

CLOSEOUT FOR M93040021

This case was brought to OIG on April 5, 1993 by Dr. [REDACTED], an NSF program officer in the [REDACTED] program. The allegation was that a proposal submitted to NSF by Dr. [REDACTED] (Subject #1) of [REDACTED] University and Dr. [REDACTED] (the collaborator) of [REDACTED] University sought funding for work that had already been performed. Attached are the OIG investigation report, including its appendices; the memorandum from the Deputy Director of NSF to the Inspector General announcing her decision in this case; and the letter of reprimand from the Deputy Director to Subject #1. These documents explain the actions subsequently taken by OIG and NSF in this case.

cc: Deputy AIG-O, IG

REPORT OF INVESTIGATION INTO AN ALLEGATION OF MISCONDUCT IN
SCIENCE AND ENGINEERING

SUMMARY

The Office of Inspector General (OIG) has determined that [REDACTED] (the subject) of [REDACTED] University sought funding from NSF by misrepresenting research he had already performed as work he proposed to do. OIG has also determined that the subject directed that the name of his collaborator, [REDACTED] of [REDACTED] University (the collaborator), be signed on the certification page without the collaborator's knowledge or consent. These conclusions are based on an investigation performed by [REDACTED] University. OIG recommends that NSF find that the subject committed misconduct and take the following actions as a final disposition in this case. The subject should be told that NSF has made a finding of misconduct and should receive a letter of reprimand from the NSF Office of the Director. Until January, 1997, the subject should be required, when he submits research proposals to NSF, to certify to OIG that the proposals accurately state what parts of the research agenda have and have not already been performed. Until January, 1997, the subject's institution should be required, when the subject submits research proposals to NSF, to certify that the proposals accurately state what parts of the research agenda have and have not already been performed.

OIG'S INQUIRY

OIG received an allegation that in a proposal to NSF the subject misrepresented research already performed as work to be done under the NSF award that the subject sought. The subject's proposal was [REDACTED], entitled, "[REDACTED]" (Appendix 1). The proposal was submitted to the [REDACTED] Program on January 15, 1993. It requested NSF support ([REDACTED]) for developing a [REDACTED] model to explain [REDACTED]. Most of the budgeted direct costs were for a summer salary and undergraduate research assistant for the subject. NSF declined the proposal on June 28, 1993. The panel summary (Form 7) indicated that the panel deemed NSF support to be "unnecessary" because several reviewers "had seen the results of the research reported" at a professional meeting and one had seen a journal submission that reported "the project's results."¹

¹The program officer appropriately considered the information indicating that the work had already been completed to be relevant to his decision about whether the proposal was worthy of NSF support. This information bears directly on the intrinsic merit of the proposed work, which is one of NSF's criteria for making awards. In making his recommendation to decline the proposal, the

When the program first received reviews alleging that the proposed work had already been conducted, the program officer informed OIG about the situation. OIG wrote to the subject and his collaborator asking for their responses to this allegation. OIG also requested copies of papers having the same title as the NSF proposal that the two researchers had allegedly presented at the [REDACTED] Association Meetings in December, 1992, and submitted to the [REDACTED] at about the same time.

In his reply to OIG's letter (Appendix 2), the subject stated that "the work specified in the proposal per se had already been completed." He characterized his "judgment and behavior while writing" his proposal as "unacceptable" and took full responsibility for the content of the proposal, explaining that the collaborator had not seen the proposal before it was submitted. He attributed his behavior to haste and laziness. He supplied copies of the conference paper (Appendix 3) and journal submission (Appendix 4), thereby helping OIG document that the research he proposed had in fact already been completed.

The subject also volunteered the fact that he had directed that his collaborator's name be signed to the certification page of the proposal without the collaborator's knowledge or consent. The proposal itself contained a letter from the collaborator stating that he would "collaborate with [the subject] on the project" but was not seeking NSF funding. Although the subject did not recall exactly why he included the collaborator's false signature, he speculated that he might have thought it was necessary because the collaborator had played a major role in writing the paper that was the basis for the proposal. The false signature does not materially misrepresent the actual role that the collaborator expected to play on the project, but it does misrepresent the collaborator's knowledge of the text of the proposal. We referred this matter to the U.S. Department of Justice, which declined to prosecute for forgery.

