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‘Clearly False’ Statements, ‘Premeditation,’ Past Issues Trigger $2.4M Payment by UTHSC

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Federal auditors have warned for years that institutions and principal investigators (PIs) have to walk a fine line when using award funds: A fast spending or “burn rate” could put a project at risk if the money runs out too soon. At the same time, making a big purchase at the end of a period of performance is also a no-no if the items seem unnecessary to complete the research.

The consequences of managing funds inappropriately were recently driven home by a $2.4 million False Claims Act (FCA) settlement between a genetics center at the University of Texas Health Sciences Center (UTHSC) and the Department of Justice (DOJ). The payment is twice the amount the government alleges UTHSC’s Human Genetics Center “misappropriated” from an NIH grant. At issue, according to DOJ’s Jan. 31 news release, was the center’s prepaid purchase of $1.2 million in equipment near the end of a grant, followed by cancellation and receipt of a credit it spent after the award expired.

Tipster Triggered OIG Investigation

In subsequent comments in response to questions from *RRC*, DOJ officials used unusually stark language to describe the center’s actions leading up to the settlement, calling them part of a “scheme” that was “calculated and premeditated” and marked by statements to NIH that were “clearly false.”

RRC also learned that DOJ considered the center something of a repeat offender, having been placed under special NIH monitoring more than 10 years earlier.

UTHSC did not answer any questions posed by *RRC* about the settlement, but in a short statement said, in part, that problems were confined to “certain costs on a specific grant,” and that the expenditures supported research “that benefitted NIH.” It did not dispute or comment on DOJ’s accounting of the events that led up to the settlement. The settlement did not include any admission of wrongdoing.

In its announcement, DOJ said an investigation was conducted over a two-year period by the HHS Office of Inspector General, acting on an anonymous tip. The government alleged that in September 2012, “just prior” to the end of a grant, the genetics center made an arrangement with a company called Illumina Inc. for “Human Omni 5 DNA Analysis Bead Chip Kits at a cost of $1,198,384.88,” but then “stopped delivery of the shipment after making payment to Illumina. This resulted in UTHSC underreporting by that amount the unobligated federal funds remaining on the grant which were not returned to NIH.”

This allowed UTHSC from October 2012 to December 2017 to “draw down a substantial portion of the money remaining on the grant before the end of the grant period” and avoid having to “return unused funds to the NIH,” according to U.S. Attorney Ryan K. Patrick with the Southern District of Texas. DOJ said the genetics center then “used that credit to purchase goods and services” from Illumina.

Oddly, DOJ’s announcement never uses the words False Claims Act; instead, the title states simply, “UT Health

Science Center Pays More than $2.3 Million to Resolve Allegations."

However, DOJ told *RRC* FCA allegations are at the heart of the settlement, along with "common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud." The full payment amount is $2,396,769.76.