



March 14, 2017

**MEMORANDUM FOR:** Thomas Guevara  
Deputy Assistant Secretary for Regional Affairs  
Performing the Non-Exclusive Duties of the  
Assistant Secretary for Economic Development  
Economic Development Administration

**FROM:** Richard Bachman  
Assistant Inspector General for Financial  
and Intellectual Property Audits

**SUBJECT:** *EDA Public Works and Economic Adjustment Assistance Grant  
Recipient Selections Were Generally Made Competitively But  
Its Merit-Based Selection Process Can Be Further Improved*  
Final Report No. OIG-17-019-A

This final report details our audit of the Economic Development Administration's (EDA's) fiscal years (FYs) 2014 and 2015 solicitation, evaluation, and selection processes for Public Works (PW) and Economic Adjustment Assistance (EAA) grant recipient selections. Our objective was to evaluate the effectiveness of EDA's FYs 2014 and 2015 solicitation, evaluation, and selection processes to determine whether the PW and EAA grant recipient selections were made competitively and on a merit basis as required by federal, Departmental, and agency regulations.

To accomplish our audit, we first obtained an understanding of EDA's grant recipient selection policies. We then tested the effectiveness of its policies by reviewing their implementation during FYs 2014 and 2015. To meet our audit objective, we judgmentally selected 75 PW and EAA grant applications, which were submitted for EDA funding during FYs 2014 and 2015. For the grant applications selected for testing, we reviewed relevant documentation from the grant files to ensure selections were made competitively and on a merit basis.

Appendix A provides a more detailed narrative of our audit scope and methodology.

## **Background**

EDA's main focus is fostering regional economic development efforts in communities across the nation by providing grants to eligible recipients. Its two largest grant programs are the PW and the EAA programs. Grants made under these programs are designed to leverage existing regional assets to support the implementation of economic development strategies in economically distressed areas of the United States.

According to EDA's Budget and Finance Department, the agency awarded a combined 184 PW and EAA grants totaling approximately \$184 million during FY 2014. Additionally, EDA awarded

another 124 PW and EAA grants during FY 2015, totaling approximately \$134 million. Table I (below) summarizes the federal funding amount awarded by EDA during this period.

**Table I. Summary of EDA PW & EAA Grants Awarded for FYs 2014 and 2015**

EDA's Grant Type Awarded	Total Number of Grants Awarded in FY 2014	Total EDA Amount Awarded in FY 2014	Total Number of Grants Awarded in FY 2015	Total EDA Amount Awarded in FY 2015
PW	93	\$ 131,798,308	72	\$101,000,200
EAA	91	\$ 52,349,521	52	\$32,590,000
<b>Total</b>	<b>184</b>	<b>\$ 184,147,829</b>	<b>124</b>	<b>\$133,590,200</b>

Source: OIG analysis of documentation provided by EDA's Budget and Finance Department

Generally, the awarding process begins with EDA announcing the federal funding opportunity (FFO) for a particular fiscal year. Once the FFO is announced, applicants submit their applications to EDA, which the agency then verifies for initial eligibility and overall funding priority fit according to EDA mission. After the initial verifications are completed, EDA's regional Investment Review Committee (IRC)—along with the Regional Counsel—review and recommend approval or denial of the applications, based on their competitiveness, to the Acting Regional Director (Director), who is also the Grants Officer. The Director then makes the final funding approval or denial decision based upon his or her review of the IRC recommendation, as well as counsel analysis and recommendation.

## Finding and Recommendations

Overall, we concluded that EDA's grant awarding processes in place during FYs 2014 and 2015 were generally effective in ensuring competitive selection of its recipients. Although it did not affect our overall conclusion, we identified one occurrence where an EDA official circumvented the procedures in place to approve and award a grant recipient approximately \$1.3 million of EDA funding. We concluded that this instance was not the result of ineffective controls.

