

EDVA WHISTLEBLOWER NON-PROSECUTION PILOT PROGRAM

Effective September 15, 2024

The United States Attorney's Office for the Eastern District of Virginia ("EDVA") has created the EDVA Whistleblower Non-Prosecution Pilot Program ("Whistleblower Program") designed to encourage early and voluntary self-disclosures of criminal conduct committed and/or known by individual participants in certain non-violent offenses. In exchange for such self-disclosure and cooperation, EDVA will enter into a non-prosecution agreement where certain specified conditions are met, including, but not limited to, the condition that the criminal conduct was not previously made public nor known to the government.

The EDVA Whistleblower Program is different, and separate, from the Department of Justice's Criminal Division Corporate Whistleblower Awards Pilot Program ("Whistleblower Awards Program"). EDVA's pilot program is for individuals who participated in criminal activity and face criminal liability. The Whistleblower Awards Program is for those who did not meaningfully participate in criminal activity that falls within four subject areas.¹

The Policy can be found here **[EDVA Whistleblower Program](#)**.

To self-disclose pursuant to this policy, please complete the Intake form located here at **[WBP Reporting Form](#)** and email it to USAVAE-WBP@usdoj.gov.

¹ To qualify for a whistleblower award, the information must relate to one of the following areas: (1) certain crimes involving financial institutions, from traditional banks to cryptocurrency businesses; (2) foreign corruption involving misconduct by companies; (3) domestic corruption involving misconduct by companies; or (4) health care fraud schemes involving private insurance plans. For those interested in the Whistleblower Awards Program, more information can be found at justice.gov/corporatewhistleblower.

EDVA WHISTLEBLOWER NON-PROSECUTION PILOT PROGRAM²

To encourage early voluntary self-disclosure of criminal conduct and to promote effective enforcement of federal criminal laws, the United States Attorney's Office for the Eastern District of Virginia ("EDVA") has implemented the Whistleblower Non-Prosecution Pilot Program ("Whistleblower Program").

A. Eligible Matters for a Non-Prosecution Agreement

The Whistleblower Program is applicable to circumstances where an individual discloses to EDVA information regarding criminal conduct undertaken by or through: (a) public or private companies, exchanges, indexes, financial institutions, investment advisers, investment firms, or investment funds involving fraud or corporate control failures or affecting market integrity; or (b) criminal conduct involving state or local bribery or fraud relating to federal, state, or local funds.³ Specifically, in such circumstances, EDVA will enter into a non-prosecution agreement in exchange for the individual's cooperation where the following conditions are met:

1. The misconduct has not previously been made public and is not already known to EDVA or to any component of the Department of Justice ("DOJ");
2. The individual discloses the criminal conduct voluntarily to EDVA prior to imminent threat of disclosure or government investigation and not: in response to a government inquiry by federal law enforcement or regulatory agency on the subject matter of disclosure; or pursuant to an obligation to report misconduct to EDVA or any federal law enforcement, regulatory agency, or component of the DOJ.
3. The individual is able to provide substantial assistance in the investigation and prosecution of one or more equally or more culpable persons, and is prepared to cooperate fully

² This is a pilot program and the contents of this memorandum provide internal guidance to EDVA prosecutors on legal issues. Nothing in this policy is intended to create any substantive or procedural rights, privileges, or benefits enforceable in any administrative, civil, or criminal matter by prospective or actual witnesses or parties. Moreover, it remains at all times in the sole discretion of EDVA to determine whether an individual has satisfied each of the conditions necessary for EDVA to enter into a non-prosecution agreement in exchange for the individual's cooperation, and, where EDVA has determined that any of those conditions are not met, it remains at all times in the sole discretion of EDVA to determine whether to extend a non-prosecution agreement in exchange for the individual's cooperation. This policy does not apply to, or is enforceable against, any other United States Attorney's Office or any other litigating component of the Department of Justice. Finally, this policy does not supersede any provision of the Justice Manual.

