

# Bipartisan Infrastructure Law

## Department of Energy

### Grid Infrastructure and Resiliency Funding

*Presented by*

Elizabeth Mackay, CFA, Esq.  
Director, Vander Weele Group

# Elizabeth Mackay

- Director of New Initiatives at the Vander Weele Group
- Grants oversight regulatory and compliance expert, including procurement, internal audit, and waste, fraud, and abuse prevention and mitigation
- 10 years as Chief Legal Officer for New Jersey Division for Disaster Recovery and Mitigation
- Managed compliance for \$10.7 billion in Federal disaster recovery funding
- Former Deputy Director, New Jersey Department of Consumer Affairs
- Former Policy Advisor to the Lt. Governor/Secretary of State of New Jersey
- Former Federal Prosecutor, Eastern District of New York
- Former Wall Street analyst, portfolio manager, and Chief Investment Strategist for several major investment firms
- Ranked among “The 50 Smartest Women in the Money Business” by Money Magazine

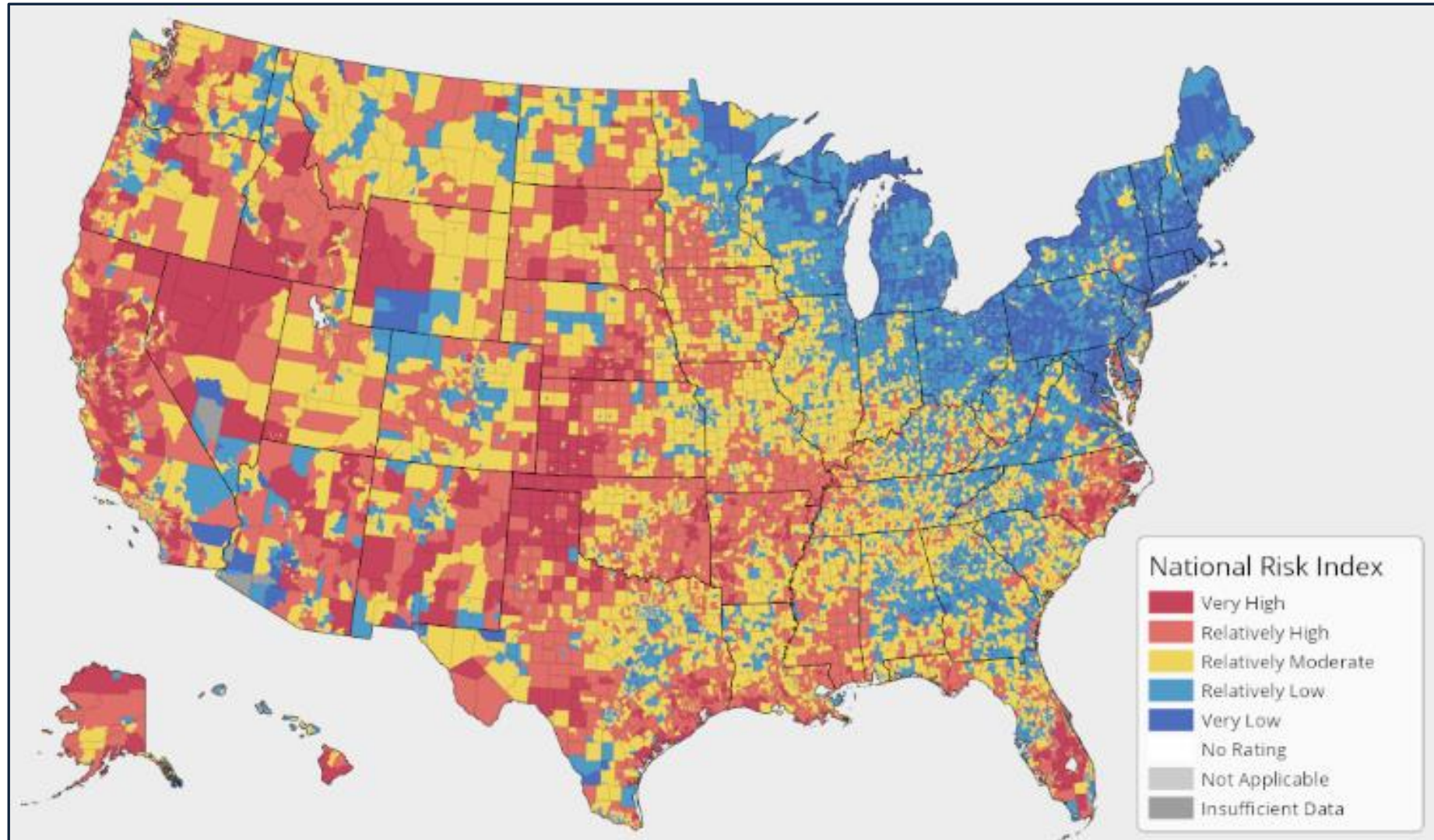


# Agenda

## In today's presentation, we'll address:

- The Department of Energy's grid resiliency programs and their goals
- Collaboration as a key element of grid resiliency and mitigation initiatives and why it is critical for success
- The Uniform Guidance and 2 C.F.R. 910—a less traditional regulatory environment for the DOE awards
- The need for grants monitoring and oversight

