

November 14, 2013

Ms. Amy Hass, Esq.
Mr. Ryan Fuller, Deputy General Counsel/Associate Vice President
University of Florida
Office of the General Counsel/Vice President
123 Tigert Hall
PO Box 112125
Gainesville, FL 32611-3125

SUBJECT: PRESENT RESPONSIBILITY OF THE UNIVERSITY OF FLORIDA REGARDING
2013 COLLEGE OF ENGINEERING COMPLIANCE ACTION PLAN AND
AGREEMENT

Dear Ms. Hass and Mr. Fuller:

This letter serves as the determination by the U.S. Nuclear Regulatory Commission (NRC) Suspension and Debarment Official as to whether this office will impose administrative action against the University of Florida under the authority of Subpart 9.4 of the Federal Acquisition Regulation (FAR). I have determined that the NRC will not impose suspension, debarment or other administrative action due to ongoing implementation by the University of its 2013 Compliance Action Plan and Agreement.

On March 1, 2013, the University provided the updated College of Engineering Action Plan and Agreement to ADM and the Office of the General Counsel (OGC). This Action Plan was originally developed by the new University administration in 2012, prior to the completion of the NRC's investigation into the University's award of Contract NRC-04-07-086 in 2007, for a 2-year performance period under which Dr. Samim Anghaie, a former professor in the College of Engineering Nuclear and Radiological Engineering Department, was a principal investigator. Dr. Anghaie, however, failed to provide satisfactory deliverables for tasks under the contract and fraudulently billed employees' salaries to the contract who in actuality were not working on the contract tasks.

The University launched an investigation into Dr. Anghaie's activities, and willingly complied with the U.S. Attorney's Office to provide documents and information from the internal investigation. The University suspended Dr. Anghaie, who then resigned. Subsequently, Dr. Anghaie was indicted by the U.S. Attorney's Office for the Northern District of Florida, and then convicted on counts of wire fraud and money laundering and sentenced to Federal prison. The University and the U.S. Attorney's Office, on behalf of the NRC, reached a settlement agreement in October 2012, in which the University agreed to compensate the NRC for its loss of funds under the contract award and for costs of the NRC investigation. This compensation totaled \$471,069.66. In exchange for the settlement, the NRC released the University from any civil or administrative monetary claim under the False Claims Act, 31 U.S.C. §§3729-3733, the Contract Disputes Act, 41 U.S.C. §§7101-7109, and the Program Fraud Civil Remedies Act, 31 U.S.C. §§3801-3812. Non-monetary liability or administrative action, including suspension and debarment rights of any Federal agency, was not covered by this agreement.

In determining that the NRC will not pursue debarment or suspension against the University, the NRC recognizes the willingness and cooperation of the University to correct internal problems which precipitated the fraudulent activity. University officials showed significant remorse during the September 6, 2012, meeting in Washington, D.C., with the NRC and the U.S. Attorney's Office. University officials emphasized at this meeting that the College of Engineering's dean (newly appointed in 2009), Dean Abernathy, undertook a complete reorganization of certain departments in order to remediate and fully respond to the activities of Dr. Anghaie and resulting implications. My analysis of the factors set forth in 48 CFR (FAR) 9.406-1(a) demonstrate both the University's commitment to remedy internal problems which led to the illegal activity and dedication to preventing the occurrence of fraud in the future.

First, I find that the University satisfies §9.406-1(a)(3) of the FAR, "Whether the contractor has fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the debarring official." After discovering Dr. Anghaie's fraudulent activity, the University placed him on administrative leave and was prepared to terminate him, although he resigned. In February 2009, the University launched an internal investigation into Dr. Anghaie's activities with respect to National Aeronautics and Space Administration (NASA) grants and contracts. In June 2009, at the request of the NRC, the University arranged for the NRC to interview personnel in the College of Engineering and the Nuclear and Radiological Engineering Department and coordinated with the NRC to expand its internal investigation to include the NRC contract. In November 2009, the University worked with the U.S. Attorney's Office and provided documents regarding their internal investigation and the NRC contract.

The University removed Dr. Anghaie's administrative assistant, due to her participation in fraudulent activity. The University represents that it also removed all fiscal responsibilities from the Nuclear and Radiological Engineering Department office manager's job duties. The Nuclear and Radiological Engineering Department Chair also resigned from the University. As a result of the investigation, the University represents that the College of Engineering restructured its fiscal administration in order to increase oversight and prevent similar activities from occurring in the future. All results of the University's investigation were ultimately provided to my Deputy and me.

Second, I find that the University satisfies FAR §9.406-1(a)(4), "Whether the contractor cooperated fully with Government agencies during the investigation and any court or administrative action." Commencing in 2009, the University met with both NASA and the NRC to cooperate and assist the agencies' investigations regarding Dr. Anghaie's fraudulent activity on their contracts and grants. The University also initiated and provided a corrective Action Plan in 2009 (albeit not satisfactory) to the U.S. Attorney's Office as well as to NASA and the NRC, prior to NASA and the NRC's completion of their respective internal investigations. Upon request during 2012, the University agreed to strengthen and resubmit a more robust corrective Action Plan – submitted to NRC on March 1, 2013. I note that university officials had worked closely with Federal prosecutors and investigators from NASA and the NRC, willingly providing all agencies with documents and testimony for the Government during Dr. Anghaie's trial and sentencing hearing.

