

NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

Case Number: A11060038

Page 1 of 1

We investigated an NSF panelist¹ who allegedly disclosed the identity of another panelist² to the PI³ of a declined proposal.⁴ There was sufficient evidence to substantiate that the panelist had in fact violated his agreement with NSF not to disclose such information. We referred the matter to NSF for appropriate action with a report of investigation (attached). NSF reprimanded the panelist (attached) and banned him from serving NSF as a reviewer, advisor, or consultant for 11 months.

Accordingly, this case is closed.

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[REDACTED]

NATIONAL SCIENCE FOUNDATION

4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

September 26, 2012

[REDACTED]

Via email: [REDACTED]

Dear [REDACTED]:

It has come to my attention that you disclosed the identity of another panelist to the principal investigator ("PI") of a declined proposal submitted to the National Science Foundation ("NSF" or the "Foundation"). I am writing to reinforce the need to comply with NSF's policies and requirements when serving as a panelist.

The Foundation relies on the services of reviewers as a linchpin of its merit review process. To ensure that reviewers are free to provide candid assessments of proposals during this process, NSF keeps reviews and the identities of the panel reviewers confidential to the maximum extent possible. Prior to your panel service, you signed NSF Form 1230P, Conflict-of-Interests and Confidentiality Statement for NSF Panelists, certifying that you understood NSF policies related to serving on a review panel, including the need to maintain the confidentiality of other reviewers on the panel.

Safeguarding the identity of reviewers and preventing the disclosure of this information is essential to ensure that NSF retains the trust of the scientific community and the public at large. We take the protection of the NSF peer review process very seriously. To this end, and in light of your improper disclosure, you are prohibited from serving as a reviewer, advisor, or consultant for NSF until September 1, 2013.

Please do not hesitate to contact me should you have any questions or concerns.

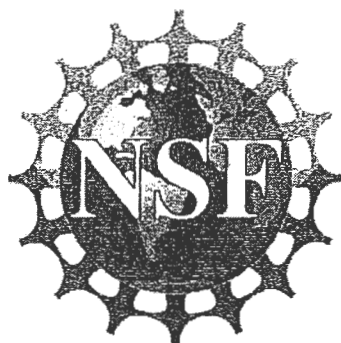
Sincerely,

[REDACTED]

Division Director

[REDACTED]

National Science Foundation Office of Inspector General



Confidential Report of Investigation Case Number A11060038 May 22, 2012

**This Confidential Report of Investigation is provided to you
FOR OFFICIAL USE ONLY.**

It contains protected personal information, the unauthorized disclosure of which may result in personal criminal liability under the Privacy Act, 5 U.S.C. § 552a. This report may be further disclosed within NSF *only* to individuals who *must* have knowledge of its contents to facilitate NSF's assessment and resolution of this matter. This report may be disclosed outside NSF only under the Freedom of Information and Privacy Acts, 5 U.S.C. §§ 552 & 552a. Please take appropriate precautions handling this confidential report of investigation.

Executive Summary

The Subject is alleged to have breached reviewer confidentiality by disclosing the identity of another panelist to the PI of a declined NSF proposal. Our investigation concludes that the preponderance of evidence supports finding that the Subject did breach reviewer confidentiality in violation of the terms of his signed NSF Form 1230P. We recommend NSF take appropriate action, including prohibiting the Subject from serving NSF in an advisory capacity for an appropriate period of time.

Background

We reviewed an allegation that the PI¹ of a declined NSF proposal (the Proposal)² was contacted by a former colleague (the Subject)³ who identified himself as a reviewer on the panel that evaluated the Proposal. It was also alleged that the Subject disclosed the identity of another panelist (the Panelist).⁴

Prior to participation on a panel, NSF panelists are expected to review and sign an NSF Form 1230P⁵ certification and receive a briefing on conflict of interests (COI). Specifically, Form 1230P addresses COIs as exemplified on the back of the form and confidentiality with respect to the review process and reviewer names. Form 1230P also includes a specific warning that "Unauthorized disclosure of any confidential information could subject your [sic] to sanctions."⁶ However, NSF does allow each individual panelist to self-disclose his/her own identity but not the identities of others on the panel.⁷ Each panelist certifies to statements including "I understand I must contact the NSF program officer if a conflict exists or arises during my service," and "I will not divulge or use any confidential information, described above . . ."⁸

OIG Investigation

According to NSF records, the Subject participated on the NSF panel that reviewed the PI's proposal.⁹ He provided a signed Form 1230P dated approximately one month prior to the start of the panel.¹⁰ The program officer also confirmed that the panelists, including the Subject, received a verbal COI briefing when the panel began.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

⁵ Tab 1, NSF Form 1230P.