# National Risk Index: Natural Risks



# Grid Resilience Programs

---

1. State and Tribal Formula Grants Program (\$2.5 billion)
2. Grid Resilience and Innovation Partnerships (GRIP) Program
  - a. Utility and Industry Grants (2.5 billion)
  - b. Grid Innovation Program (\$5 billion)
  - c. Smart Grid Grants (\$3 billion)

# Examples of Eligible Programs

---

1. **Vegetation Management:** Trimming vegetation near power lines and removing dead trees to reduce disruptions and fires
2. **Reconductoring:** Replacing wires and hardening conductors with insulated materials to reduce chances of ignition
3. **Monitoring Devices and Sensors:** Installing temperature or flood monitors on a substation to reduce disruptions
4. **Microgrids and Battery Storage Subcomponents:** Creating alternative/backup power sources that operate independently of the main grid to decrease disruptive events



# GRIP PROGRAM GOALS

Transform the U.S. grid  
for greater resiliency



# GRIP PROGRAM GOALS

Prioritize energy justice  
(i.e. substantially benefit  
disadvantaged communities)



# Community Benefits Plan

---

1. **Community and Labor Engagement:** Opportunities for stakeholder feedback and accountability
2. **Investing in Job Quality and Workforce Continuity:** Labor unions, skills development, and training
3. **DEIA:** Diversity, Equity, Inclusion, and Accessibility
4. **Justice40 Initiative:** 40% of overall benefits accrue to disadvantaged communities (DACs)