Third, the University has demonstrated compliance with FAR §9.406-1(a)(5): “Whether the contractor has paid or has agreed to pay all criminal, civil, and administrative liability for the improper activity, including any investigative or administrative costs incurred by the Government, and has made or agreed to make full restitution.” In October 2012, the University entered into a settlement agreement with the U.S. Attorney’s Office for the Northern District of Florida and on behalf of the NRC. The Agreement stipulated that the University would pay the NRC a sum representing the total amount of lost contract funds and for costs of NRC’s internal investigation. In total, this amounted to \$471,069.66, which was paid to the U.S. Government.

Fourth, the University has demonstrated compliance with FAR §9.406-1(a)(6): “Whether the contractor has taken appropriate disciplinary action against the individuals responsible for the activity which constitutes cause for debarment.” In this regard, the University placed Dr. Anghaie on administrative leave in February 2009. Subsequently, he resigned because the University notes that he would have been terminated. The University also removed, Dr. Anghaie’s administrative assistant in June 2009, and changed the responsibilities of the College of Engineering’s Nuclear and Radiological Engineering Department officer manager removing any fiscal role, and placing the College administration in charge of direct oversight over all fiscal matters. Ultimately, this position was reassigned to a different part of the College. In addition, the Nuclear and Radiological Engineering Department Chair resigned first as Chair in September 2009, and later resigned from the University in January 2011. As part of the 2013 corrective Action Plan, the University released 10 of the College fiscal officers and then hired 5 new employees who possessed business management, law, accounting, Master of Business Administration (MBA), and engineering degrees, as well as extensive experience with contracts and grants administration. The University also developed a new position of grants specialist, and five of the former specialists were released and seven new employees were hired to fill this role. These grants specialists report directly to the fiscal officers.

The University has also met the requirements of two additional factors set forth at FAR §9.406-1(a)(7): “Whether the contractor has implemented or agreed to implement remedial measures, including any identified by the Government”, and FAR §9.406-1(a)(8), “Whether the contractor has instituted or agreed to institute new or revised review and control procedures and ethics training programs.”

As you know, the NRC did not prescribe any remedial measures, rather deferred to the University to develop its own corrective action program. As part of the objective to remediate per both FAR 9.406-1(a)(7) and (8) and “enhance consistency in business processes, compliance, and internal controls,” Dean Abernathy required the College of Engineering’s fiscal administration to undertake a major reorganization. The corrective Action Plan represents that fiscal and grants officers now report directly to the College administration, which improves daily communication, enhances business operations, promotes financial compliance, and business consistency. The Action Plan represents that fiscal officers report to the College’s Director of Finance and Personnel and any tasks that fiscal officers are not assigned are the responsibility of office managers. Although the total number of fiscal officers decreased, the qualifications required by the University for these positions has increased. In addition, the University represents that it created the Accounting Coordinator IV position which focuses on financial and compliance issues, a type of fiscal officer position whereby the fiscal officers supervise grants specialists. The University represents that new fiscal officers were hired for all the College’s departments that possess business management, law, accounting, MBA, and engineering

degrees, as well as extensive experience with contracts and grants administration. The University represents that it released 10 of the existing College fiscal officers and then hired 5 new fiscal officers. The University also developed a new position of grants specialist, which requires higher qualifications; five former grant specialists were released and seven new employees were hired to fill this role. These grants specialists report directly to the fiscal officers. Fiscal officers are responsible for all fiscal functions within their assigned departments. Both the fiscal officer and grants specialist positions require a master's degree, previous business and accounting work experience, and a demonstration of integrity. Candidates interviewed were also subjected to background checks. Moreover, the University conducted an internal, independent audit of the College's organizational structure through the Human Resources and Office of Internal Audit (OIA).

In efforts to establish good business practices and controls to foster compliance, the College according to its Action Plan, is implementing consistent College-wide business procedures and processes, such as using the OIA Controls Assessment tool for achieving consistent business practices. Each College must complete this self-assessment yearly and Colleges were asked to complete training for the new fiscal year by the July prior. Department chairs also must attend the Florida State University Institute for Academic Leadership workshop which provides an overview of topics essential to successful operation of an academic department.

Moreover, for contract awards, the College developed a pre-award contract and grant checklist for determining risk and compliance for the scope of work. The College also requires a minimum reserve of overhead funds in each department in order to cover student research assistants who are not assigned to work on specific contracts. Subject matter experts in each department may voluntarily identify themselves and request to be placed on an Expert Call List so faculty and staff know how to direct compliance questions.

