Fraud Awareness Training

U.S. ECONOMIC DEVELOPMENT ADMINISTRATION

EDA's grantees <u>must</u> successfully complete this training and <u>submit the signed completion certificate(s)</u> to the EDA Project Officer listed in the Specific Award Conditions within 60 days of grant award.

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's Programs
- The Department of Commerce (DOC) Office of Inspector General (OIG)
- Fraud in EDA Programs
- Additional Items
- Certificate

INTRODUCTION

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

EDA's Programs

- EDA's Programs enable EDA to make awards that support a wide range of activities.
- Eligible applicants and project types for each program is set forth in the respective Notices of Funding Opportunity.
- You must read and understand the requirements applicable to the program under which your award is funded, including the applicable Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions.

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/Hotline.aspx#complainthotline

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 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
- Intentional noncompliance 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)
- Specific Award Conditions (unique to each award)

2 CFR § 200.339 – REMEDIES FOR NONCOMPLIANCE

If a non-Federal entity fails to comply with **the U.S. Constitution, 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

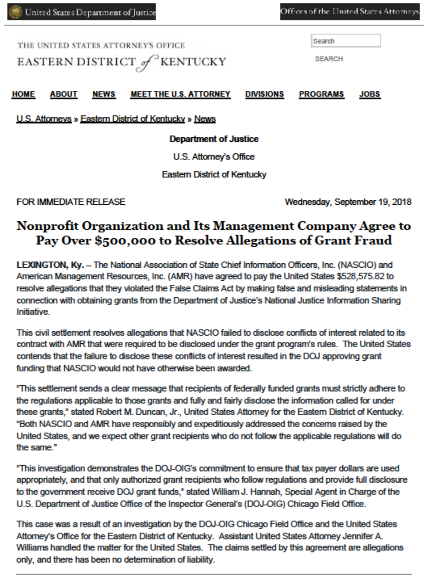
Within their EDA Assistance Award Proposal, applicants make numerous certifications or recertifications as to their eligibility to receive a federal award, among other certifications.

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

CASE EXAMPLE

Eligibility

Double-click below for more information



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FOR IMMEDIATE RELEASE — Wednesday, September 19, 2018

Nonprofit Organization and Its Management Company Agree to Pay Over $500,000 to Resolve Allegations of Grant Fraud

LEXINGTON, Ky. – The National Association of State Chief Information Officers, Inc. (NASCIO) and American Management Resources, Inc. (AMR) have agreed to pay the United States $528,575.82 to resolve allegations that they violated the False Claims Act by making false and misleading statements in connection with obtaining grants from the Department of Justice's National Justice Information Sharing Initiative.

This civil settlement resolves allegations that NASCIO failed to disclose conflicts of interest related to its contract with AMR that were required to be disclosed under the grant program's rules. The United States contends that the failure to disclose these conflicts of interest resulted in the DOJ approving grant funding that NASCIO would not have otherwise been awarded.

"This settlement sends a clear message that recipients of federally funded grants must strictly adhere to the regulations applicable to those grants and fully and fairly disclose the information called for under these grants," stated Robert M. Duncan, Jr., United States Attorney for the Eastern District of Kentucky. "Both NASCIO and AMR have responsibly and expeditiously addressed the concerns raised by the United States, and we expect other grant recipients who do not follow the applicable regulations will do the same."

"This investigation demonstrates the DOJ-OIG's commitment to ensure that tax payer dollars are used appropriately, and that only authorized grant recipients who follow regulations and provide full disclosure to the government receive DOJ grant funds," stated William J. Hannah, Special Agent in Charge of the U.S. Department of Justice Office of the Inspector General's (DOJ-OIG) Chicago Field Office.

This case was a result of an investigation by the DOJ-OIG Chicago Field Office and the United States Attorney's Office for the Eastern District of Kentucky. Assistant United States Attorney Jennifer A. Williams handled the matter for the United States. The claims settled by this agreement are allegations only, and there has been no determination of liability.

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

Duplication of Benefits is Prohibited

2 CFR § 200.1 – Improper Payment

Improper payment means any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. This includes overpayments or underpayments to eligible recipients (including inappropriate denials of payment or service, any payment that does not account for credit for applicable discounts, payments that are for an incorrect amount, and **duplicate payments**). It also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received (except for such payments authorized by law).