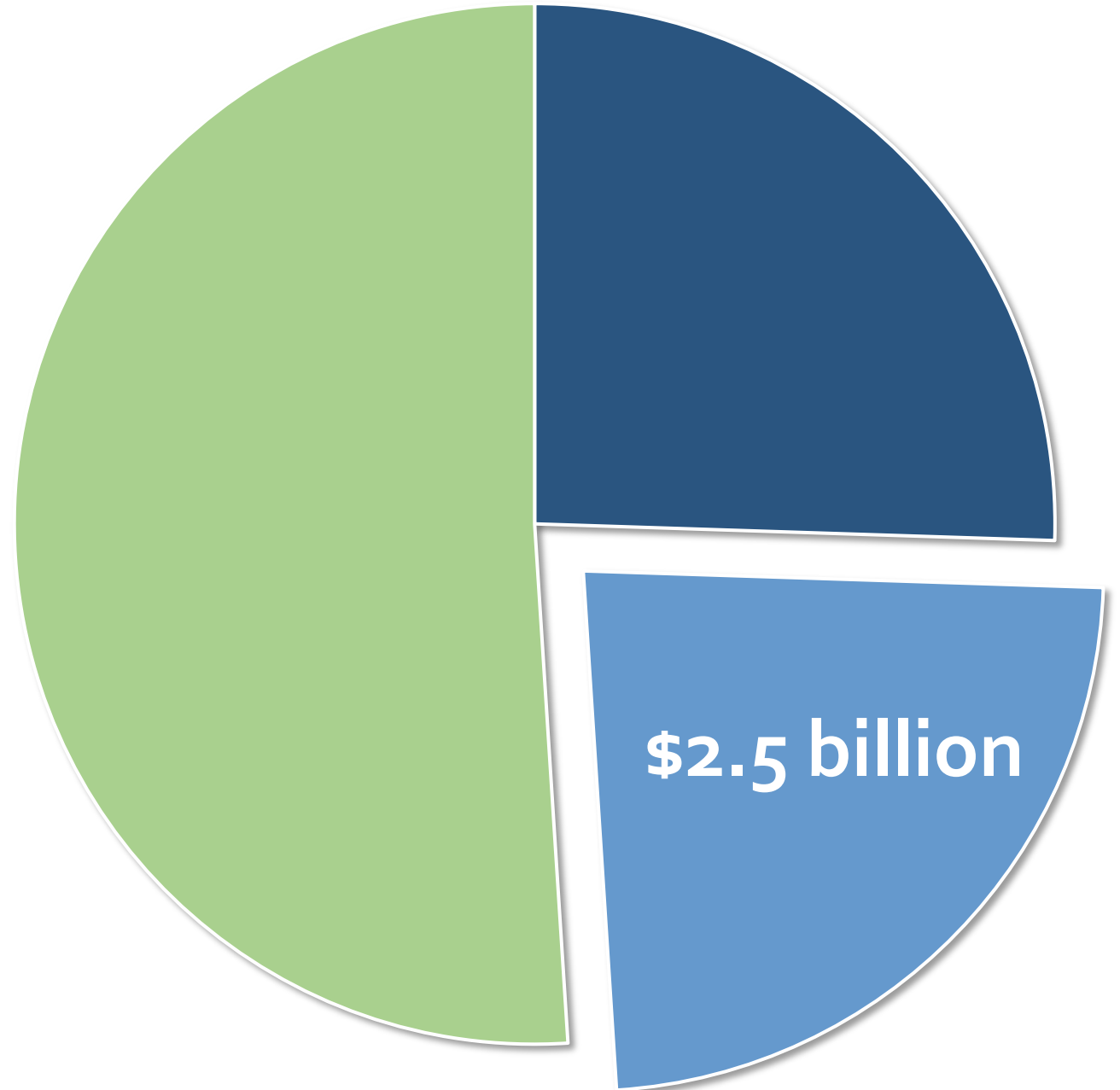


# GRIP PROGRAM GOALS

Leverage private sector  
and non-Federal capital  
for impactful tech and  
infrastructure deployment

## GRID RESILIENCE STATE AND TRIBAL FORMULA GRANTS

Formula for distribution of funds based on factors such as population size, land area, probability and severity of disruptive events, and the locality's prior expenditures on mitigation efforts.



# GRID RESILIENCE STATE AND TRIBAL FORMULA GRANTS

Support communities in strengthening and modernizing America's power grid against wildfires, extreme weather, and other natural disasters that are exacerbated by the climate crisis.

States and Indian tribes receiving these grants are pass-through entities; the grants funds are distributed to Eligible Entities.

# State and Tribal Formula Grants\*: Who Is Eligible for *Subawards?*

- Electric grid operators;
- Electricity storage operators;
- Electricity generators;
- Transmission owners or operators; and
- Distribution or fuel providers.

*\*The State and Tribal Formula Grants are part of a separate program that operates alongside the GRIP.*

# **Grid Resilience Utility and Industry Grants: Who Is Eligible?**

- Electric grid operators;
- Electricity storage operators;
- Electricity generators;
- Transmission owners or operators; and
- Distribution or fuel providers.

The background of the slide is a photograph showing the silhouettes of utility workers on a high-voltage power transmission tower. The workers are positioned at various levels of the tower's lattice structure, with one worker clearly visible on the left side. The sky is a mix of blue and orange, suggesting a sunset or sunrise. The overall scene conveys a sense of industrial activity and infrastructure maintenance.

# GRID RESILIENCE UTILITY AND INDUSTRY GRANTS AWARDED TO:

Supplement existing hardening  
efforts planned by the company

A dramatic night scene of a wildfire. A helicopter is silhouetted against a massive, glowing orange and yellow fire that fills the sky. The helicopter is positioned in the upper right quadrant, with a bucket suspended below it, ready to drop water. The fire's intensity is evident from the bright light and the dark silhouettes of trees in the foreground.

# GRID RESILIENCE UTILITY AND INDUSTRY GRANTS AWARDED TO:


**Reduce the risk** of any power lines (owned or operated by the company) causing a wildfire





# GRID RESILIENCE UTILITY AND INDUSTRY GRANTS AWARDED TO:

Increase the company's ability to **reduce the likelihood and consequences** of disruptive events



Priority projects are those that will generate the greatest community benefit in reducing the likelihood and consequences of disruptive events.

# Grid Innovation Program:

## Who Is Eligible?

- A single state;
- Multiple cooperating states;
- Indian tribes;
- Local governments; and
- Public utility commissions.

# GRID INNOVATION PROGRAM

Provides financial assistance to foster collaboration between states and electric sector owners and operators for innovative projects designed to harden and enhance grid resilience and reliability.

# Smart Grid Grants: Who Is Eligible?

- For-profit entities;
- Non-profit entities;
- Institutions of higher education;
- State and local governments; and
- Indian tribal nations.

# SMART GRID GRANTS



Fund deployment of technologies to increase the flexibility, efficiency, and reliability of the electric power system.

