

## Report on Research Compliance Volume 15, Number 9. September 30, 2018

### Talladega to Pay \$170K: Future NSF Proposals to Trigger Compliance Plan

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By Theresa Defino

Talladega College in Alabama is now among the few higher education institutions whose problems managing federal research awards have led to a financial settlement with the Department of Justice (DOJ) over allegations they violated the False Claims Act (FCA).

In March, Talladega agreed to pay a total of \$169,647.41, of which \$129,747.41 is restitution, to resolve allegations that it misspent part of a \$2.5 million grant it received from the National Science Foundation (NSF) in 2008. At issue are what OIG said were “inappropriate charges, duplicate charges, and expenses for which the college had insufficient documentation.”

Talladega also agreed to implement an extensive five-year “compliance program”—but this only comes into effect if it applies for or is awarded NSF funding within the next three years.

RRC learned that Talladega was the subject of the settlement and received a copy of the compliance plan by submitting a Freedom of Information Act (FOIA) request to the NSF Office of Inspector General (OIG).

Talladega’s payment and compliance plan mark at least the second time an NSF awardee has agreed to an FCA settlement in the last two years. In 2017, Jackson State University (JSU) in Mississippi agreed to pay \$1,170,120.37 and to implement a compliance program (*RRC 4/17, p. 1*).

The newest settlement concerns Talladega’s handling of a \$2.503 million award given in August 2008 for a program titled “Broadening Participation in Science and Mathematics: The Next Level.” Problems with the grant, which expired in 2013, purportedly began two years into the award.

### Closeout Memo Contains Few Details

Hints about the Talladega agreement were included in OIG’s most recent semi-annual report to Congress, which was issued in late May. The report outlines OIG actions for the previous six months ending March 31. These reports include findings from audits and misconduct investigations (*RRC 7/18, p. 1*).

“A college agreed to settle allegations that it failed to maintain adequate records to support expenditures under an NSF award. Our investigation identified duplicate charges for equipment, an electronics purchase supported by an online shopping cart printout but never actually purchased, and lack of documentation for stipend payments to students. The settlement with DOJ required payment of more than \$160,000 and required the college to implement a 5-year compliance plan to ensure proper oversight of NSF awards in the future,” states the report.

Information about the genesis of the investigation that led to the settlement can be found in the closeout memorandum issued by OIG, which, like the semiannual report, does not identify the college. OIG referred RRC to a memorandum it said was about Talladega.

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According to the memorandum, OIG received an “allegation of misuse of NSF funds by staff at a college.” To conduct its investigation, OIG “interviewed” the principal investigator, “co-PI and other staff responsible for administering the NSF award. We obtained and reviewed relevant documents from the college.”

OIG said the “interviews and review of the records” led it to identify the charges it questioned.

“[W]e identified inappropriate charges, duplicate charges, and expenses for which the college had insufficient documentation. We referred the matter to the U.S. Attorney’s Office for possible civil action. The U.S. Attorney’s Office and the college executed a civil settlement agreement,” the closeout memorandum states.

The settlement document states:

“The United States contends that it has certain civil claims against Talladega College arising from the management of the Grant. During the period of February 2010 to July 2013, Talladega College submitted claims and/or expended funds under the Grant and in so doing, expressly certified that every claim and/or expenditure was supported, allocable, and allowable and that Talladega College would maintain adequate records to support these claims and expenditures. An investigation into the administration of the Grant by the NSF Office of Inspector General identified expenditures of Grant funds that were not supported by adequate documentation.”

The agreement was signed by both DOJ and the college to avoid “the delay, uncertainty, inconvenience, and expense of protracted litigation of the” claims outlined in the settlement.

RRC submitted a series of questions about the grant and settlement to Talladega, including whether any investigators or others faced sanctions as a result. No questions were answered. Instead, attorney Chad Woodruff, outside counsel for Talladega, emailed RRC a short statement that repeated the basic facts of the case. He said Talladega “was unable to provide adequate documentation based on obligations placed on the College as a grant recipient” and had “acknowledged the inability to do so.”

Woodruff added that the agreement “further provided the College to adopt a compliance agreement to ensure compliance with laws, regulations and conditions concerning NSF awards. To date, the College is in compliance with the terms of the settlement agreement.”

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