In the collaborator's reply to OIG (Appendix 5), he explained that he had never seen the proposal, had not signed the certification page, and did not consider himself responsible for the proposal. He confirmed that the research was an ongoing collaborative enterprise and that his letter accompanying the proposal accurately reflected his own involvement in the project. The collaborator expressed regret that "as [the subject]'s former thesis adviser" he did not "exercise more oversight into his proposal-writing." He attributed this to his high regard for the

program officer appropriately ignored the issue of whether the subject and the collaborator had committed misconduct. According to NSF policy, unproven allegations of misconduct may not influence program decisions.

subject's integrity and character. The collaborator characterized "this instance of bad judgment" by the subject as "an isolated one for which he is genuinely remorseful."

Both the subject and the collaborator provided evidence that the subject's proposal was part of a continuing program of research. They asserted that, had NSF made an award, it would have been used to support the next steps in this research program. The collaborator also explained that they had considered their model "preliminary" and expected that the model would require "major changes in the analysis" after they received comments from the journal referees. He stated that their paper's "essentially as-is acceptance" from the journal was a "surprise."

THE UNIVERSITY'S INVESTIGATION

OIG decided that there was sufficient substance to the allegations to warrant an investigation. We notified the subject's university, which asked that we delay our investigation while they undertook their own. On June 15, 1994, the university's Provost transmitted the investigating committee's report and a cover letter (Appendix 6) to OIG.

The committee reviewed the documentary record of OIG's inquiry and examined evidence from the subject's files relating to his research program. The committee interviewed the subject, the collaborator, the subject's dean and department chair, and clerical staff involved in preparing the NSF proposal.

With regard to the allegation that the subject sought funding from NSF by misrepresenting research he had already performed as work he proposed to do (Allegation #1), the committee concluded that the proposal was "misleading." It stated that the subject should have cited the paper that he and the collaborator had jointly written and should have described their plans for future research. It found that the proposal "nowhere... discuss[ed] research in progress or to be done in the future."

The committee cited various evidence indicating that the subject's project was ongoing and that he and the collaborator had worked together closely on it. The committee also received testimony about the subject's integrity and dedication to duty. It found that the proposal was assembled in haste to meet a submission deadline. The committee concluded that "though the idea was not conveyed, the purpose was to obtain funding for work to be done in the future." It found that there was no misconduct because there was "no intention to deceive."

With regard to the allegation the subject directed that the

name of his collaborator be signed on the certification page without the collaborator's knowledge or consent (Allegation #2), the committee found that the circumstances surrounding the inclusion of the false signature were unclear. It concluded that the secretary in the subject's department signed the collaborator's name and that the preponderance of the evidence indicated that the subject directed her to do so. It received evidence suggesting that the administrative assistant in the subject's department, who routinely assists faculty members in the administrative aspects of proposal preparation, had suggested that the collaborator's role in the project made it appropriate to include him as a co-principal investigator and to obtain his signature on the certification page. The committee was unable to determine whether the collaborator had agreed to be a co-principal investigator, as neither the collaborator nor the subject had a highly specific recollection of their conversations relating to this issue. But the committee found that the collaborator had agreed to work with the subject on the project and had not given permission to have his name signed to the certification page. The committee concluded that the facts warranted a finding of misconduct because "it was not proper to sign [the collaborator's] name without indicating clearly that it was not his own signature."

The Provost, in transmitting the investigation report, summarized the committee's recommended actions. The following quotation from the Provost's letter includes relevant quotations from the report:

By way of censure, the Committee recommends that the University administration (presumably, the Department Head, Dean, and Provost) "... discuss with [the subject] the seriousness of the poorly prepared proposal and the improper signature." Further, referring to the improper signature, "... a stern warning must be issued that any future misconduct will have serious consequences." Finally, "... [the subject's] next proposal must be carefully reviewed by the Head of the [subject's] Department."

The Provost expressed his intention to implement these recommendations.

OIG'S ANALYSIS

For NSF to make a finding of misconduct, a preponderance of the evidence must show that the subject committed culpable acts with a culpable state of mind. OIG believes the preponderance of the evidence indicates (1) that the subject committed the alleged acts, and (2) that he did so with a culpable state of mind. OIG

further concludes (3) that the acts are misconduct under NSF's Regulation on Misconduct in Science and Engineering. In this section, we address these three issues for each allegation.