Remediation and implementation of internal controls is of significant interest to the NRC as I specifically emphasized at the September 6, 2012, meeting. The College represents it is currently using OIA management advisory services to conduct reviews of NRC awards. The OIA is described as entirely independent from the College. The College represents it was undertaking a partnership between the school and the OIA in order to maintain compliance and good business practices. Staff and faculty are encouraged to contact the OIA if they have questions about compliance issues. The Action Plan states that OIA is providing an Annual Report to the Vice President and NRC which will review procedures as well as performance and document the results of the review. This will occur for 3 years at the end of which, the audit process will be re-evaluated. New procedures appear to be in place to include listing all NRC awards directly from the University's Division of Sponsored Research, listing all charges billed and reported to the NRC from the University's Office of Contracts and Grants Accounting, an analytical review of NRC award activity, and a sample of expenditure transactions to review for adequacy and compliance.

According to the Action Plan, an internal controls and self-assessment tool implemented by the University to remedy past incompliance is the Mandatory Control Self-Assessment and Internal Control Checklist. Using the OIA tool to ensure business integrity, each College department tracks training requirements and ensures that staff is aware of protocols regarding budgeting, accounting, asset management, payroll, purchasing, and other important tasks. The Action Plan states that the Director of Finance and Personnel intend to hold monthly Fiscal Officer

Roundtable meetings to discuss issues. The Action Plan represents that the College reviews all internal and external audit results so the administration is able to assist departments in establishing corrective actions and track follow-through.

Also demonstrating satisfaction of FAR §9.406-1(a)(8) with respect to ethics training programs, the University represents that an ongoing part of its Action Plan is the reinforcement by the Associate Dean of Research of the College Codes of Conducts and the Code of Ethics for State of Florida Employees. The College represents that all employees receive hard and electronic copies of this code. The Action Plan notes that the College administration continues to emphasize these codes at all meetings such that these codes are incorporated into the College's culture. The College is also communicating and reinforcing the school Code of Conduct and associated ethical obligations through enhanced and mandatory documentation, training and education, and a focus on good practices to make these standards part of the business culture. According to the Action Plan, the College is currently writing and implementing disciplinary guidelines for violations of the Code of Conduct. The College represents it is also working with the Human Resources department to set disciplinary guidelines for violations of the Code of Conduct.

For training, the Action Plan notes the University's implementation of a training program for staff and faculty that perform financial functions. These employees now must attend formal training in order to perform payroll distributions, effort reporting, travel, expense, reconciliations, and other key tasks. This appears to be an ongoing effort, and the College uses existing organizational development programs and also employs outside training resources as needed. According to the Action Plan, the College maintains a training database for all employees to keep track of completed and required courses and encourages employees to enroll in continuing education courses. In particular, fiscal officers have to complete training in OMB A-21, A-110, A-133, Export Controls, Privacy, Asset Management, Effort Reporting, and other laws and regulations. These officers also must obtain pre-award and post-award certifications. All faculty will also receive training in conflict of interest issues and other financial reporting requirements. Research faculty additionally must take training in Federal agency regulations, policies, and procedures.

Finally, I find that FAR §9.406-1(a)(9) and (10) are also satisfied. According to the 2013 Compliance Action Plan and Agreement, the University has had "adequate time to eliminate the circumstances within the contractor's organization that led to the cause for debarment," §9.406-1(a)(9), and the University appears to have done so.

I find that the Action Plan demonstrates compliance with FAR §9.406-(1)(a)(10), "Whether the contractor's management recognizes and understands the seriousness of the misconduct giving rise to the cause for debarment and has implemented programs to prevent recurrence." The University has clearly restructured the College's fiscal administration structure following discovery of Dr. Anghaie's fraud and subsequent criminal conviction. The College is also reinforcing the Code of Conduct and ethical obligations for students, faculty, and staff. In addition, the University is implementing the independent OIA review which approved the new fiscal administration structure and monitors compliance with business operations and the University Code of Conduct and ethics standards. Further, the College represents a renewed emphasis on efforts to establish good business practices and controls to foster compliance and to achieve consistent business practices. I find satisfactory for improved internal controls, use

of the independent OIA management advisory services to conduct reviews of NRC awards in order to prevent future recurrence of the conduct that occurred. These changes exemplify to me that the University and College understand the seriousness of the misconduct that occurred and have taken necessary steps to prevent any future recurrence.

Therefore, I accept the 2013 Action Plan, and based upon the foregoing analyses considering the FAR 9.406-1(a) factors, I determine that it is not necessary to impose administrative action at this time provided I receive an Action Plan update. NRC recognizes that as of March 1, 2013, the College of Engineering was still in the process of implementing certain facets of its Action Plan and Agreement. Accordingly, please provide a written update to me on the University's progress in connection with further implementing the action plan and agreement no later than April 1, 2014. Please include with this update, the 2013 OIA Annual Report to the Vice President. If you have any questions, I may be reached at (301) 287-0863 or Cynthia.Carpenter@nrc.gov. You may also contact Robin Baum, Deputy Assistant General Counsel and Special Counsel for Acquisition, at (301) 415-2202 or Robin.Baum@nrc.gov.

Sincerely,

/RA/

Cynthia A. Carpenter
Suspension and Debarment Official

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Sincerely,

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