⁶ Tab 1.

⁷ NSF policy is not to disclose the identity of reviewers. By signing Form 1230P NSF panelists agree not to "divulge or use any confidential information" which includes confidentiality of the review process and reviewer names.

⁸ Tab 1.

⁹ Tab 2, NSF Form 7 for [REDACTED]

¹⁰ Tab 3, the Subject's signed NSF Form 1230P. We confirmed with the program officer that the division typically sends the panelists copies of Form 1230P (both sides)(Tab 1) by email prior to the panel session and expects to receive them signed before the panel begins.

The Subject's written review of the Proposal included a "Good" rating; the Panelist's review included a "Fair" rating.¹¹ The other two reviewers gave the Proposal "Very Good" and "Good" ratings. The Subject and PI live in the same general vicinity in a Midwestern state; the Panelist lives in a Southwestern state which neighbors a state in which the PI presented a talk near the time of the panel review. It is unlikely that the Panelist would disclose his identity as the panel member giving the lowest rating, leaving the Subject as the most likely source of the disclosure as supported by his email correspondence with the PI.

The PI provided us with email correspondence initiated by the Subject in which he offered to meet with her and mentor her on successful proposal preparation.¹² The Subject indicated specifically that he had information that was "pretty specific" having seen the "inner workings" of the panel.¹³ The PI told us she met with the Subject, at which time he pointed out the review he had provided and disclosed the identity of the Panelist.

The PI told us she and the Subject had previously had a short (~3 months) romantic relationship which she terminated 3 years ago.¹⁴ The PI expressed her concern that the Subject's contact with her about the Proposal may have had an additional motive (*i.e.*, resuming their prior relationship). Although the Subject in his emails states that his motive is not rekindling the relationship, he confirms the existence of the past personal relationship. Regardless of his actual intentions, his emails regarding meeting to discuss the Proposal indicate his intention to share information with her about the review of the Proposal.

We wrote¹⁵ to the Subject asking him to confirm his signature on the Form 1230P and his attendance at the COI briefing prior to the panel. He confirmed both and asserted that he knew of no COIs that he did not disclose.¹⁶ He also confirmed that he spoke with the PI who he "happen[ed] to know" and described a conversation with the NSF program officer¹⁷ in which he was told "it would be okay for me to contact" the PI.¹⁸ He did not specifically answer whether he disclosed the identity of any other panelist to anyone outside of the panel.

Conclusion

The Subject's response to our letter and the emails obtained from the PI demonstrate that the Subject initiated contact with the PI to discuss her proposal and the "inner workings" of the panel. The PI identified the Panelist by name for us when it is unlikely that the Panelist would have disclosed his own identity as the reviewer providing the lowest rating. Therefore, we conclude it is more likely than not that the Subject disclosed the Panelist's identity to the PI.

¹² Tab 5.

¹³ Tab 5 at 12. Throughout this report we refer to the OIG-generated page numbers which appear in the lower right corner preceded by the case number. The page numbering is sequential from Tab 1 through Tab 8.

¹⁴ We do not address in this report whether such a relationship warrants consideration as an undisclosed COI based on an "Other relationship, such as close personal friendship, that you think might tend to affect your judgment or be seen as doing so by a reasonable person familiar with the relationship."

¹⁵ Tab 6.

¹⁶ Tab 7.

¹⁷ [REDACTED]

¹⁸ Tab 7.

The preponderance of the evidence indicates that the Subject disclosed the Panelist's identity to the PI in violation of the terms of NSF Form 1230P. However, the Subject's disclosure of his own participation in the panel is not a violation.

Recommendation

We recommend that NSF:

- preclude the Subject from serving NSF in an advisory capacity, including as a panelist or *ad hoc* reviewer, for an appropriate period of time.

Subject's Comments on the Draft Report

We received no comments from the Subject in response to the Draft Report.