

# Investigations

## Civil and Criminal Investigations

### *Embezzlement Investigation Uncovers Additional Issues with the University's Cost-Sharing and Award Accountability*

An OIG investigation into embezzlement at a university revealed other management control weaknesses that resulted in the recovery or de-obligation of \$3,367,256 in NSF funds over a 3-year period. The investigation involved a university employee who was subsequently convicted of embezzling more than \$487,000, including \$415,000 in NSF funds. In addition to finding evidence of embezzlement, investigators discovered that the university certified to inaccurate cost-sharing contributions each year of the award, and could not support a number of expenses charged to the NSF grant.

The university informed NSF that it had returned all of the funds embezzled from the NSF grant, and requested that NSF close the original award and transfer the remainder of the award to another university. However, our investigation revealed that the university had not returned \$1,486,098 of NSF grants funds before closing the award, funds that NSF de-obligated and used for other purposes.

OIG worked with the U.S. Attorney's Office for the Eastern District of Virginia to negotiate a settlement with the university that required it to reimburse \$809,477 to the government. The settlement agreement also included provisions requiring the university to establish a compliance program to ensure future adherence to federal requirements and regulations and to provide annual reports to NSF on the progress and success of the program for a period of three years. In total, \$3,367,256 were put to better use by NSF or credited to the U.S. Treasury as a result of the investigation, including funds that were either returned by the university or de-obligated by NSF over a 3-year period.

#### HIGHLIGHTS

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## ***Former Professor Indicted for Mail, Wire Fraud***

The U.S. Attorney for the Middle District of Tennessee indicted a former professor at a state university on one count of wire fraud and one count of mail fraud. The indictment alleges that the professor used employees funded by NSF grants to conduct work in furtherance of private consulting that she performed through a company organized by one of her subordinates at the university.

Before her recent retirement, the professor was the director of a university center that received \$5 million under a Local Systemic Change (LSC) grant from NSF to support the training of local school systems in science instruction and Hands-On Science programs. As part of the LSC grant, experienced public school teachers were paid to work at the center implementing the various training programs related to the grant. Our investigation found that during the same time, the professor performed for-profit consulting through a private consulting business organized by one of her subordinates at the center. The consulting projects included an external evaluation of the success of another LSC grant, and Hands-On Science training provided to a public school system. The professor received approximately 75% of the funds paid to the private consulting business.

The indictment charges that the professor caused center staff to submit travel vouchers and make other representations that they were engaged in official university and/or NSF grant work when in fact the professor knew that the employees were providing services for projects to her for-profit consulting business. Our investigation found that most of the center employees did not know that the for-profit company existed or that they were performing work for the private consulting firm. We also found that the professor did not disclose her outside consulting activities in annual Conflict-of-Interest disclosure forms she submitted to the university.

In a press release announcing the indictment, the U.S. Attorney observed: “There is nothing wrong with faculty members doing outside consulting and being paid for their services. That said, faculty members administering federal grants must follow the appropriate conflict of interest rules and may not use federally-funded employees to further their own paid consulting work while representing that those employees are performing their usual duties under the federal grant. When this plain distinction is not honored, federal criminal sanctions are the appropriate response.”

## ***Scientist and His Company Debarred by NSF for Five Years***

NSF debarred a scientist and his company from directly or indirectly obtaining the benefits of federal grants for a period of five years. The debarment was based on a criminal conviction and civil settlement resulting from

a multi-agency fraud investigation related to grants and contracts that the scientist received from the Small Business Innovation Research (SBIR) programs at NSF, the National Aeronautics and Space Administration, and the Departments of Air Force, Energy, and Agriculture.<sup>11</sup>

### ***NSF Debars Employee of Grant Recipient Who Embezzled Non-Federal Funds***

An accounting assistant at a grantee institution was charged with 18 felony counts of grand theft and forgery for embezzling approximately \$130,000 in non-federal funds. The employee pled guilty to all counts and was subsequently convicted and sentenced. NSF concurred with our recommendation to debar the individual for three years because, although the funds were not federal, she had been responsible for processing payments for federal and non-federal awards. Moreover, her job history made it reasonable to expect that she will likely seek similar accounting positions in the future.

### ***Improperly Used Participant Support Funds Refunded to NSF***

Two investigations into misuse of participant support funds allocated in NSF awards resulted in the return of funds and commitments by the grantee to improve grant oversight. The first investigation concluded that a Massachusetts organization failed to provide proper oversight of the NSF award funds. Neither the organization nor the PI had applied for or obtained approval from the NSF program officer to reallocate the participant support funds, as they were required to do. The organization refunded \$24,083.83 to NSF and the organization's Comptroller stated that for future awards the organization will create a separate account for each NSF award and monitor all spending on a monthly basis.

