



# Compliance with EDA Disaster Assistance Program Requirements

## Fraud Awareness Training



You **must** successfully complete this training and **attach the signed completion certificate** along with your signed CD-450.

**Failure to comply with this requirement may result in a finding of non-compliance with the terms and conditions of your award**



# OVERVIEW



- Overview of EDA Disaster Recovery Programs
- The Department of Commerce (DOC)  
Office of Inspector General (OIG)
- Fraud in EDA Programs
- Additional Items
- Certificate

# INTRODUCTION: EDA DISASTER RECOVERY



**Role of EDA:** Facilitate the timely and effective delivery of Federal economic development assistance to support long-term community economic recovery planning and project implementation, redevelopment, and resiliency



# INTRODUCTION: EDA DISASTER RECOVERY



- Under the Bipartisan Budget Act of 2018 (PL 115-123), Congress appropriated to EDA \$600 million in additional Economic Adjustment Assistance (EAA) Program funds for disaster relief and recovery as a result of Hurricanes Harvey, Irma, and Maria, wildfires, and other calendar year 2017 natural disasters under the Stafford Act.
- Projects, among other things, must have a **nexus to applicable disaster recovery and resilience efforts** and be consistent with at least one of the EDA Investment Priorities.



# INTRODUCTION: EDA DISASTER RECOVERY



## EDA INVESTMENT PRIORITIES

- **Recovery & Resilience:** Projects that assist with economic resilience (including business continuity and preparedness) and long-term recovery from natural disasters and economic shocks to ensure U.S. communities are globally competitive.
- **Critical Infrastructure:** Projects that establish the fundamental building blocks of a prosperous and innovation-centric economy and a secure platform for American business, including physical (e.g., broadband, energy, roads, water, sewer) and other economic infrastructure.
- **Workforce Development & Manufacturing:** Projects that support the planning and implementation of infrastructure for skills-training centers and related facilities that address the hiring needs of the business community -- particularly in the manufacturing sector -- with a specific emphasis on the expansion of apprenticeships and work-and-learn training models. Also includes projects that encourage job creation and business expansion in manufacturing, including infrastructure-related efforts that focus on advanced manufacturing of innovative, high-value products and enhancing manufacturing supply chains.
- **Exports & Foreign Direct Investment (FDI):** Primarily infrastructure projects that enhance community assets (e.g. port facilities) to support growth in U.S. exports and increased foreign direct investment—and ultimately the return of jobs to the United States.

<https://www.eda.gov/about/investment-priorities/>

# INTRODUCTION: EDA DISASTER RECOVERY



- EDA disaster assistance grants are being awarded through its Regional Offices under the agency's Economic Adjustment Assistance (EAA) Program. The EAA Program enables EDA to make awards that support a wide range of construction and non-construction activities.
- Catalog of Federal Domestic Assistance (CFDA) 11.307
  - Located at <https://beta.sam.gov/>
  - Contains overview of the EAA Program
  - Contains eligibility, application, and compliance requirements, etc.



# ELIGIBILITY



## Eligible applicants under the EAA Program include:

- District Organization
- Indian Tribe or a consortium of Indian Tribes
- State,\* county, city, or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions
- Institution of higher education or a consortium of institutions of higher education
- Public or private non-profit organization or association acting in cooperation with officials of a political subdivision of a State

**EDA is not authorized to provide EAA grants to individuals or for-profit entities. Requests from such entities will not be considered for funding.**

*\*Includes Puerto Rico and other U.S. Territories*

# ELIGIBILITY



Projects eligible for EDA support include both the development of disaster recovery strategies and the implementation of recovery projects identified within those strategies, including construction activities, capitalizing revolving loan funds, and a variety of others.



# ELIGIBILITY



Applicants must propose a project located in or serving one or more communities or regions impacted by Hurricanes Harvey, Irma, or Maria, or wildfires or other Federally-declared natural disasters occurring in calendar year 2017.



# **The U.S. Department of Commerce (DOC) Office of Inspector General (OIG)**



# DOC – OFFICE OF INSPECTOR GENERAL



- Created by IG Act of 1978 to:
  - Combat fraud, waste, and abuse within the DOC
  - Conduct audits and investigations of DOC operations
  - Keep the DOC and Congress informed
- Mission
  - To improve the programs and operations of the Department of Commerce through independent and objective oversight

**This includes oversight of EDA Assistance Programs**

# DOC – OFFICE OF INSPECTOR GENERAL



- Office of Audit and Evaluation
- Office of Investigations
  - Criminal
  - Civil
  - Administrative
  - Employee misconduct
  - Public corruption



# WHISTLEBLOWER PROTECTIONS



Federal employees, applicants, and employees of federal contractors **and grantees** who make certain disclosures—to OIG or elsewhere—are protected under the law from suffering retaliation because of those disclosures.