Allegation #1: Act

OIG believes there is no doubt that the subject sought funding from NSF by misrepresenting research he had already performed as work he proposed to do. The subject admitted as much in his letter to OIG (Appendix 2). In response to OIG's request to the Provost for clarification of the university's findings, the Provost stated that "clearly, data collection and analysis described in the proposal had already been performed at the time it was submitted" and that "the university has, indeed, concluded that the proposal misrepresents past research as work proposed for the future" (The Provost's letter is in Appendix 7; OIG urges that the reader examine this letter, which provides a clear and focussed account of the university's judgment concerning this case). No fact or judgment in the investigating committee's report in any way contradicts these conclusions. Indeed, there is no evidence at all to contradict these conclusions.

Allegation #1: State of Mind

OIG believes that the subject performed these actions knowingly and that the university committee was incorrect when it claimed that the subject had no intent to deceive. The subject obviously knew that he had already performed the work described in his proposal. He knew that the proposal did not state that the work had already been performed, accurately reflect his progress on the research, or explain what work he in fact planned to undertake under the award he hoped to receive. When the investigating committee stated that the subject "thought he would better impress the proposal reviewers and enhance his chances for funding by presenting a polished piece of writing," we believe that they implicitly concluded that the subject sought to create a misleading impression. In response to our request for clarification of the university's findings, the Provost stated his conclusion that the subject "intended for the proposal reviewer to believe that he was proposing to do work that he had, in part, already completed." We agree with the Provost's assessment.

OIG interprets the committee's conclusion about intent as a conclusion that the subject did not intend certain, extremely serious, deceptions. The evidence indicates that the subject intended to use the NSF award he sought for research, and in that sense did not intend to deceive NSF about his purpose in seeking NSF funds. It indicates that he intended to use the award to support future work in the research program he described in the

proposal and not for work in some other, unrelated research program. In that sense, he also did not intend to deceive NSF about his general purpose in seeking funds. The evidence also suggests that he expected that his completed paper, like most papers submitted to the leading journals in his discipline, would require substantial revisions before it could be published and that he did not know, pending receipt of the referees' comments, what those revisions would entail. To the extent that the subject intended to use some portion of the award he sought to fund his efforts to revise the paper, the proposal might be seen as not intended to deceive NSF about the kinds of scientific results to be obtained. However, the conclusion that the subject did not intend certain very serious deceptions does not mean that he did not intend to deceive at all.

Although OIG concludes that the subject knowingly intended to deceive NSF about whether he had already performed the work described in his proposal, OIG does not believe that he did so purposefully. The preponderance of the evidence indicates that the subject did not plan his deception or take steps to maximize its chances of success. Had he acted purposefully, he might have delayed his journal submission and conference presentation a few months until NSF reviewers had evaluated his proposal. He would at least have given the proposal a different title from that of the journal submission and conference presentation. Instead, he made his research progress so well known that at least three referees independently raised this issue.

Allegation #1: Misconduct

NSF's regulation on Misconduct in Science and Engineering defines misconduct (45 C.F.R. §689.1(a)(1)) to include "serious deviation from accepted practices in proposing" research to NSF. OIG believes that the subject's action in misrepresenting past work as work proposed for future funding and seeking funding from NSF based on this misrepresentation is a serious deviation from accepted practices. OIG believes that actions such as the subject's are considered serious deviations in the wider scientific community as well as at NSF. We believe that such actions, if tolerated, would subvert NSF's proposal evaluation process. That process is predicated on the idea that in deciding on awards NSF judges proposed new work. NSF lists the "intrinsic merit of the research" as one of its criteria for proposal evaluation. Neither reviewers nor NSF staff can assess intrinsic merit if the investigator misrepresents the work for which he or she seeks funding. If NSF wished to make award decisions based only on the competence or past performance of investigators, it would not ask for proposals that describe the work the investigator plans to undertake.

The Provost's letter to OIG makes clear that the subject's action is misconduct under NSF's definition. In response to two questions from OIG (indicated in italics below), he stated:

Is it the university's view that a scientist who submits a proposal that accurately reflects the general program of research he intends to pursue but misrepresents the actual research to be supported has not seriously deviated from accepted practice in the scientific community at [the university]?