Other Federal Awards with Similar Programmatic Activities

"The recipient must immediately provide written notification to the DOC Program Officer and the DOC Grants Officer if, subsequent to receipt of the DOC Award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC Award. DOC will not pay for costs that are funded by other sources." *EDA Standard Terms and Conditions for Construction Projects, March 22, 2021*

CASE EXAMPLE

Duplication of Benefits

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

Double-click below for more information

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FOR IMMEDIATE RELEASE Friday, September 23, 2016

Chicago Businessman Sentenced to Two Years in Prison for Grant Fraud Scheme

Springfield, Ill. – A Chicago businessman has been ordered to serve 24 months in prison for a fraud scheme that resulted in two state agencies awarding separate, but nearly identical, grants to his not-for-profit entity in September 2008. U.S. District Court Judge Sue E. Myerscough sentenced George E. Smith, 66, and ordered that Smith pay restitution of nearly $500,000 to the state. Judge Myerscough allowed Smith to self-report as directed by the federal Bureau of Prisons to begin serving his prison sentence. Smith waived indictment and pled guilty in March 2016, to two counts of mail fraud and one count of money laundering.

In rendering today's sentence, Judge Myerscough noted that Smith exploited his personal relationship with a former director of the Illinois Department of Children and Family Services related to a grant in the amount of $450,000 awarded by the agency on Sept. 2, 2008, under the Students at Risk Program. On Sept. 8, 2008, the Illinois Board of Education awarded Smith's not-for-profit a similar grant in the amount of $342,000. According to the terms of the grants, both provided for similar services to be provided to the same at-risk population in the Chicago area during fiscal year 2009. The populations served, sources of referral, services to be provided, and the goals for each grant were essentially identical. Neither DCFS nor ISBE were aware of the issuance of an identical grant by the other state agency. Smith then converted the duplicate funding to his personal and business use.

Both grants were awarded to Diversified Behavioral Comprehensive Care, a not-for-profit entity owned and operated by Smith. In addition, Smith owned and operated three for-profit entities: Diversified Behavioral Services, Inc., Management Planning Institute, Inc., and the Institute for Positive Child and Family Development. From 2005 through 2011, Smith, through both his not-for-profit and for-profit entities, received millions of dollars in funding from agencies of the state of Illinois, including DCFS, ISBE, and the Illinois Department of Human Services.

Matching Funds

- The non-Federal share of the approved project budget (aka the "matching share" or "local share") 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

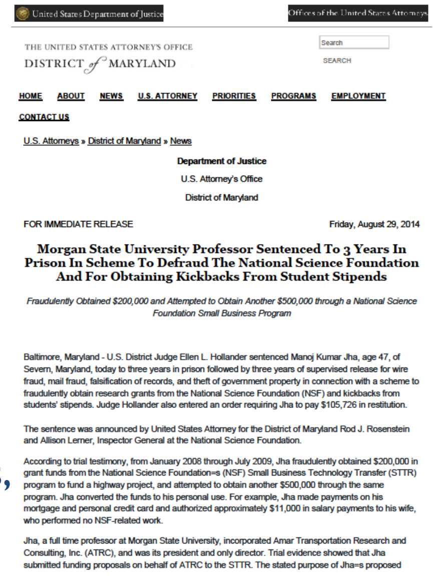
Double-click below for more information

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



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FOR IMMEDIATE RELEASE — Friday, August 29, 2014

Morgan State University Professor Sentenced To 3 Years In Prison In Scheme To Defraud The National Science Foundation And For Obtaining Kickbacks From Student Stipends

Fraudulently Obtained $200,000 and Attempted to Obtain Another $500,000 through a National Science Foundation Small Business Program

Baltimore, Maryland - U.S. District Judge Ellen L. Hollander sentenced Manoj Kumar Jha, age 47, of Severn, Maryland, today to three years in prison followed by three years of supervised release for wire fraud, mail fraud, falsification of records, and theft of government property in connection with a scheme to fraudulently obtain research grants from the National Science Foundation (NSF) and kickbacks from students' stipends. Judge Hollander also entered an order requiring Jha to pay $105,726 in restitution.

The sentence was announced by United States Attorney for the District of Maryland Rod J. Rosenstein and Allison Lerner, Inspector General at the National Science Foundation.

