

## Report on Research Compliance Volume 17, Number 9. August 20, 2020 In This Month's E-News: September 2020

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By Theresa Defino

◆ **The Office of Management and Budget has published guidance for agencies and recipients of federal awards and contracts**, finalizing a document issued in February by adding new sections and revisions to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards that OMB said “clarify areas of misinterpretation” and are “intended to reduce recipient burden by improving consistent interpretation.” Scheduled for publication in the Aug. 13 *Federal Register*, the guidance was posted on the *Register*’s Public Inspection website on Aug. 11. But OMB also said the final guidance reflects a “foundational shift” and a “focus on improved stewardship and ensuring that the American people are receiving value for funds spent on grant programs.” (8/13/20)

◆ **A former postdoctoral fellow at Wayne State University has agreed to a 10-year debarment for misconduct involving his dissertation and more than a dozen published papers, and a then-assistant professor of pharmacy at Texas Tech University Health Sciences Center accepted a plan for three years of supervision for inserting plagiarized and fabricated data into four NIH applications**, the HHS Office of Research Integrity (ORI) recently announced. According to ORI’s Aug. 7 notice on its website, Zhiwei Wang, former postdoctoral fellow in the Department of Pathology at Wayne State’s Karmanos Cancer Institute, engaged in extensive misconduct beginning with his 2006 dissertation and including nine funded and three unfunded grants and 14 papers published from 2006 to 2013. A number have been corrected or retracted as a result of the misconduct, which consisted of Wang’s reuse and relabeling of images and figures involving bands of proteins. The debarment began July 21; the settlement agreement also calls for Wang to refrain from advising the Public Health Service (PHS) during the 10-year period. He also will seek a retraction of a paper published in 2008.

The second settlement, announced Aug. 11, involves Rahul Dev Jayant, who ORI described as an assistant professor of pharmaceutical sciences in Texas Tech’s School of Pharmacy. His page, however, is no longer on the Texas Tech website. In contrast to Wang’s misconduct, Jayant’s is quite recent and included two grant applications submitted in February. According to ORI, Jayant “engaged in research misconduct by intentionally plagiarizing, falsifying, and/or fabricating data” in a total of four NIH applications that included images used without attribution and that were “cropped, rotated, contrast enhanced and labeled” to reflect different experiments than were actually conducted. Jayant agreed to have his work in any PHS-funded research supervised by a committee of faculty members with expertise in his field for a three-year period beginning July 27. Committee members would be required to periodically review his data to ensure it is “based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract,” among other requirements. (8/13/20)

◆ **Mary Sue Coleman, president of the Association of American Universities (AAU) for the past four years, retired July 31**. In a farewell blog, Coleman noted that in 2016, she had hoped to see the nation’s first female president. While that did not come to pass, the past four years have been “consequential” nonetheless, she wrote. “We have dealt—with significant measures of success—with challenges to education and research funding, with misguided attacks against international students, with real hardships for undocumented students at our member universities, and with legitimate concerns about securing the intellectual property our research helps create,”

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Coleman said. “Our staff members’ and members’ expertise and commitment to our work has been inspiring to behold, and working hand-in-hand with our staff and membership has been invigorating for me personally. Engagement in AAU from all of our constituent groups is more robust than ever before, and our commitment to understanding the environments in which we operate has grown dramatically.” (8/6/20)

◆ **In its fourth misconduct finding this year, ORI announced that Prasadarao Nemani, a former research professor of pediatrics in the Division of Infectious Disease at Children’s Hospital Los Angeles, “recklessly includ[ed] falsified and/or fabricated data” in eight figures in a published paper and four NIH grant applications.** The 2009 paper was retracted nine years later in May 2018. Nemani “falsified and/or fabricated image data for enterobacterial infection-induced intestinal epithelial cell injury in a neonatal murine model to falsely represent results using images from unrelated experiments,” ORI reported in the July 24 *Federal Register*. According to *Retraction Watch*, Nemani, the recipient of \$4.2 million in NIH funding, was not reappointed to his position, effective July 1. (7/30/20)

◆ **In the first of two recent audits, the National Science Foundation Office of Inspector General (OIG) questioned \$744,671 in costs the University of North Carolina (UNC) at Chapel Hill claimed among \$121 million in expenses for 456 NSF awards expended from Oct. 1, 2015, to Sept. 30, 2018.** Dated July 13, the audit notes that 250 transactions, which represented \$7,011,548, were tested. Auditors determined there were \$175,413 of inadequately supported expenses; \$164,313 of unapproved subaward expenses; \$103,250 of unsupported Award Cash Management Service drawdowns; \$88,001 of inappropriately allocated expenses; \$86,607 of expressly unallowable expenses; \$65,314 of inappropriately applied indirect costs; \$35,578 of inappropriately procured goods and services; \$17,136 of unallowable costs associated with accounting issues; and \$9,059 of inappropriately treated expenses as a result of noncompliance with NSF award terms and conditions.

In its response to draft findings, UNC officials disputed \$220,939 of the questioned costs. In particular, they opposed repayment of \$164,313 for two subawards OIG said were unapproved. One made to a principal investigator who joined a new institution was expressly approved by NSF, according to UNC. The other was awarded for the same reason, and the change was “referenced in multiple progress reports and in the final report submitted to NSF,” which “constitute notice to NSF and effective approval by NSF of the subaward,” UNC said. It also opposed repayment of \$136,024 of \$175,413 for what OIG called inadequately supported expenses, including for conference, travel, and service costs. UNC said these were budgeted, approved, supported by receipts and were otherwise allowable. UNC also took issue with auditors’ finding that it had used lower indirect cost rates than were appropriate, saying the Office of Management and Budget’s Uniform Guidance allows for flexibility.

The University of Houston (UH) inappropriately claimed \$133,305 in direct and indirect costs among more than \$45 million in costs incurred from Feb. 1, 2016, to Jan. 31, 2019, according to an OIG audit. In contrast to the UNC audit, officials tested 125 transactions totaling \$2,154,370. “Specifically, the auditors found \$53,666 of expenses not appropriately allocated to NSF awards, \$37,577 of expressly unallowable expenses charged to NSF awards, \$19,445 of inappropriately applied indirect costs, \$10,956 of inappropriately procured goods and services, \$9,954 of inadequately supported expenses, and, \$1,707 of expenditures that did not comply with NSF award terms and conditions,” according to the July 23 audit.

Auditors concluded that UH “needs improved oversight of the allocation and documentation of expenses charged to NSF awards to ensure that it is able to support that costs claimed are reasonable, allocable, and allowable” as required. UH agreed with about half of the questioned costs auditors said were misallocated, but disputed those associated with “software licenses, tuition remission, participant stipends, supplies, and travel costs.” Auditors also found six instances of late effort certification by investigators, with these occurring from 222 to 717 days after the end of a quarter; certifications are due within 180 days. (7/30/20)

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