The second investigation found that a Utah university failed to provide guidance to the PI or exercise proper oversight of two NSF awards, with the result that participant support funds were not used for the stated purpose of promoting collaboration with foreign scientists. We determined that the collaboration with the foreign scientist had not taken place during the first award, and neither the university nor the PI had applied for or obtained the approval to reallocate the participant support funds for another use, as required. The university reimbursed NSF more than \$19,000 and pledged that "the Office of Sponsored Projects will review all award letters carefully and make sure the project Information Sheet submitted to departments is accurately prepared."

<sup>11</sup> March 2006 Semiannual Report, p.27

## ***Investigation of Export Technology Results in Refund of NSF Funds***



**Matt Quinn, Head of Investigations retired in June after 23 years of federal service.**

NSF received a refund of \$33,718 from a university for questionable charges to a grant following an investigation into a violation of U.S. export regulations. After receiving allegations that a university scientist used NSF funds to develop and export technology to a restricted country, we initiated an investigation in cooperation with the Department of Homeland Security Immigration and Customs Enforcement (ICE) and the Department of Commerce Office of Export Enforcement (OEE). The scientist, through the university research center, received funding from industrial institutions that reside in countries that can receive only limited U.S. technology. The scientist also received NSF grants to develop industrial technology and to participate in student exchange programs with a foreign university.

ICE and OEE found the technology that the scientist sent to the foreign institutions was not restricted for that country. However, OIG's investigation found that the scientist used NSF funds to support a graduate student whose research was provided to the foreign industrial institutions. Although the scientist claimed that the original research of the student was useful to the NSF project, the student's research was not included in NSF progress or final reports. The scientist combined NSF-funded trips related to the student exchange program with meetings related to the foreign industrial institutions, but did not separately account for the NSF meetings.

The university cooperated with the investigation and returned \$33,718 to NSF for questionable expenses charged to the NSF grants. The university also counseled the scientist regarding the handling of federal program funds and is reviewing procedures for managing research projects at the university's research center.

### ***Agency Responds to Research Misconduct Recommendation and Management Implication Report***

We previously<sup>12</sup> summarized the case of the owner of a company receiving SBIR awards from NSF who had misrepresented the results of an award and had submitted altered letters of support. We recommended that NSF make a finding of research misconduct and take appropriate action. NSF management determined that the individual's actions were improper but did not rise to the level of research misconduct, and NSF elected not to take any action beyond sending a letter of reprimand.

<sup>12</sup> March 2006 Semiannual Report, p.29.

As a result of the investigation, we submitted a Management Implication Report recommending that NSF provide additional guidance to applicants regarding the submission of letters of support. NSF responded that it would include more specific guidance in upcoming revisions to both the Grant Proposal Guide and the Proposal and Award Manual scheduled to be published this Fall.

## Administrative Investigations

### *Actions by the Deputy Director*

#### ***NSF Concluded That Small Business PI Committed Plagiarism***

In our last Semiannual Report,<sup>13</sup> we discussed our investigation of allegations that a PI employed by a New Jersey company plagiarized text in two SBIR proposals he submitted to NSF. Based on our investigation and recommendations, NSF found that the PI committed research misconduct and sent him a letter of reprimand. The agency also required him to certify completion of a course in scientific ethics, specifically plagiarism, within one year, and required him to certify that any proposals he submits to NSF as a PI or co-PI for the next three years do not contain plagiarized, fabricated, or falsified information.

In the course of our investigation, we determined that a second scientist at the company was the author of another NSF proposal that contained plagiarism. The scientist admitted he authored the proposal, but claimed that his use of copied text was an unintentional mistake. We concluded that the PI should have known of the importance of providing proper attribution to copied text. We recommended that NSF make a finding that the scientist committed research misconduct. NSF agreed and sent the scientist a letter of reprimand, directing him to certify to OIG that he completed a course in research ethics within one year of the final disposition of the case.

#### ***PI's Pattern of Plagiarism Continues During OIG Investigation of His NSF Proposals***

A PI in Michigan continued to copy text from other sources into additional NSF proposals during the course of our ongoing investigation of plagiarism in four of his previously-submitted proposals. We had referred an investigation of four previously-submitted proposals to the PI's university, which concluded that all but one of the passages that we initially identified as copied material were plagiarized, constituting a "violation of the institutional standard of scholarly integrity." The university required remedial training for the PI but

<sup>13</sup> March 2006 Semiannual Report, p.32.

did not make a finding of research misconduct because they stated there were no well-defined standards regarding plagiarism and that the copying was of the “low level” type.