According to trial testimony, from January 2008 through July 2009, Jha fraudulently obtained $200,000 in grant funds from the National Science Foundation=s (NSF) Small Business Technology Transfer (STTR) program to fund a highway project, and attempted to obtain another $500,000 through the same program. Jha converted the funds to his personal use. For example, Jha made payments on his mortgage and personal credit card and authorized approximately $11,000 in salary payments to his wife, who performed no NSF-related work.

Jha, a full time professor at Morgan State University, incorporated Amar Transportation Research and Consulting, Inc. (ATRC), and was its president and only director. Trial evidence showed that Jha submitted funding proposals on behalf of ATRC to the STTR. The stated purpose of Jha=s proposed

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 § 200.339 (slide 16 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 $23,607 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

Records Retention Time Frames and other Requirements

- See 2 CFR § 200.334

IMPORTANT TO REMEMBER!

Record Retention and Access

§ 200.334 Retention requirements for records.

The recipient and subrecipient must retain all Federal award records for three years from the date of submission of their final financial report. For awards that are renewed quarterly or annually, the recipient and subrecipient must retain records for three years from the date of submission of their quarterly or annual financial report, respectively. Records to be retained include but are not limited to, financial records, supporting documentation, and statistical records. Federal agencies or pass-through entities may not impose any other record retention requirements except for the following:

(a) The records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken if any litigation, claim, or audit is started before the expiration of the three-year period.

(b) When the recipient or subrecipient is notified in writing by the Federal agency or pass-through entity, cognizant agency for audit, oversight agency for audit, or cognizant agency for indirect costs to extend the retention period.

(c) The records for property and equipment acquired with the support of Federal funds must be retained for three years after final disposition.

(d) The three-year retention requirement does not apply to the recipient or subrecipient when records are transferred to or maintained by the Federal agency.

(e) The records for program income earned after the period of performance must be retained for three years from the end of the recipient's or subrecipient's fiscal year in which the program income is earned. This only applies if the Federal agency or pass-through entity requires the recipient or subrecipient to report on program income earned after the period of performance in the terms and conditions of the Federal award.

(f) he records for indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates) must be retained according to the applicable option below:

(1) ***If submitted for negotiation.*** When a proposal, plan, or other computation must be submitted to the Federal Government to form the basis for negotiation of an indirect cost rate (or other standard rates), then the three-year retention period for its supporting records starts from the date of submission.

(2) ***If not submitted for negotiation.*** When a proposal, plan, or other computation is not required to be submitted to the Federal Government to form the basis for negotiation of an indirect cost rate (or other standard rates), then the three-year retention period for its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

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

13 CFR Chapter III – Economic Development Administration (Parts 300-315)
https://www.ecfr.gov/current/title-13/chapter-III

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II

Grant Fraud & Scams – Grants.gov
https://www.grants.gov/learn-grants/grant-fraud.html

Department of Commerce – Grants and Cooperative Agreement Manual
https://www.commerce.gov/oam/files/grants-and-cooperative-agreements-grants-manual-april-20-2021

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For more information please visit our website www.oig.doc.gov

CERTIFICATE OF TRAINING COMPLETION

- **All EDA grantees <u>must</u> successfully complete this training and <u>submit the signed completion certificate(s)</u> to the EDA Project Officer listed in the Specific Award Conditions or via the EDGE website within 60 days of grant award.**

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 applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. 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.

______________________ ______________

Signature **Date**

____

Name

____

Entity Name

____

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number ED26ATL0G0120 **Certificate One**

CERTIFICATE OF TRAINING COMPLETION

The undersigned has fully and completely reviewed this training on behalf of the applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. 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.

______________________________ ____________________

Signature **Date**

____

Name

____

Entity Name

____

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number ED26ATL0G0120

Certificate Two

CERTIFICATE OF TRAINING COMPLETION

The undersigned has fully and completely reviewed this training on behalf of the applicant/awardee, understands the information presented in this training, and has the authority to make this certification as the awardee. The undersigned has also read and understood the Notice of Funding Opportunity, Specific Award Conditions, and Standard Terms and Conditions applicable to this Award. 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.

______________________________ ____________________

Signature **Date**

____

Name

____

Entity Name

____

Position Title

Per the training instructions, return signed either to the relevant EDA Project Officer or via the EDGE website, as applicable, within 60 days of grant award. A separate Certification is required for each Authorized Signer on the Award. This Certification must be signed by the same Individual(s) executing the Notice of Award.

EDA Award Number ED26ATL0G0120 **Certificate Three**