### EDA's Recipient Selection Controls Are Effective but Can Be Improved

This audit focused on evaluating the effectiveness of EDA's FYs 2014 and 2015 solicitation, evaluation, and selection processes to determine whether the PW and EAA grant recipient selections were made competitively and on a merit basis. Overall, we did not identify internal

control weaknesses in EDA's competitive selection of its grant recipients at the 3 regions tested.<sup>1</sup>

We reviewed the EDA *Policy and Operations Manual* versions in effect during FYs 2014 and 2015 (*Manual*)<sup>2</sup> and reviewed their conformance with the provisions of the Department's *Grants and Cooperative Agreements Manual*, as well as the FFO criteria for the respective fiscal years. Specifically, we determined the effectiveness of the processes by reviewing their implementation during the pre-award phase of the grant applications. We tested the validity of approval or denial decisions by reviewing a sample of 50 PW and 25 EAA grant applications processed during FYs 2014 and 2015 totaling approximately \$178 million. For these applications, we analyzed the grants' eligibility requirements, IRC review requirements, and Regional Counsel and Directorial review documentations to determine whether

- recipients met the eligibility and submission requirements;
- projects were located in a region that met the distress criteria requirements;
- required application reviews were completed by EDA;
- funding awarded by EDA met cost sharing requirements; and
- final approval or denial decisions of the applications were made competitively and on a merit basis.<sup>3</sup>

We found that 74 of the 75 grant applications tested appeared to meet the key EDA and FFO requirements listed above. Table 2 (next page) summarizes our results:

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<sup>1</sup> Based upon location and operational risks identified during audit research, we judgmentally chose a sample of 75 grant applications from three (Atlanta, Austin, and Philadelphia) of the six EDA Regional Offices.

<sup>2</sup> *Policy and Operations Manual*, October 2013, Version 1.0, and *Policy and Operations Manual*, September 2014, Version 1.1

<sup>3</sup> These listed requirements had to be met under the *Manual* and the FYs 2014 and 2015 FFO guidelines.

**Table 2. EDA PW and EAA Applications Appearing to Meet Key Requirements**

EDA's Regional Office Reviewed	Number of Applications Selected for Testing	Application Reviews Completed	Eligibility/ Submission Requirements	Distress Criteria Requirement	Cost-Share Requirement	Approval/Denial Decisions Appear Competitive and Merit Based
Atlanta	33	33	33	33	33	33
Austin	28	28	28	28	28	28
Philadelphia	14	14	14	14	14	13 <sup>a</sup>
<b>Total</b>	<b>75</b>	<b>75</b>	<b>75</b>	<b>75</b>	<b>75</b>	<b>74<sup>a</sup></b>

Source: OIG analysis of documentation provided by EDA

<sup>a</sup> One application that was approved should have been denied.

We did identify one EAA grant application from FY 2015 that was initially denied but was later improperly approved. In mid-April 2015, during the review process, the Director denied the application, stating that—based upon the Director’s review of the applicable IRC and Regional Counsel analyses of the application package—it did not fit EDA’s overall economic development priority. The *Manual* states that the Director, who is also the Grants Officer of his or her respective region, makes the final approval or denial decision for an EDA grant application.<sup>4</sup> Therefore, this decision to deny the application and the rationale supporting the decision was within the authority granted to the Director.

A new Director was appointed in late April 2015, who subsequently overturned the denial and approved the application. The new Director’s decision was made without providing additional information supporting the reversal, such as merit-based information or other additional justifications. We reviewed the *Manual* and concluded that EDA does not have any documented procedures to change a prior Director’s final decision. The EDA Regional Counsel responsible for providing a legal opinion on this application also concurred with our conclusion.

Additionally, we found that the new Director previously served as a voting member of the IRC panel that conducted the initial review of this application—and had voted in favor of approving the applicant. The *Manual* strictly prohibits a Director from serving on an IRC, stating that the IRC’s role is to provide independent analysis to each grant application, based upon its competitiveness and merit, compared with other applications during a funding period. Once the IRC concludes its analysis, it makes a recommendation to the Director to either approve or deny the application. The Director then reviews the IRC recommendation, along with any legal review conducted by the Regional Counsel, and makes the final decision. Because the Director