It is **emphatically not** acceptable at [the university] to engage in the practice suggested in this question. No one at this university-- neither the committee, nor I, nor anyone else whom I know-- would condone the kind of misrepresentation that occurred in [the subject's] proposal. Such a practice certainly **does** deviate from accepted practice at [the university]....

Is it the university's view that a description of related work that has already been performed, cast so as to appear to be work that is still to be undertaken, is acceptable for this purpose? If you believe it is not, do you believe that, though unacceptable, this alternative does not seriously deviate from accepted practice in the scientific community at [the university]?

No to both questions. [emphases in original]

Allegation #2: Act

OIG believes that the preponderance of the evidence supports the committee's conclusion that the subject arranged for the false signature to be included in his proposal.

Allegation #2: State of Mind

OIG concludes that the subject included the false signature knowingly. He was aware that the signature was not that of his collaborator when he submitted the proposal and aware that he did not have the collaborator's permission to include it.

Allegation #2: Misconduct

OIG agrees with the investigating committee that accepted practice, when a collaborator cannot personally sign the certification page of a proposal, is to obtain the collaborator's permission to include a signature, sign in his stead, and add one's initials after the signature to indicate that the collaborator

himself has not signed. OIG believes that including a false signature without indicating it to be false is a serious deviation from accepted practices and hence is misconduct under NSF's definition. One index of the seriousness of a false signature is the fact that forgery violates the criminal law and is generally considered to be morally repugnant.

The collaborator's signature on the certification page denotes his acceptance of responsibility for the content of the proposal and the conduct of the research. In most respects, the collaborator had himself taken responsibility for the content of the proposal by submitting identical material for publication and by sending the subject a letter, suitable for inclusion into the proposal, in which he promised to collaborate on the research. In one important sense, however, the signature on the certification page is seriously misleading: it certifies that the collaborator is personally familiar with the text that is being submitted to NSF and has judged this material to be an appropriate research proposal.

OIG's Conclusion Regarding Misconduct in Science

OIG concludes that a preponderance of the evidence supports the findings that the subject submitted a proposal to NSF that misrepresents research he had already performed as work to be done and sought funding from NSF based on this misrepresentation and that the subject directed that the name of his collaborator be signed on the certification page without the collaborator's knowledge or consent. OIG concludes that the subject committed misconduct as defined in NSF's Regulation on Misconduct in Science and Engineering and recommends that NSF make a finding to that effect.

OIG'S RECOMMENDED DISPOSITION

Under § 689.2(b) of NSF's misconduct in science and engineering regulation, "[i]n deciding what actions are appropriate when misconduct is found, NSF officials should consider: (1) How serious the misconduct was; (2) Whether it was deliberate or merely careless; (3) Whether it was an isolated event or part of a pattern; (4) Whether it is relevant only to certain funding requests or awards involving an institution or individual found guilty of misconduct."

We believe that a finding of misconduct regarding allegation #1 could, under other circumstances, be extremely serious and justify debarment. To condone the subject's action would be to condone a practice that subverts a major premise of NSF's proposal review process -- the idea that we fund proposed work. We

understand that scientists sometimes exaggerate how definitive their data are when they submit papers to journals and exaggerate how preliminary their ideas or data are when they submit research proposals. The subject's action is fundamentally different from such efforts to "shade" the truth. It is a clear, unambiguous misrepresentation.

We believe, however, that several factors substantially mitigate the seriousness of the subject's action in this case:

1. The difference between the research that the subject intended for NSF to support and the research he proposed to NSF is not great. It is probably smaller than the difference between proposed and actual work for many of NSF's funded proposals, including many in which neither the investigator nor NSF staff believe there has been a change in the scope of the research. We believe this would have been a far more serious transgression if the subject had not intended the award to support research that was very similar to what he proposed.
2. The subject is a young scientist who received his Ph.D. less than a year before he submitted his proposal. This was his first proposal for external funding. Both his dissertation advisor and his university believe that he needed more instruction in proper proposal preparation and that they were negligent in not providing it. We believe, as do the investigating committee and the Provost at his university, that at the time he acted the subject "did not associate with this deception the gravity that most others would, particularly experienced researchers" (Provost's letter of clarification to OIG). We believe that this would have been a far more serious transgression if the subject had been a more experienced scientist well schooled in the norms of the scientific community.
3. The subject took full responsibility for his actions immediately upon hearing from OIG, cooperated fully in the inquiry and investigation, and has expressed sincere regret. There is much testimony that he is a person of good character and has learned from his mistake.
4. There is no evidence that the subject's action was part of a purposeful, coordinated deception. He publicized his research results both by presenting them at a conference and by submitting them to a journal. Predictably, his efforts made NSF reviewers aware that the work had already been performed. The subject easily

could have delayed making his results public in order to avoid detection. We believe that this would have been a more serious transgression if he had acted purposefully.