A row of smart meters is mounted on a wall. The meters are silver and black, with digital displays. A blue overlay box is positioned on the left side of the image, containing white text. The background is a light-colored wall with a dark horizontal line.

## SMART GRID GRANTS AWARDED TO:

Increase capacity of transmission  
systems



# SMART GRID GRANTS AWARDED TO:

Integrate renewable energy at  
the transmission and distribution  
levels





## SMART GRID GRANTS AWARDED TO:

Facilitate integration of electric vehicles, buildings, and other grid-edge devices

# Building Partnerships for New Grid Deployment Grant Projects

# WHY COLLABORATION



**IS CRITICAL**

- Required to receive GRIP and State and Tribal Formula Grant awards
- Increases capacity to plan and execute large-scale projects
- Provides access to financial and intellectual resources
- Increases likelihood of project success
- Provides vital stakeholder input and buy-in

# Building Regulator-Utility Partnerships:

## Lessons Learned



# Disaster Recovery Collaboration: What Worked

---

- Kickoff meeting between Regulatory and Utility Staff
- Regularly scheduled meetings and updates through the process
- Designated points of contact between BPU and Utility
- Training and field visits for BPU staff when requested
- Process was driven with public input and commentary from municipal officials
- Outreach to other Boards/Commissions and Utilities for best practices

# Disaster Recovery Collaboration: Takeaways

---

- Adversarial relationships between utilities and regulators are counterproductive
- Evaluate benefits and costs in advanced collaborative setting
- Conduct cybersecurity workshops and exercises
- Solicit other utilities and associations for industry best practices

# Disaster Recovery Collaboration: Takeaways

---

- Conflict, the blame game and excuses do no one any good.
- A collaborative team can achieve amazing results.
- Intentional collaboration helps educate regulatory staff on the issues utilities face during disaster recovery.
- Strong partnerships lead to successful projects, which builds a foundation for future collaboration.

# KEY FEDERAL REGULATIONS

- 2 CFR 910 (Supplemental Guidance)
- 2 CFR 200 (Uniform Guidance)

*CFR = Code of Federal Regulations*





# Uniform Guidance: The Basics

The Uniform Guidance is more properly called:

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

**It governs all Federal grant awards.**

# 2 CFR 910: The Basics

2 CFR 910—which we’re calling the Supplemental Guidance—is a **new** set of regulations that apply specifically to GRIP and other new DOE programs.

It adopts much of the Uniform Guidance, but adds to or replaces certain provisions.

# LEGISLATIVE SAFEGUARDS

- The award to an Eligible Entity cannot exceed the total amount that the Entity has spent in the prior three (3) years on efforts to reduce the likelihood and consequences of disruptive events.
- States and Indian tribes have a 5% allocation for Administrative Expenses but Eligible Entities – i.e., for-profits – have no allocation.
- The matching requirement for States and Indian Tribes is 15%, but it is 100% for Eligible Entities. Small Utilities have a 30% required match.



# Compliance Requirements

---

- Procurement
- Cost Principles
- Intellectual Property
- Compliance Audits
- Monitoring



The non-Federal entity must have and use **documented** procurement procedures\* (2 CFR 200.318(a)).

*\*Consistent with the standards set in 2 CFR 200.317-200.320.*



Procurements must be conducted in a manner providing full and open competition\* (2 CFR 200.319(a)).

*\*As it is defined in 2 CFR 200.319-200.320.*



Procedures must specifically address conflicts of interest, or even the appearance of such (2 CFR 200.318(c)(1)).

## **Additionally:**

When drafting the new contract under the federal award, the non-Federal entity must include the contract provisions found in Appendix II of the Uniform Guidance. Examples include:

- Equal Employment Opportunity;
- the Davis-Bacon/prevaling wage requirement;
- debarment and suspension; and
- the requirement for sanctions and penalties for breach of contract terms, among others.



# Cost Principles

For-profit companies receiving GRIP funds must comply with the Cost Principles contained in 48 CFR 31.2 – Contracts with Commercial Organizations.

# Intellectual Property

If the for-profit recipient is:

- any type other than a small-business\*; and
- receives an award or a sub-award for research, development, and demonstration activities,

the DOE owns the patent rights to inventions made under the award, with certain exceptions (2 CFR 910.362).

*\*As defined in the Small Business Act per 35 U.S.C. 201(h).*

# Compliance Audit

For-profit companies that expend \$750,000 or more of Federal funds in a fiscal year must undergo a Compliance Audit\*.

