

*This material is part of a collection that documents the harassment, discrimination, and retaliation perpetrated against Alaska's women research scientists by their supervisor, with full knowledge (and arguably, "tacit approval") of their federal employer, the USDA Agricultural Research Service (ARS)*

U.S. DEPARTMENT OF AGRICULTURE  
OFFICE OF ADJUDICATION AND COMPLIANCE

CYNTHIA BOWER,

Complainant,

v.

TOM VILSACK,  
SECRETARY, U.S. DEPARTMENT  
OF AGRICULTURE,

Agency

*On 19 Sept 2011, I received this undated (and unreadable) letter from the USDA. The letter was also untimely (i.e. postmarked AFTER the 35 days allowed by law). The proper headings (e.g. complaint numbers, etc...) were also missing. They wrote that they had received my August 2nd letter on Sept 6th, although they admit (on the Certificate of Service page) that they didn't send this letter until at least Sept 16th. Since the letter was not sent by certified mail, perhaps the USDA was hoping that there would be no record of their untimeliness.*

**AGENCY'S RESPONSE TO CYNTHIA BOWER'S ALLEGATIONS  
OF NON-COMPLIANCE WITH SETTLEMENT AGREEMENT**

The United States Department of Agriculture's ("USDA") Agricultural Research Service ("ARS"), by and through its undersigned representatives, hereby timely responds to the Office of Adjudication's ("OA") inquiry, received by ARS on September 6, 2011, into Complainant Cynthia Bower's ("Complainant") allegations of non-compliance with a settlement agreement entered into by the Parties on August 19, 2010 (the "Settlement Agreement").

Complainant's non-compliance allegation, contained in her August 2, 2011, letter (the "August 2, 2011 Letter") is that the Agency "refused to report [Complainant's] settlement income to the IRS (in accordance with Paragraph 2 of the Settlement Agreement AND as required by U.S. law)." See August 2, 2011 Letter at pg. 2.

At this point in time, it appears that ARS accidentally did not report Complainant's settlement payment of [redacted] herein the "Settlement Payment") to the IRS after paying Complainant the Settlement Payment. However, Complainant is incorrect when she states that ARS "**refused**" to report her Settlement Payment to the IRS. Conversely, Complainant admits that ARS did make efforts to report Complainant's Settlement Payment to the IRS. Specifically, at Exhibit 2 of her August 2, 2011 Letter, Complainant states that on March 2, 2011, Complainant received an email from Ms. Kim Parks, of the ARS Fiscal Operations Branch, where Ms. Parks admits to contacting the National Finance Center regarding the issuance of a IRS 1099 tax form to Complainant in conjunction with the Settlement Payment. Specifically, in the timeline at Exhibit 2 of her August 2, 2011 Letter, Complainant states:

**2 March 2011**

Kim Parks (Kim.Parks@ars.usda.gov) emailed that she had left a message for the 1099 help desk at the National Finance Center regarding the issuance of a [IRS]

1099 form...

Unfortunately, however, it would appear Complainant's Settlement Payment was accidentally never reported to the IRS. **Most significantly**, Complainant has not incurred any loss or damages as a result of the Settlement Payment not being reported to the IRS. Further, ARS is currently taking action to remedy this accidental oversight and is reporting the Settlement Payment to the IRS.

In her August 2, 2011 Letter, Complainant also appears to request that the Agency issue to her an IRS W-2 form rather than an IRS 1099 form in conjunction with the Settlement Payment.

The relevant provision of the Settlement Agreement, reproduced in its entirety directly below, does not prescribe what tax form Complainant is supposed to receive:

*Paragraph removed in accordance with USDA confidentiality requirements*

Nor does the Settlement Agreement set forth whether the Settlement Payment is for lost wages or for other non-wage related compensatory damages. As such, the Agency is not required, by the terms of the Settlement Agreement, to provide Complainant a W-2 for lost wages. Complainant's request for a W-2 is outside the terms of the Settlement Agreement.

However, in conjunction with reporting Complainant's Settlement Payment to the IRS, the Agency is also ensuring all appropriate tax forms are being issued to Complainant. If a W-2 is deemed the appropriate tax form, Complainant will be issued a W-2.

Respectfully submitted,

*Brooks Liswell* HT  
BROOKS LISWELL  
Agency Representative  
U.S. Department of Agriculture  
Office of the General Counsel

Civil Rights Litigation Division  
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**CERTIFICATE OF SERVICE**

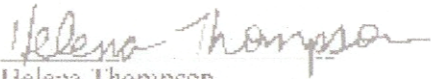
I hereby certify that a copy of the foregoing Agency's Response to Allegations of Non-Compliance of Settlement Agreement has been sent by the following methods this the 16<sup>th</sup> day of September 2011 to the following:

U.S. Department of Agriculture  
Office of Adjudication  
1400 Independence Ave., S.W.  
Washington, DC 20250-9410  
202-690-2345 (fax)

**VIA ELECTRONIC MAIL**

Cindy Bower  
PO Box 1383  
Kodiak, Alaska  
99615

**VIA FIRST CLASS MAIL**

  
Helena Thompson  
Equal Employment Opportunity Specialist



266-4220-2011 5209 1410

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