulation) with data upon OECRC’s request, under 7.85(a), as well as to determine compliance under 7.85(b).

Demographic data can be found on sites like US Census Bureau, [American Community Survey Data \(census.gov\)](#). There also may be other local demographic databases from which this information can be collected and maintained. There is no prohibition on pulling the data from another source as a method of collecting/maintaining (*i.e.*, the regulation does not say that the applicant has to build or have in place its own departmental database as the basis for collecting and maintaining). The issue for the organization could be in showing evidence that it is meeting the regulatory requirement – *i.e.*, if the Form 4700-4 was audited by EPA, for instance. So, some could be in the form of a departmental policy/SOP, *etc.* covering the organization’s collection and maintenance of data; that describes the source of that data (*e.g.*, specific database(s)); and how it is accessed from that database and collected. Best practices might include mention in the policy/SOP of how often data is collected and updated, how it’s used, *etc.*

Beyond the legal requirements of the regulation, applicants/recipients could as a matter of **best practice:**

- review and update the data collected at least annually;
 - utilize the data to inform agency decisions and actions;
 - make data available publicly (*e.g.*, on agency website).
-

From: Herrington, Lester <Lester.Herrington@msdh.ms.gov>
Sent: Tuesday, July 25, 2023 11:37 AM
To: Alford, Bobby <bobby.alford@msdh.ms.gov>; Johnson, Priscilla <Johnson.Priscilla@epa.gov>
Cc: Daniels-Lewis, Alicia (she/her/hers) <Daniels-Lewis.Alicia@epa.gov>; Hamrick, Jessica <Hamrick.Jessica@epa.gov>; Richardson, Shannon <Richardson.Shannon@epa.gov>; Wilson, Saundi <Wilson.Saundi@epa.gov>
Subject: Re: Mississippi State Department of Health - #02D67723

Is using census data not equivalent to the request? What better data exists?

Les Herrington, P.E., BCEE, CPM
Director
Office of Environmental Health
Mississippi State Department of Health

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From: Alford, Bobby "Lee" <Bobby.Alford@msdh.ms.gov>
Sent: Tuesday, July 25, 2023 10:11:45 AM
To: Johnson, Priscilla <Johnson.Priscilla@epa.gov>
Cc: Daniels-Lewis, Alicia (she/her/hers) <Daniels-Lewis.Alicia@epa.gov>; Hamrick, Jessica <Hamrick.Jessica@epa.gov>; Richardson, Shannon <Richardson.Shannon@epa.gov>; Wilson, Saundi <Wilson.Saundi@epa.gov>
Subject: RE: Mississippi State Department of Health - #02D67723

We rely on available census data. Am I being too technical?

Lee Alford, Program Director

Drinking Water Systems Revolving Loan Fund Program (U-222)
Bureau of Public Water Supply
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(601)576-7738
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From: Johnson, Priscilla <Johnson.Priscilla@epa.gov>
Sent: Tuesday, July 25, 2023 9:49 AM

To: Alford, Bobby "Lee" <Bobby.Alford@msdh.ms.gov>

Cc: Daniels-Lewis, Alicia (she/her/hers) <Daniels-Lewis.Alicia@epa.gov>; Hamrick, Jessica <Hamrick.Jessica@epa.gov>; Richardson, Shannon <Richardson.Shannon@epa.gov>; Wilson, Saundi <Wilson.Saundi@epa.gov>

Subject: Mississippi State Department of Health - #02D67723

Good morning Mr. Alford,

I am reviewing the EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance" (Form) that was submitted as part of your application for **EPA grant #4E-02D67723**.

I am unable to complete my review because the Form is incomplete. Specifically, question **VIII** is inconsistent with the requirements of the Form and the regulations.

I have attached the EPA Form- 47004 your organization submitted. Please refer to the following response and the recommended guidance and requirements for EPA Form 4700-4:

Question VIII: Does the applicant/recipient maintain demographic data on the race, color, national origin, sex, age, or disability status of the population it serves? (40 C.F.R. 7.85(a))

Response: Applicant/recipient answered "No".

To comply with the nondiscrimination regulations, a recipient of federal financial assurance from EPA must maintain demographic data on the populations that it serves [see 40 CFR Part 7.85(a)] and to ensure access to the recipient's programs and activities.

If you are unable to provide the information or have questions about the Form, please respond within 10 calendar days so we can discuss what time or technical assistance you may need to come into compliance with the requirements reflected in the Form. If appropriate, we may request that your organization enter into a written agreement with us to provide time for your organization to take steps to come into compliance with the regulatory requirements while processing of the award continues. *See*, 40 CFR § 7.110(b).

I look forward to hearing back from someone within your organization addressing the response to question **VIII** within 10 calendar days of the date of this email. The review process for the Form will proceed as appropriate depending on information provided, and if there are other questions or comments I will email and/or call.

I must note that review processing may be delayed if the Form needs to be directed to technical authorities for a final determination on pre-award compliance from the Director of EPA's Office of External Civil Rights Compliance (OECRC).

Regards,

Priscilla Johnson
Government Information Specialist, OGCLCOS

Office of Regional Counsel
(404) 562-9614

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