Basic elements of whistleblower protection law: (1) you make a protected disclosure; (2) you are subject to certain retaliatory acts; and (3) there is a causal connection between your protected disclosure and the retaliatory act.

OIG receives, reviews, and where appropriate, investigates allegations of whistleblower reprisal.

Whistleblower complaints may be submitted to the OIG via the hotline:  
<https://www.oig.doc.gov/Pages/Online-Hotline-Complaint-Form.aspx>

Whistleblower complaints may also be submitted to the Office of Special Counsel via their website: <https://osc.gov/pages/file-complaint.aspx>

DOC-OIG Whistleblower Protection Coordinator contact information:

Email: [wpo@oig.doc.gov](mailto:wpo@oig.doc.gov)

Phone: 202-482-1099

# FRAUD IN EDA ASSISTANCE PROGRAMS



- **Fraud Defined**
- **Compliance Requirements**
  - **Eligibility**
  - **Duplicate Funding**
  - **Matching Funds**
  - **Mandatory Reporting of Fraud**
- **Consequences of Fraud**
- **Recommendations/Best Practices**



# FRAUD IN EDA ASSISTANCE PROGRAMS



Although it can take many forms, fraud, at its core, is **deception** through the **misrepresentation** or **omission of material facts** for the purpose of **illegitimate gain**.



# FRAUD IN EDA ASSISTANCE PROGRAMS



## Examples of fraud within EDA Assistance Programs include, but are not limited to:

- Accepting federal funding in multiple assistance awards for the same work
- Misrepresentations regarding the eligibility of the project or recipient
- Misrepresentations or omissions about the recipient's facilities, ownership/control, or the work to be performed by the recipient
- Providing falsified letters of support
- Misrepresentations concerning the use of funds expended, work performed, results achieved, or compliance with program requirements under the award
- Inflated labor costs

# FRAUD IN EDA ASSISTANCE PROGRAMS (CONTINUED)



- Misuse or conversion of assistance award funds (e.g. using funds for personal expenses)
- Theft of government owned property (18 U.S.C. § 666)
- Embezzlement (18 U.S.C. § 666)
- Fabrication or falsification of data, in applying for, carrying out, or reporting results from an assistance award
- Failure to comply with applicable federal cost principles governing grants / cooperative agreements
- Undisclosed self-dealing, such as a sub-award to an entity in which an awardee, executive, or key employee (or family members of the aforementioned individuals) has a financial interest
- “Buying Expenses”, or reporting expenses incurred by another entity for work unrelated to the assistance award



# COMPLIANCE REQUIREMENTS



## RECIPIENTS MUST COMPLY WITH:

- 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- Department of Commerce Financial Assistance Standard Terms and Conditions
- EDA Standard Award Conditions for Construction Projects **or** EDA Revolving Loan Fund Standard Award Conditions (as applicable)
- Special Award Conditions (unique to each award)



# COMPLIANCE REQUIREMENTS



## 2 CFR § 200.338 – REMEDIES FOR NONCOMPLIANCE

If a non-Federal entity fails to comply with **Federal statutes, regulations or the terms and conditions of a Federal award**, the Federal awarding agency or pass-through entity may impose additional conditions; or, in certain circumstances, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- Temporary withholding of cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity
- Disallowance of (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance
- Whole or partial suspension or termination of the Federal award
- Initiation of suspension or debarment proceedings (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency)
- Withholding of further Federal awards for the project or program
- Other remedies that may be legally available

# COMPLIANCE REQUIREMENTS



## Eligibility

Within their EDA Assistance Award Proposal, applicants make numerous certifications as to their eligibility to receive a federal award, among other certifications.

