



CLOSEOUT MEMORANDUM

Case Number: M00010003

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The complainant¹ (then president of a company that received an NSF SBIR grant), alleges that the subject² (then employee of the company), who served as the PI of an NSF SBIR grant,³ committed intellectual theft and made false statements. The allegation of intellectual theft is related to purported use of proprietary technology in research carried out subsequent to subject's departure (along with several other company employees) from the company⁴ to which the SBIR was granted. The second allegation is related to statements made by the subject in the final report for the SBIR grant. The subject provided in the final report a summary of essentially "negative" results that the complainant states are at variance with a "positive" result documented in the subject's laboratory notebook. The complainant claims further that the "negative" results were emphasized in concert with the subject's concurrent business proposal to the company that would have transferred license to use proprietary technology to the subject as a principal of a new separate company.

The first allegation concerns the use of proprietary technology by the subject (and possibly others) without permission or license. There is no allegation that the proprietary technology was used in NSF-funded research, nor is there a contention by the complainant that NSF funded the development of the proprietary technology used without permission by the subject or others. There is no NSF jurisdiction in this issue.

The second issue is the allegation of false statements in the final project report of the SBIR grant. Two issues related to the allegation by the complainant are 1) Are the "negative" data referenced in the NSF final report falsified or fabricated? 2) Is there a biased selection of "negative" data within the NSF final report that is linked to the subject's proposal to acquire technology from the company put forth at the same time as the SBIR final report submission?

The complainant states that the subject had already achieved a targeted goal listed in the SBIR proposal before the SBIR award was funded: this analytical value is deemed a "positive result." Although there is documentation in the laboratory notebook of the subject of experiments that support the existence of such a "positive" result, there are also notes for research work that

¹ Redacted
² Redacted
³ Redacted
⁴ Redacted

	Agent	Attorney	Supervisor	AIGI
Sign / date				



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support the “negative” results included in the SBIR final report. Examination of the notebook provides no evidence of fabrication or falsification of either the “positive” or the “negative” results. Variance in results is to be expected in multiple experiments, and the repeated experiments provided “negative” results rather than the isolated earlier “positive” result. Additionally, the result value targeted by the complainant is subsidiary to the main goal of the SBIR proposal work. There is no evidence that the subject willfully and purposefully selected an inferior experimental design in order to achieve a “negative” result, nor is there support for selective presentation of “negative results” within the SBIR final report. The second part of the complainant’s allegation regarding a connection to the subject’s business proposal is therefore moot.

There is no basis for further inquiry, investigation, or action. Accordingly, this case is closed.