We did not agree with the university’ conclusion and therefore proceeded with our own investigation, including a review of the PI’s subsequent NSF proposals. We identified three additional proposals containing copied material, two of which included the same text that we identified as copied into one of the proposals in our initial inquiry. We concluded that there were well-defined standards in the subject’s scientific discipline and his actions constituted research misconduct.

Based on our recommendation, NSF made a finding of research misconduct; required the PI to certify completion of an ethics course covering research misconduct before applying for NSF funding; required the PI, each time he submits a proposal or report to NSF for five years, to certify and provide assurances from his employer that the submissions do not contain plagiarized, fabricated, or falsified material; and barred the PI from participating as a reviewer of NSF proposals for three years.

## ***Reports Forwarded to the Deputy Director***

### ***PI Provides False Evidence to Refute Allegation of Plagiarism***

A professor at a New York university altered electronic files to create false evidence in support of his claim that he did not commit plagiarism. Our review of three proposals submitted to NSF by the professor revealed that over 80% of each proposal was text apparently copied from other sources. Most of the duplicated text, in two of the proposals, was from an NSF proposal written by other researchers which had been posted on the web. The duplicated text in the third proposal was drawn from professional reports of curriculum innovation and assessment in the field. None of the verbatim material offered in any proposal appeared in quotation marks or was differentiated from the PI’s original text.

The PI claimed the NSF FastLane electronic proposal submission process removed quotation marks and citations that were present in the documents he submitted to NSF. However, we reviewed the original documents and determined that they did not contain quotation marks and citations. We referred the investigation to the PI’s university, which concluded the PI committed research misconduct. The PI appealed that decision, and provided the university with a computer hard drive that he claimed contained exculpatory evidence. The university arranged for a forensic analysis of the contents of the hard drive, which provided direct evidence that the PI altered files on the hard drive in an effort to support his false claims regarding the copied text.



We recommended that NSF: conclude the subject committed research misconduct; debar him from receiving federal funds for a period of five years; require him to certify that proposals or reports he submits to NSF do not contain plagiarized, falsified, or fabricated material for three years after the debarment period; require that he submit assurances by a responsible official of his employer that any proposals or reports submitted by the subject to NSF do not contain plagiarized, falsified, or fabricated material for three years after the debarment period; and bar him from serving as a reviewer of NSF proposals for five years.

### ***NSF-Funded Postdoctoral Fellow Falsifies Research Data***

An OIG investigation concluded that an NSF-funded postdoctoral fellow (the PI), at a New England institution, falsified data in a published article. The falsified data were subsequently cited by other researchers in the field.

The university notified us that it had completed an inquiry and found sufficient evidence to warrant a detailed investigation. However, after we referred our investigation to the university, the university reopened the inquiry, at the behest of the PI's attorney, and reversed its decision to recommend a full investigation. Because our review of the evidence did not support the rationale for closing the matter, we proceeded with our investigation. We determined that the PI was responsible for the collection of the data and the selection of the data published in a journal article, and identified two distinct sets of experiments during which the instrument controls were improperly adjusted by the PI to create the desired data.

We recommended that NSF: make a finding of research misconduct; debar the PI for two years; require him to certify to NSF that the publication containing the falsified data has been retracted; require him to certify completion of an ethics course covering research misconduct before applying for NSF funding; require that for three years after the debarment period the PI each time he submits a proposal or report to NSF to certify and provide assurances from his employer that the submissions do not contain plagiarized, fabricated, or falsified material; and bar the PI from participating as a reviewer of NSF proposals for three years.

### ***PI Ignores Warning to Remove Plagiarized Text From His Proposal***

A PI from a New England institution plagiarized text in two NSF proposals, disregarding an admonition from two different colleagues about the copied text. OIG received an allegation of plagiarism, determined it was substantive, and referred the matter to the institution. The institution's investigation committee found the PI had shared a copy of his draft proposal with a scientist, requesting that she provide comments to improve the proposal. The scientist told the PI that he had inappropriately copied text from her funded NSF proposal. The scientist also asked another colleague to review

the PI's proposal. The other colleague told the PI that he should rewrite those sections before submitting the proposal to NSF.

Despite these warnings, the PI submitted his proposal with few changes from the draft version and this proposal was eventually funded by NSF. In addition, the investigation committee discovered the PI had submitted an earlier NSF proposal that contained plagiarized text from another successful NSF proposal submitted by a different scientist.

The institution concluded the PI committed research misconduct when he plagiarized text in the proposals. The institution: returned the funds for the awarded proposal to NSF; reprimanded the PI; prohibited him from submitting proposals from the institution for about 1½ years; and required him to take ethics training.

