

## CLOSEOUT FOR M-95010005

On 26 January 1995 [REDACTED] a program officer in the Division [REDACTED] Directorate [REDACTED] brought an allegation of misconduct in science to OIG's attention. According to the program officer, the subject, [REDACTED] a faculty member [REDACTED] (the university), listed significantly different appointment dates for the beginning of her tenure-track position at the university in two separate targeted NSF program applications. These targeted NSF programs assist new faculty in their independent research careers. The subject's applications included NSF funded proposal [REDACTED] (proposal #1), entitled [REDACTED] submitted to [REDACTED] (program #1), and, three years later, NSF proposal [REDACTED] (proposal #2), entitled [REDACTED] submitted to [REDACTED] (program #2). The program officer alleged that the subject misrepresented her tenure-track appointment in at least one of the NSF proposals.

Application to program #1 required that an applicant have a tenure-track appointment at his or her institution beginning no later than the effective date of any award. Application to program #2 required that an applicant hold a tenure-track appointment beginning no later than the application's deadline and no earlier than about three years before the application's deadline. The beginning tenure-track appointment dates represented by the subject in proposals #1 and #2 indicated that she was qualified for each application. However, the date the subject cited in proposal #2 was three years later than the one she cited in proposal #1. The tenure-track appointment date she used in proposal #1 would have disqualified her for program #2 and vice versa.

In response to OIG's inquiry, the subject said that she had not intended to violate any requirements, but, after OIG contacted her, she realized that she had done something wrong. She explained that, since she was a foreign national, when the university first hired her it could not legally give her a tenure-track position until she received her permanent residency status. Therefore, the university appointed her to a three-year, renewable, non-tenure accruing position with the understanding that, when she received her permanent residency status, her appointment would be changed to a tenure-track position. She said that, when she submitted proposal #1, she was still in the non-tenure accruing position, but she assumed the university was fully committed to her and that she was qualified to apply. The subject explained that she never gave her appointment status much thought when she submitted proposal #1, which was subsequently funded by NSF.

She told OIG that two years after she submitted proposal #1 she received an announcement for another targeted NSF program that specified eligibility requirements related to the applicant's tenure-track appointment beginning date. She asked NSF program

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staff to evaluate her eligibility for this program. NSF program staff determined that the subject's original non-accruing appointment was, in essence, the beginning of an "equivalent" tenure-track appointment, and, therefore, she was not qualified. The subject said that she told an NSF staff member that the decision seemed unfair because it limited a foreign national's eligibility period to apply for targeted NSF programs. She explained that eligibility for most targeted NSF programs specified a restricted tenure-track appointment "window" that, for non-citizens, was further limited because of the requirement for official permanent residency status, which often took two or more years to receive. According to the subject, the NSF staff member was sympathetic and explained that changes were being made in requirements associated with targeted NSF programs to assist scientists in situations such as hers.

Subsequently, the subject received the announcement for program #2. She explained that the eligibility requirement that specified the beginning tenure-track appointment date in the program #2 announcement was different from that in the targeted NSF program announcement she had discussed with NSF staff. She assumed that the differences she observed in the program #2 announcement reflected the changes that were alluded to by the NSF staff member. She explained that in the program #2 announcement "equivalent" tenure track position was defined to include only applicants whose institutions did not offer tenure-track appointments. Because her university offered tenure-track appointments, she interpreted this statement to mean that NSF's previous determination about her "equivalent" tenure-track position was not relevant to her program #2 application. Consequently, she applied to program #2 using her actual tenure-track appointment date, which began three years after her initial appointment to a non-tenure accruing position. After OIG contacted her, the subject provided a letter from the university's president, apologizing for the university's error in permitting the subject to submit proposal #2 and confirming the subject's statements about her university appointment.

OIG determined that the information provided by the subject was correct and her explanation reasonable. OIG concluded that, although the information presented by the subject about her tenure-track appointment in her two proposal submissions was contradictory, her representations were the result of understandable misinterpretations, and, therefore, were not misconduct in science.

This inquiry is closed and no further action will be taken on this case.

cc: Staff Scientist, Deputy AIG-Oversight, AIG-Oversight, IG