<sup>4</sup> “Each region’s IRC provides investment recommendations to its respective Regional Director, who serves as the Grants Officer in that region and who makes the final decision on whether to fund an application.” (Section 7.1.10.4, *EDA Policy and Operations Manual*, version 1.1.)

served both roles for this specific grant—recommending approval as a member of the IRC and then providing final approval as the Regional Director—we believe that this appears to compromise the intent of the *Manual's* requirement of maintaining decision-making independence.<sup>5</sup>

Therefore, we concluded that this application, which resulted in a grant award of approximately \$1.3 million, should have remained denied in accordance with the original Director's decision in the absence of any governing procedures permitting a new Director to change a prior Director's final decision. However, we note that this was not the result of ineffective controls.

### *Recommendations*

We recommend that the Assistant Secretary of Commerce for Economic Development

1. review the disputed grant application noted in this report, for any potential improprieties; and
2. ensure compliance with the *Manual* requirement of maintaining decision-making independence between IRC members and Regional Directors when considering a grant application.

On February 24, 2017, OIG received EDA's response (dated February 17, 2017) to the draft report's findings and recommendations, which we include here as appendix B. EDA concurred with our findings and our recommendations. This final memorandum report will be posted on OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

In accordance with Department Administrative Order 213-5, please submit to us—within 60 calendar days of the date of this memorandum—an action plan that responds to the recommendations of this report.

Thank you for the courtesies extended to my staff during this review. If you have any questions or concerns about this report, please call me at (202) 482-2877 or Susan Roy, Regional Inspector General for Audit, Atlanta Regional Office, at (404) 730-2063.

cc: Deborah Haynes, Audit Liaison, EDA

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<sup>5</sup> OIG recognizes that the Philadelphia office had been operating without a permanent Regional Director for a prolonged period (from October 2014 to December 2015). During this period, Philadelphia had a series of Acting Regional Directors; the frequent change in the leadership, combined with the absence of clear internal EDA guidance on what is required for a succeeding Regional Director to justify reversing the award decision of a preceding Regional Director, provides additional context for what transpired.

## Appendix A. Objective, Scope, and Methodology

The audit objective was to evaluate the effectiveness of EDA's FYs 2014 and 2015 solicitation, evaluation, and selection processes to determine whether the PW and EAA grant recipient selections were made competitively and on a merit basis.

To satisfy this objective, we interviewed relevant EDA staff, and reviewed the Departmental and EDA policies and procedures in place pertaining to EDA's grants awarding process. Our review included the following policies and procedures:

- The Department of Commerce's *Grants and Cooperative Agreements Manual*, dated March 1, 2013
- Announcement of Federal Funding Opportunity—Public Works and Economic Adjustment Assistance Programs for FYs 2014 and 2015
- Versions of EDA's *Policy and Operations Manual* in effect during FYs 2014 and 2015

For the purpose of this review, we judgmentally selected a sample of 75 Public Works (PW) and Economic Adjustment Assistance (EAA) grant applications from a total number of 759<sup>6</sup> for testing. Based on our established risk criteria and our meeting with OIG's data analytical team, we decided not to use a statistical sample method. Instead, our judgmental sample was selected based on the following selection factors:

- PW and EAA construction grant applicants who requested more than \$1,000,000 of EDA funding;
- PW and EAA construction grant applicants who requested EDA cost share of over 50 percent of the total project cost: and
- PW and EAA construction grant applicants who submitted applications through the Atlanta, Austin, and Philadelphia regional offices for FYs 2014 and 2015.

We conducted a site visit at EDA's headquarters in Washington, DC, to gain an understanding of EDA's oversight process. Our fieldwork was conducted from April 2016 to September 2016 under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated April 26, 2013. We performed our work at three of EDA's regional offices in Atlanta, Austin, and Philadelphia.

We gained an understanding of internal control processes significant within the context of the audit objective by reviewing the documentation for evidence of controls. We did not rely on computer processed data to complete this audit. Finally, our work found no instances of illegal acts. From these efforts, we believe the information we obtained is sufficiently reliable for this report.

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<sup>6</sup> EDA provided us a list of 759 PW and EAA applications for FYs 2014 and 2015 from all of its 6 regions totaling approximately \$1 billion.