**Falsely certifying to any material fact or representation contained in a certification is fraud.**



# CASE EXAMPLE



## Eligibility

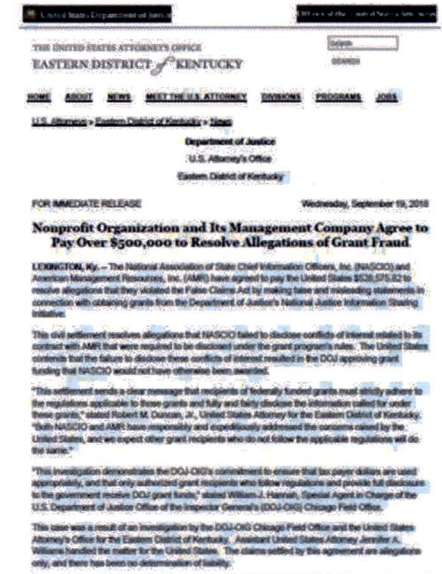
### Allegations Included:

- Nonprofit organization made false and misleading statements to obtain federal grant funding
- Failure to disclose conflicts of interest that were required to be disclosed

### Outcome:

- Nonprofit agreed to pay \$528,575.82 to resolve allegations they violated the False Claims Act

Double-click  
below for more  
information





# COMPLIANCE REQUIREMENTS



## Duplication of Benefits is Prohibited

**IMPORTANT**— The Stafford Act (42 U.S.C. § 5155) prohibits duplication of benefits:

“The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.”

# COMPLIANCE REQUIREMENTS



## Duplication of Benefits is Prohibited

### 2 CFR § 200.53 – Improper Payment

Improper payment includes any payment to an ineligible party, any payment for an ineligible good or service, **any duplicate payment**, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

### Other Federal Awards with Similar Programmatic Activities

“The Recipient shall immediately notify the Project Officer and the Grants Officer in writing if, after receipt of this Award, other financial assistance is received to support or fund any portion of the scope of work incorporated into this Award. EDA will not pay for costs that are funded by other sources.” *EDA Standard Terms and Conditions for Construction Projects, February 12, 2016*



# CASE EXAMPLE



## Duplication of Benefits

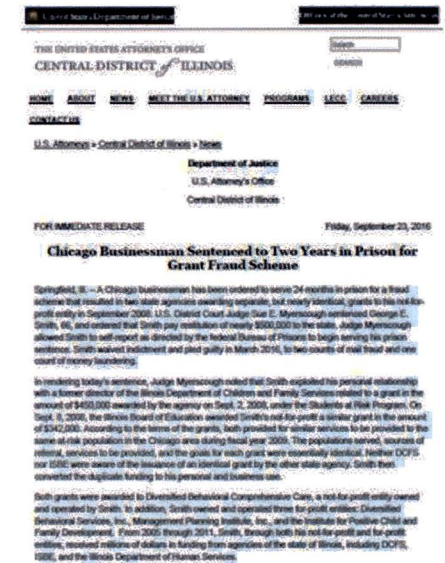
Double-click  
below for more  
information

### Allegations Included:

- Not-for-profit owner applied for funding for similar services
- Owner converted the duplicate funding for his personal and business use

### Outcome:

- Owner pled guilty to mail fraud and money laundering
- Sentenced to 24 months in prison
- Ordered to pay \$480,901 in restitution



# COMPLIANCE REQUIREMENTS



## Matching Funds

- Generally, EDA's maximum allowable grant rate is 50% of the approved project cost; however, EDA will work with the recipient to determine the appropriate grant rate for the award based on statutory and regulatory distress factors.
- The remaining portion of the EDA approved scope of work must be borne by the recipient or provided to the recipient by a third party as a contribution for the purposes of and subject to the terms of the award.
- The applicant must document that the matching share **will**:
  - Be committed to the project for the period of performance
  - Be available as needed
  - Not be conditioned or encumbered in any way that may preclude its use consistent with the requirements of EDA investment assistance
- Applicants must submit, for each source of matching share, a commitment letter or equivalent document signed by an authorized representative of the organization providing the matching funds. *Additional documentation may be requested by EDA in order to substantiate the availability of the matching funds.*



# CASE EXAMPLE



## Matching Funds

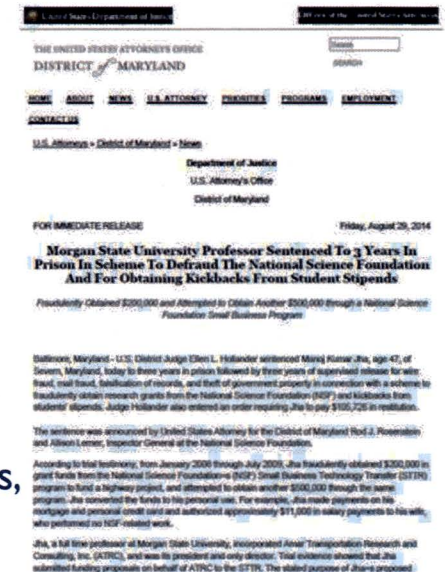
### Allegations Included:

- Small business owner made several false statements and misrepresentations to obtain federal grant funding
- Owner misrepresented that he obtained a \$100,000 investment from a third party in order to qualify for federal matching funds
- Owner converted grant funds to personal use

### Outcome:

- Owner convicted at trial for wire fraud, mail fraud, falsification of records, and theft of government property
- Sentenced to 36 months in prison
- Ordered to pay \$105,726 in restitution
- Owner debarred for 5 years

Double-click  
below for more  
information



# COMPLIANCE REQUIREMENTS



## Mandatory Disclosure of Fraud

### **2 CFR § 200.113 - Mandatory disclosures**

The non-Federal entity or applicant for a Federal award **must disclose**, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Failure to disclose could result in the remedies detailed in 2 CFR § 200.338 (slide 19 of this presentation).



# CONSEQUENCES OF COMMITTING FRAUD



## Criminal Prosecution

Lying to obtain a grant, or lying about the work performed may violate several criminal laws:

- 18 U.S.C. § 1001, False Statements (up to 5 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 641, Theft of Federal Property (up to 10 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 1343, Wire Fraud (up to 20 years in prison, forfeiture and \$250K fine)
- 18 U.S.C. § 666, Theft or bribery concerning programs receiving Federal funds (up to 10 years in prison, forfeiture and \$250K fine)

*Fines for organizations may be as high as \$500K*

**Criminal forfeiture = full amount of the grant; personal assets can be seized to satisfy forfeiture or fine**

# CONSEQUENCES OF COMMITTING FRAUD (CONTINUED)



## Civil Prosecution

In addition to or in lieu of criminal prosecution

Civil False Claims Act, 31 U.S.C. §§ 3729-3733

- Liability includes up to treble damages (3x actual damages) and a civil penalty of up to \$22,363 for each false claim
- False claims liability may include payments received when the government relied upon false information in the award proposal, in a certification of current cost or pricing data, in a request for payment, or in progress reports
- Although the statute requires knowledge that the claim was false, knowledge includes “deliberate ignorance” or “reckless disregard of the truth”
- Whistleblowers can receive up to 30% of the recovery amount for reporting fraud via *qui tam* provisions of the False Claims Act



# CONSEQUENCES OF COMMITTING FRAUD (CONTINUED)



## Administrative Remedies

- Government can terminate contracts/grants tainted by fraud
- Government can suspend/debar the entity, owner, and/or employees
  - Results in prohibition from receiving any federal grants or contracts, or working as a sub-grantee on federal grants or a sub-contractor on federal contracts
  - Debarment is typically for three years, but can be for a longer period
- Administrative remedies are in addition to or in lieu of criminal and civil liability

# RECOMMENDATIONS



The government retains the right to examine the status of an EDA Assistance award at any time.

Status checks include:

- Site visits
- Requests for records including financial documents and timesheets

**Good recordkeeping will help ensure successful status checks and eliminate potential issues.**



# RECOMMENDATIONS



## Good Records: Key to Protecting Yourself

### Documentation

- Timesheets for hours worked by ALL involved employees
- All financial receipts, invoices and statements for expenses related to the project

### Updates on the project status, including successes/failures

- Keep regular records at the business-level so you have all facts on hand if needed/requested by the government
- Documentation to support performance metrics

# IMPORTANT TO REMEMBER!



If you are unsure about any of the requirements relating to the award of an EDA Assistance grant/cooperative agreement:

- Contact the appropriate EDA POC and provide all relevant facts
- Request written guidance from the EDA POC, and
- **Follow it!**



# ADDITIONAL RESOURCES



## **EDA Disaster Recovery website**

<https://www.eda.gov/programs/disaster-recovery/>

## **13 CFR Chapter III – Economic Development Administration (Parts 300-315)**

<https://gov.ecfr.io/cgi-bin/text-idx?SID=8fbf6f5b896d79be9a11dd18cee58dea&mc=true&tpl=/ecfrbrowse/Title13/13chapterIII.tpl>