Regarding allegation #2, we believe that a false signature is an inherently serious matter. In this case, we believe its seriousness is mitigated by the fact that the signature did not and was not intended to mislead NSF about the role the collaborator would play in executing the research plan. We also believe that the fact that the subject brought this matter to NSF's attention can be considered a mitigating circumstance.

We recommend a finding of misconduct under NSF's Regulation on Misconduct in Science and Engineering. We recommend three actions by NSF in response to the subject's misconduct. The subject should be sent a letter of reprimand, which is a Group I action (see §689.2(a)(1)(i)). The subject should be required, for a period of two years, when he submits research proposals to NSF, to certify to OIG that the proposals accurately state what parts of the research agenda have and have not already been performed. This is also a Group I action (see §689.2(a)(1)(ii)). The subject's institution should be required, for a period of two years, when the subject submits research proposals to NSF, to certify that the proposals accurately state what parts of the research agenda have and have not already been performed. This is also a Group I action (see §689.2(a)(1)(iii)). We believe that these actions adequately protect the integrity of NSF's proposal review process while, at the same time, permitting an inexperienced researcher to put this incident of misconduct behind him and pursue his scientific career.

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF THE
DEPUTY DIRECTOR

January 13, 1995

Personal and Confidential



Re: Notice of Misconduct Determination

Dear [REDACTED]

The National Science Foundation's Office of Inspector General (OIG) issued an Investigation Report on September 30, 1994, in which it found that you (i) submitted a proposal to the Foundation which misrepresented research you had already performed as work you proposed to do, and (ii) directed that the name of your collaborator be signed on the certification page without the collaborator's knowledge or consent.

Misconduct and Proposed Action

Under NSF's regulations, "misconduct" is defined to include any "serious deviation from accepted practices in proposing, carrying out or reporting results from activities funded by NSF." 45 CFR §689.1(a). Your submission of a proposal that misrepresents the status of your research, and that included a falsified signature, constitutes a serious deviation from accepted practices, and, therefore, misconduct.

In deciding what actions will be taken in response to a misconduct finding, NSF considers the seriousness of the misconduct; whether it was deliberate or careless; whether it was an isolated event or part of a pattern; and whether the misconduct affects only certain funding requests or has implications for any application for funding involving the subject of the misconduct finding. See 45 CFR §689.2(b). In this case, I believe that several factors mitigate the seriousness of your actions. The difference between the research you intended NSF to support and the research you proposed to NSF was not great; this was your first proposal for external funding and you probably did not

realize the gravity of your actions; you took full responsibility for your actions; and there is no evidence that your actions were part of a purposeful, coordinated deception.

Based on the above facts, we will require that if you are the principal investigator or co-principal investigator on any proposal submitted to NSF prior to January 1, 1997, you must submit to the Assistant Inspector General for Oversight, Office of Inspector General, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230, a copy of each such proposal, together with your separate written certification indicating that the proposal accurately states which parts of the research agenda have and have not been performed. In addition, you must submit a written certification from an institutional representative, indicating that, to the best of his or her knowledge, the proposal accurately states which parts of the research agenda have and have not been performed. Both certifications must be provided simultaneously with the submittal of the proposal to NSF; must be provided for any proposals pending at NSF on the date of this letter; and must be provided whether or not you continue to be employed at [REDACTED]
[REDACTED]

Procedures Governing Appeals

Under NSF's regulations, you have 30 days after receipt of this letter to submit an appeal of this decision, in writing, to the Director of the Foundation. 45 CFR §689.9(a). Any appeal should be addressed to the Director at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. For your information we are attaching a copy of the applicable regulations and of OIG's investigation report. If you have any questions about the foregoing, please call Lawrence Rudolph, Acting General Counsel, at (703) 306-1060.

Sincerely,



Anne Petersen
Deputy Director

Enclosures