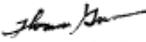
We performed our work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## Appendix B. Agency Response



UNITED STATES DEPARTMENT OF COMMERCE  
Economic Development Administration  
Washington, DC 20230

**MEMORANDUM FOR:** Richard Bachman  
Assistant Inspector General for Financial  
and Intellectual Property Audits

**FROM:** Thomas Guevara   
Deputy Assistant Secretary for Regional Affairs  
Performing the non-exclusive duties of the  
Assistant Secretary for Economic Development

**SUBJECT:** Response to Draft OIG Audit Report (February 10, 2017): *EDA  
Public Works and Economic Adjustment Assistance Grant  
Recipient Selections Were Generally Made Competitively But Its  
Merit-Based Selection Process Can Be Further Improved*

**DATE:** February 17, 2017

Thank you for the opportunity to review and comment on the above-entitled Office of the Inspector General (OIG) Draft Audit Report. The Economic Development Administration (EDA) appreciates the OIG's thorough review of our solicitation, evaluation and selection processes for our Public Works and Economic Adjustment Assistance grant programs in fiscal years 2014 and 2015. EDA is proud that the OIG concluded that EDA's grant processes over this two-year span were "generally effective in ensuring competitive selection of its recipients." This Draft Report validates our continuing commitment to making awards based on the competitiveness and merit of applications and the positive results of the audit are a testament to the hard work and perseverance of our dedicated staff.

Impressively, the OIG found that out of the 75 grants examined across three of EDA's Regional Offices, 74 were awarded in manner consistent with the legal and procedural requirements imposed by the Department, EDA and the applicable Federal Funding Opportunity. While the OIG did identify one unusual situation where an Acting Regional Director temporarily serving as the Grants Officer did not follow proper procedures in awarding a grant, it is worth emphasizing here that the OIG determined that this anomaly "was not the result of ineffective controls." The OIG has proffered two recommendations to address this isolated instance of non-compliance, to which EDA provides the following responses:

**OIG Recommendation 1: Recommend that the Assistant Secretary of Commerce for Economic Development review the disputed grant application noted in this report, for any potential improprieties.**

**EDA Response: EDA agrees with the recommendation.**

EDA will review the one anomalous grant application noted in the Draft Report for any potential improprieties. EDA's Office of the Chief Counsel will conduct this inquiry on behalf of the agency.

**OIG Recommendation 2: Recommend that the Assistant Secretary of Commerce for Economic Development ensure compliance with the Manual requirement of maintaining decision-making independence between IRC members and Regional Directors when considering a grant application.**

**EDA Response: EDA agrees with the recommendation.**

EDA suggests that more detail be provided in the final Report on the prolonged period that the Philadelphia Regional Office (PRO) had been operating without a permanent Regional Director. In October of 2014, PRO's Regional Director departed and the position had been vacant for seven months at the time of the incident in question, with a series of Acting Regional Directors filling the role in the interim. The frequent change in PRO leadership, necessary under these circumstances but a rare occurrence, combined with the absence of clear internal EDA guidance on what is required for a succeeding Regional Director to justify reversing the award decision of a preceding Regional Director, provides additional context for what transpired. While the Acting Regional Director in question did not comply with EDA's written requirement to document in writing the rationale (including specific selection factors used) before making a decision contrary to the IRC's recommendation and should have recused herself from the decision due to her participation in the IRC, we agree with the OIG that additional safeguards are needed to prevent similar instances of non-compliance from happening in the future. Thus, EDA intends to update its grant procedures to explicitly establish requirements related to a succeeding Regional Director overturning a preceding Regional Director's decision on whether a grant should be awarded. More specifically, only in extraordinary circumstances should a successor Regional Director (temporary or permanent) overturn a final funding decision of a predecessor Regional Director. In order to sustain such a reversal, the Regional Director must rely on substantial new information that is independently reviewed and evaluated by another IRC, and obtain the concurrence of the Deputy Assistant Secretary for Regional Affairs.

cc: Deborah Haynes, EDA Audit Liaison