³ This policy does not apply to individuals who provide information regarding violations of the Foreign Corrupt Practices Act, national security matters where charges require authorization by the National Security Division, or violations of federal or state campaign financing laws, federal patronage crimes, corruption of the electoral process, or bribery of federal officials.

with EDVA in its investigation and prosecution of the disclosed conduct and the recovery of any related criminal proceeds;

4. The individual truthfully and completely discloses all criminal conduct in which the individual has participated and of which the individual is aware;

5. The individual is not a(n): (a) elected federal or foreign official; (b) official or agent of a federal investigative or federal law enforcement agency; or (c) the chief executive officer or equivalent or chief financial officer or equivalent or chief compliance officer or equivalent of a public or private company, or, regardless of title, a person who exercises primary control over the operations of the organization where misconduct occurred;

6. The individual's role in the alleged misconduct did not involve: leading or originating the illegal activity; violence or the threat of violence; any federal or state sex offense involving fraud, force, coercion, or a minor; disclosing classified or other sensitive national security information⁴; or any federal or state offense involving terrorism;

7. The individual has not been previously convicted of any felony involving: violence or the threat of violence; a sex offense involving fraud, force, coercion, or a minor; terrorism; or fraud or dishonesty; and

8. The individual must agree to forfeit or disgorge any proceeds from their own criminal wrongdoing and pay restitution to victims consistent with the individual's role in the offense.

B. Considerations for a Discretionary Non-Prosecution Agreement

Where an individual discloses information to EDVA regarding criminal conduct undertaken by or through: (a) public or private companies, exchanges, indexes, financial institutions, investment advisers, investment firms, or investment funds involving fraud or corporate control failures or affecting market integrity; or (b) criminal conduct involving state or local bribery or fraud relating to federal, state, or local funds, but does not meet the requirements set forth above, EDVA prosecutors may nonetheless consider, with supervisory approval and consistent with the principles set forth in the Justice Manual, exercising discretion to extend a non-prosecution agreement in exchange for the individual's cooperation. In evaluating whether such an agreement would be in the public interest and necessary in a particular case, EDVA prosecutors and supervisors should consider, among other things, the following factors:

1. Whether and to what extent the criminal conduct has previously been made public or was previously known to EDVA or to any component of the DOJ;

⁴ In the event that the information the individual seeks to present to EDVA is classified or national security information, the individual must first alert EDVA to the sensitive nature of this information in advance of making any further disclosures.

2. Whether the individual disclosed the criminal conduct voluntarily to EDVA and not in response to a government inquiry or reporting obligation to EDVA or to any component of the DOJ, and prior to imminent threat of disclosure or government investigation;

3. The extent to which the individual is able to provide substantial assistance in the investigation and prosecution of one or more equally or more culpable persons and the individual's culpability relative to others;

4. Whether the individual has truthfully and completely disclosed all criminal conduct in which the individual has participated and which the individual is aware;

5. The extent to which the individual occupies any official or leadership position or other position of public or private trust;

6. The adequacy of non-criminal sanctions, including but not limited to remedies imposed by civil regulators; and

7. The individual's criminal history.

C. Notice of Forfeiture and Restitution Requirement

A reporting individual understands that to receive any non-prosecution agreement under the EDVA self-disclosure program, an individual will be required to: (i) forfeit or disgorge proceeds involved in the individual's criminal misconduct; and (ii) pay restitution to victims consistent with the individual's role in the offense.

D. Evaluation Process

A Committee Co-Chaired by the First Assistant United States Attorney and the Chief and Deputy Chief of the Criminal Division will evaluate disclosures received pursuant to this policy, in consultation with appropriate unit chiefs. Even if the Committee Chairs do not believe that the reporting individual satisfies the terms of the policy, they may conclude that the prospective individual should be considered for a non-prosecution agreement under the discretionary portion of the policy. In the event the Committee Chairs make an initial determination that a reporting individual appears to be eligible or should be considered under the discretionary portion of the policy, you will be contacted.

E. Contact Information

To self-disclose pursuant to this policy, please complete the Intake form located here at **WBP Reporting Form** and email it to USAVAE-WBP@usdoj.gov.