*\*As defined in 2 CFR 910 Subpart F  
(Audit Requirements for For-Profit Entities).*

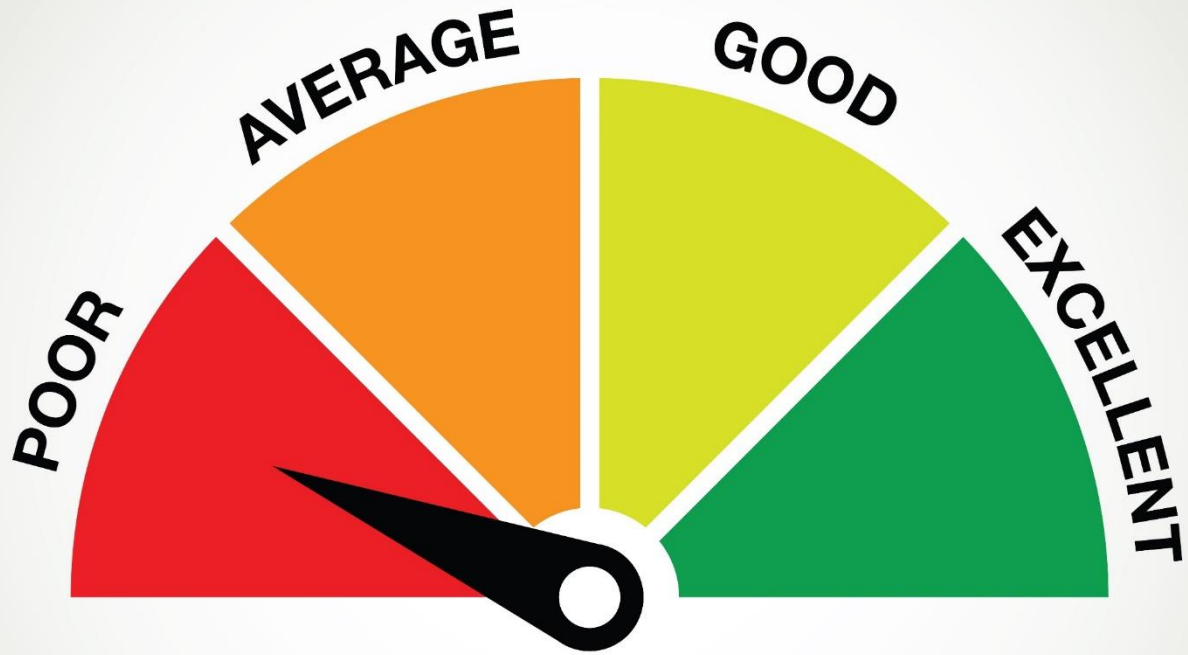
When a non-Federal entity, such as a State or local government, passes through funds to **subrecipients**, it becomes a **pass-through entity** (see 2 CFR 200.93 and 200.331 for definitions).

**Pass through entities** must monitor subrecipients to ensure that:

- (1) the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and
- (2) subaward performance goals are achieved (2 CFR 200.332(d)).

Reviewing financial and performance reports required by the pass-through entity.

The background image shows a financial statement with several columns of numbers. The numbers are arranged in a way that suggests a calculation or a summary of data. The text is blurred, but some numbers are clearly visible, such as 48,200, 32,996, 20,288, 3,597, 56,881, 1,198, 4,194, 134,266, 1,694, 71,900, 104,436, 178,030, 97,024, 91,414, 48,200, 420, 27,917, 21,348, 3,958, 53,223, 1,567, 3,052, 135,288, 1,694, 51,022, 102,663, 155,379, 95,409, 59,970, and 4,510. The numbers are arranged in a way that suggests a calculation or a summary of data.



Ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award detected through audits, on-site reviews, and written confirmation from the subrecipient.

# Risk Factors for De-obligation

---



- Not spending Federal funds “timely”
- Not having partnership agreements in place before applying for awards
- Not effectively implementing collaborations
- Non-compliance with Federal requirements (i.e. Uniform Guidance, 2 CFR 910)

Combining Federal grant program expertise with proven industry experience will set your project up to be compliant AND successful from the beginning.





**Thank you for participating!**

[www.vanderweelegroup.com](http://www.vanderweelegroup.com)

[elizabeth@vanderweelegroup.com](mailto:elizabeth@vanderweelegroup.com)

773-929-3030

A large field of solar panels stretches across the middle ground, reflecting the sky. The sky is filled with dramatic, dark clouds, with a bright sunburst effect breaking through the clouds in the center. The foreground is dominated by tall, green grass. The overall color palette is dominated by blues and greens, with a warm glow from the sun.

Questions?