We concluded the PI committed research misconduct and we recommended that NSF: send the PI a letter of reprimand informing him that NSF has made a finding of research misconduct against him; debar the PI from receiving federal funds for a period of two years; require the PI to certify that proposals he submits to NSF do not contain plagiarized, falsified, or fabricated material for three years after the debarment period; require the PI to submit assurances by a responsible official of his employer that any proposals submitted by the PI to NSF do not contain plagiarized, falsified, or fabricated material for three years after the debarment period; prohibit the PI from reviewing NSF proposals for a period of two years, concurrent with the debarment period; and require the PI to complete a course in research ethics within one year of the final disposition of the case.

### ***Institution Proposes Termination of PI for Plagiarism***

A PI at a Northeast institution plagiarized text from several source documents into an NSF proposal and was recommended for termination by the institution's adjudicator. During our investigation, the PI admitted that he copied the materials. Based upon the evidence we provided, the institution's investigation committee concluded the PI committed research misconduct. The institution's adjudicator endorsed the findings and the conclusion of the committee, but rejected its recommended actions, instead proposing to terminate the subject's employment at the institution.

We accepted the institution's report as accurate and complete. We recommended NSF send a letter of reprimand to the PI informing him that NSF has made a finding of research misconduct and requiring him to certify to OIG that proposals he submits to NSF for one year from the date of NSF's letter of reprimand do not contain plagiarized, falsified, or fabricated material.



### ***Plagiarism Found in University Professor's Dissertation***

An OIG investigation concluded that a PI from New Jersey plagiarized text from multiple source documents into two proposals he submitted to NSF. We referred the investigation to the institution, which confirmed the subject plagiarized the text we discovered during our inquiry. The university also uncovered eight pages of plagiarized text in the subject's dissertation. The subject's institution referred the dissertation matter to the degree-granting institution, but, concluded that the copied text in his NSF proposals and his dissertation were part of a pattern of plagiarism.

We concurred with the institution's conclusions and recommended NSF: make a finding of research misconduct; send the subject a letter of reprimand; require the subject to certify for two years that his proposals do not contain plagiarism; and direct the subject to complete a research ethics course.

### ***PI Copies from 53 Sources into Three Proposals***

A faculty member at a university in Tennessee submitted three proposals to NSF that contained text copied verbatim from multiple sources. Using plagiarism detection software, we identified approximately 160 lines of text in the three proposals that were apparently copied from 53 sources. When questioned, the PI accepted responsibility for the copied text in two of the three proposals, but said his co-PI was responsible for the third proposal. Because the co-PI denied responsibility, we referred the allegation to the university for investigation, which concluded the PI committed plagiarism in the disputed proposal. The university was unable to take action against him because he had taken a position at a different university.

We agreed with the university's conclusions and recommended NSF: make a finding of research misconduct; send a letter of reprimand; and, for a period of three years from final resolution of this case, require the PI to certify in writing that any documents submitted to NSF are free of any misconduct.

### ***PI Resigns Faculty Position Over Plagiarized CAREER Proposal***

A professor at a Texas university resigned from his tenure-track position after an investigation concluded that he plagiarized text into his NSF CAREER proposal. His claim of a one-time careless action was contradicted by the appearance of the same plagiarized text in his two previously submitted CAREER proposals. The university conducted an investigation and found additional plagiarized text in proposals submitted to other federal agencies. The university determined that the subject's actions constituted scientific misconduct.

As a result of the university's investigation, the professor resigned from his tenure-track faculty position and was appointed to an annually renewable non-tenure track position. The university also required the professor to complete research ethics training and certify that proposals submitted in the future meet rigorous standards of scholarship. We concurred with the university's assessment and recommended that NSF: make a finding of research misconduct; send a letter of reprimand; and require certifications from the subject for two years that his proposals submitted to NSF do not contain plagiarized materials.

## **Other Significant Administrative Cases**

### ***Protecting the Confidentiality of Merit Review***

During this semiannual period, our office reviewed several allegations related to violations of NSF's merit review process. We closed one such case and three others are still being investigated. In the case that was closed, six unfunded NSF proposals were found on the website of a graduate student whose advisor had served as an NSF panelist for all six proposals. We found that these documents inadvertently became publicly available due to an IT security error at the institution, and the graduate student agreed to immediately expunge the proposals from the server. We also learned that the panelist had provided the proposals to the graduate student for limited review of issues within the graduate student's area of expertise. Our investigation concluded that there was no intent to place these proposals on a public website, and there was no allegation or evidence of subsequent plagiarism. We counseled the panelist on the importance of adhering to the NSF confidentiality form that he signed, and he made assurances that this would not occur again.

In three other matters that we are currently investigating, NSF panelists have allegedly either directly plagiarized, or shared the proposal with another individual who subsequently plagiarized, from NSF proposals that had been reviewed. Two such matters have been referred to institutions for investigation, and the other is still in the OIG inquiry stage. We will discuss the findings related to these matters in a future report.