

CLOSEOUT FOR M96050014

This case came to OIG on May 24, 1996, when [REDACTED] an Assistant General Counsel at NSF, informed us of an allegation that [REDACTED] (the subject) of [REDACTED] (the subject's institution) had improperly disclosed information he had received as part of NSF's confidential panel review process. The Assistant General Counsel had received a memorandum from [REDACTED], the director of the Division of [REDACTED] (the Division Director) in the Directorate for [REDACTED] (the Directorate), and [REDACTED], a program officer who administered the Division's [REDACTED] program (the program officer). The memorandum, addressed to the Directorate's Assistant Director [REDACTED], recommended that NSF "officially remove" the subject from the Directorate's list of potential merit reviewers.

OIG interviewed the program officer. The program officer explained that [REDACTED] of [REDACTED] (Scientist #1) and [REDACTED] of [REDACTED] (Scientist #2), in separate conversations, had alleged to the program officer that, during a workshop they attended at the subject's institution, the subject made the improper disclosures. The disclosures allegedly concerned confidential information from a [REDACTED] Directorate panel that evaluated nominees for Presidential Faculty Fellowships. OIG sought and received accounts of the subject's actions from the subject and the two scientists.

The subject admitted that, in informal conversations during the workshop, he told Scientist #1 that Scientist #1's work had been well received at a "Washington panel" meeting. Although it is uncertain whether the panel was named, the context of the conversation made clear what panel the subject had attended. Scientist #1 recalled that the subject indicated his own view of Scientist #1's qualifications, as documented in the materials submitted to support Scientist #1's nomination; the subject did not recall this portion of the conversation. Scientist #2 recalled that the subject told her about her approximate position in the panel rankings; the subject recalled seeing Scientist #2 at the workshop, but did not recall telling her about the panel ranking. The subject characterized his disclosure of a confidential panel assessment as "regrettable" and as a "mistake."

OIG believes that NSF should strongly affirm the importance of maintaining the integrity of its confidential merit review process when, as in this case, breaches of confidentiality come to NSF's attention. In this case, we noted several factors that mitigated the seriousness of the subject's actions: the subject did not reveal confidential information to either scientist about (1) candidates other than themselves, (2) the content of materials

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submitted to NSF to support other candidacies, (3) the evaluations other panelists made, or (4) the identities of other panelists. Because of these factors, we concluded that the subject's actions, though they warranted a formal response from NSF, could not be considered serious enough to be misconduct in science.

OIG drafted a memorandum to the Division Director recommending that he write to the subject and request that the subject (1) review NSF's policy concerning the confidentiality of the merit review process and (2) assure the Division Director in writing that he fully understands NSF's policy and promises to adhere to it in the future. We further recommended that, if the subject provided the requested written assurance, the Division Director should withdraw the memorandum recommending that NSF formally remove the subject from the Directorate's list of potential reviewers and take no further action in this case.

We sent the draft memorandum to the subject for comment. In his reply, the subject stated that he had reviewed NSF's policy and promised to adhere to it in the future. OIG concluded that the subject's reply substantially complied with our recommended action and that NSF did not need to seek further assurances from the subject. We revised the memorandum to reflect these conclusions. We sent the memorandum to the Division Director, who opined that the matter had been "satisfactorily concluded as a result of" OIG's efforts and decided that further NSF action was not required.

We informed the Assistant General Counsel of the Division Director's decision, and he told us that his office planned to take no further action concerning the matter.

While gathering facts concerning the allegations against the subject, OIG received related allegations from both the subject and Scientist #1 that a former NSF program officer, [REDACTED], had behaved improperly in the course of the review process. The former program officer allegedly made inappropriate disclosures to third parties of general information about the character and quality of certain scientists' proposal submissions and about how NSF had evaluated those submissions. She also allegedly made an inappropriate request for a personal favor from a scientist whose proposal was being reviewed by her program.

We determined that it was impracticable to take disciplinary action against a former employee for improprieties of the gravity that had been alleged in this case. We decided that investigating these allegations would be worthwhile if NSF were considering reemploying the former program officer. We asked the director of the former program officer's division whether NSF might reemploy the former program officer in the foreseeable future, emphasizing that it would be unfair to reduce the former program officer's reemployment prospects on the basis of unsubstantiated allegations of improper conduct. The division director informed us that, independent of the allegations, there was no significant likelihood that his division would reemploy the former program officer.

When we closed the case against the subject, we informed the former program officer, who was aware of the allegations against the subject, of the outcome. In doing so, we

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discussed with her the importance of maintaining the confidentiality of NSF's merit review process. We noted that characterizing confidential materials or deliberations to unauthorized persons, even in general terms, could violate the confidentiality that NSF promises to scientists who submit and review proposals.

While this case was in process, an NSF program officer, [REDACTED] informed us that the subject was serving on an NSF review panel. The program officer alleged that NSF had prohibited the subject from panel service. We ascertained that there was no such prohibition in place and that this allegation therefore lacked substance. The program officer further alleged that the subject had participated in reviewing a proposal with which he had a conflict of interests. OIG learned that the proposal in question was from a group in whose scientific activities the subject had previously participated, but with which he had no current affiliation and from which he derived no financial benefit. We noted that the subject did not try to hide his past ties from NSF, as evidenced by the fact that he mentioned them during the panel deliberations. We determined that NSF's conflicts of interests rules made it a matter of judgment whether these ties were such that the subject needed to be recused from reviewing a proposal from the group. We noted that the five program officers running the panel were divided on this point. We concluded that the subject could not be considered to have committed a serious ethical transgression by failing to recuse himself.

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

cc: IG, AIG-O