## **2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards**

<https://gov.ecfr.io/cgi-bin/text-idx?SID=be9b8216bc70dcf927fd18af1b339149&mc=true&node=pt2.1.200&rgn=div5>

## **Grant Fraud & Scams – Grants.gov**

<https://www.grants.gov/learn-grants/grant-fraud.html>

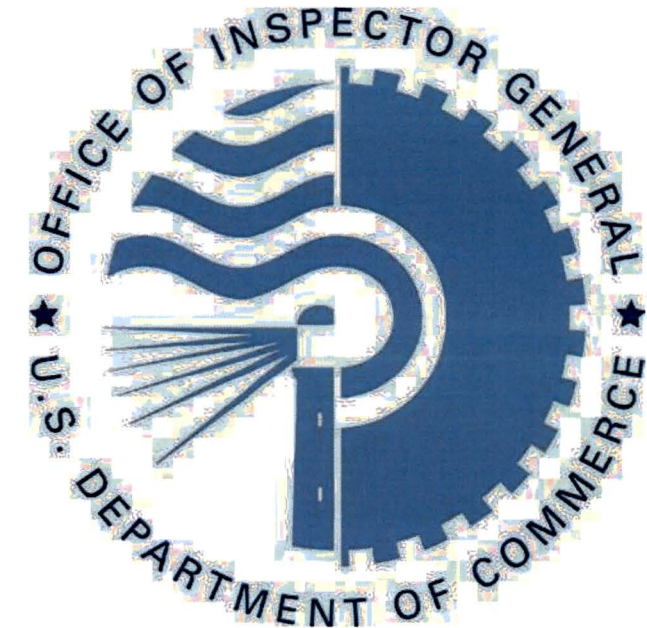
# REPORT FRAUD, WASTE, AND ABUSE



**U.S. Department of Commerce  
Office of Inspector General  
Office of Investigations**

**OIG HOTLINE  
Phone: (800) 424-5197**

**Online Complaint Form:**  
<https://www.oig.doc.gov/Pages/Online-Hotline-Complaint-Form.aspx>



**For more information  
please visit our website  
[www.oig.doc.gov](http://www.oig.doc.gov)**



# REPORT FRAUD, WASTE, AND ABUSE



## National Center for Disaster Fraud Hotline

**Phone: 866-720-5721**  
**Fax: 225-334-4707**  
**Email: [disaster@leo.gov](mailto:disaster@leo.gov)**



**For more information please visit**  
**<https://www.fema.gov/disaster-fraud>**

# CERTIFICATE OF TRAINING COMPLETION



You must successfully complete this training and attach the completion certificate (next slide) to your signed CD-450.

Failure to comply with this requirement may result in a finding of non-compliance with the terms and conditions of your award.



# CERTIFICATE OF TRAINING COMPLETION



The undersigned has fully and completely reviewed this training on behalf of the proposer/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned understands providing false or misleading information during any part of the proposal, award, or performance phase of an EDA assistance award may result in criminal, civil or administrative sanctions, including but not limited to: fines, restitution, and/or imprisonment under 18 U.S.C. § 1001; treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729 *et seq.*; civil recovery of award funds; suspension and/or debarment from all federal procurement and non-procurement transactions, FAR Part 9.4 or 2 CFR Part 180; and other administrative remedies including termination of active EDA assistance awards.

Karen Williams Seel  
Signature

8/20/19  
Date

Karen Williams Seel  
Name

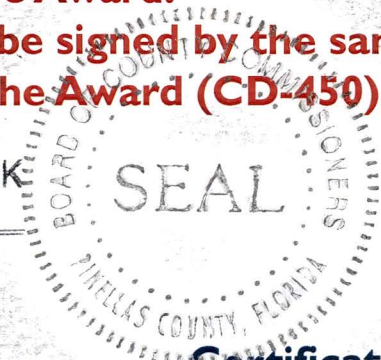
Pinellas County Board of  
County Commissioners  
Entity Name

Chair  
Position Title

**EDA Award Number 04-79-07380**

**Return signed with executed Award Documents,  
a separate Certification is required for each  
Authorized Signer on the Award.  
This Certification must be signed by the same  
Individual(s) executing the Award (CD-450).**

ATTEST: KEN BURKE, CLERK  
By: [Signature]  
Deputy Clerk



**Certificate One**