

## CLOSEOUT FOR M96110037

This case came to OIG on November 5, 1996, when Dr. [REDACTED] director of NSF's Division [REDACTED] (the division director), brought us evidence of possible ethical improprieties by one of the program officers in his division. The division director had been contacted by [REDACTED] (Complainant #1) of [REDACTED] and [REDACTED] (Complainant #2) of the [REDACTED]. The complainants had submitted separate and unrelated proposals that had been reviewed by NSF's [REDACTED] program.<sup>1</sup> The program officer for this program was [REDACTED] (the subject). Both complainants sought NSF support to acquire [REDACTED] (research materials) previously housed at other institutions. The other institutions had decided to stop maintaining the facilities necessary to support scientific studies using these research materials. In their proposals, the complainants sought to acquire the research materials in order to enhance their institutions' capacity to support innovative research.

The complainants expressed concern that the program officer may have divulged confidential information about their proposed work and improperly suggested to scientists at other institutions that those institutions acquire the research materials. The complainants' evidence also raised the possibility that the program officer had acted to advance her own career interests, and not out of a disinterested concern to make the best use of scarce NSF research funds. In addition, the complainants were concerned that the division had an unarticulated policy that precluded funding proposals such as theirs and that their proposals had not received a fair review.

OIG interviewed the complainants, the subject, and the division director. We also interviewed a scientist/administrator<sup>2</sup> from a university with which neither complainant was affiliated and to whom the program officer allegedly made inappropriate comments. We examined a series of electronic mail messages between the complainants and the program officer, some of which allegedly contained evidence of improper actions by the program officer.

<sup>1</sup> The proposals were [REDACTED] entitled "[REDACTED]" for which Dr. [REDACTED] was PI and Complainant #1 was co-PI, and [REDACTED], entitled "[REDACTED]" for which Complainant #2 was PI and [REDACTED], [REDACTED], and [REDACTED] were co-PIs. NSF declined to fund these two proposals.

<sup>2</sup> The scientist/administrator was [REDACTED]

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After examining the facts in this case, we concluded that the program officer was not guilty of serious ethical transgressions. She did not actually divulge confidential information from pending or declined proposals to persons not entitled to such information, nor did she explicitly suggest that a scientist or institution seek to perform work originally proposed to NSF by another scientist or institution. OIG found no evidence to contradict the program officer's assertion that she acted at all times in accordance with her understanding of her responsibilities as a program officer and not from any self interested motive.

OIG also concluded, however, that the program officer used poor judgment in two incidents and thereby created an appearance of impropriety. In one incident, the program officer mentioned to Complainant #2 that certain research materials might need to be housed at a new institution. From the program officer's general description of the materials, Complainant #2 was able to infer that the program officer was referring to the materials that were the focus of Complainant #1's proposal. Complainant #2's inference was one that a knowledgeable member of this small research community could reasonably be expected to make. The program officer did not suggest or intend that Complainant #2 perform a project originally proposed to NSF by Complainant #1, but we concluded that the program officer's action predictably created the appearance that she might be making such a suggestion. If the program officer had made such a suggestion, this would have been a serious breach of the confidentiality with which NSF promises to review proposals and a misappropriation of the ideas in Complainant #1's proposal.

In the second incident, during a conversation with the scientist/administrator, the program officer discussed the research materials that were the focus of Complainant #2's proposal and the capacity of the administrator's university to house them. The administrator did not interpret the conversation as a tacit invitation to his university to try and acquire these materials, but the complainant, when he learned of the conversation from the program officer, did interpret the conversation this way. As in the first instance, we concluded that the program officer did not make or intend to make an inappropriate invitation, but we also concluded that the program officer should have been sensitive to the appearance her action might create and scrupulous in avoiding that appearance.

OIG learned that the program officer, who had been at NSF for nearly a year at the time these two incidents occurred, had previously been warned orally about the dangers of being too proactive in situations comparable to this.

We sent the division director a memorandum reporting our factual determinations. We recommended that he send the program officer a confidential written message expressing disapproval of her actions and disappointment in the poor judgment she showed in these two incidents. The division director accepted our recommendation.

OIG determined that the NSF program had appropriately documented the bases for its recommendations that the complainants' proposals be declined. We concluded that the complainants' concerns about the criteria the division used in evaluating proposals such as

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theirs were program management matters. We noted that the complainants had received timely notice of their rights to a reconsideration of NSF's decisions regarding their proposals.

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

cc: Acting Deputy Assistant Inspector General-Oversight; Assistant Inspector General-Oversight; IG