



NATIONAL SCIENCE FOUNDATION  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

Case Number: A02030019

Page 1 of 1

We received an allegation that the subject<sup>1</sup> plagiarized text and ideas from a confidential proposal<sup>2</sup> (source proposal) submitted to a foreign research agency<sup>3</sup> (other agency) into his National Science Foundation (NSF) proposal<sup>4</sup> (the NSF proposal). As a result of its investigation, the subjects' University found that the subject committed research misconduct under its policy. The University sanctioned the subject by: 1) reprimanding him; 2) withdrawing any federal government proposals he submitted as PI; 3) removing his name from pending federal government proposals on which he was a co-PI or key personnel; 4) prohibiting him from submitting proposals for funding to any Federal agency for 2 years; 5) prohibiting him from acting as a peer reviewer for research proposals for any Federal agency for 3 years; and 6) requiring him to certify and provide assurances for 3 years for any proposal he submits to any funding source that the work in the proposal is original to him or appropriately cited. We concurred with the University's investigation. We recommended NSF send a letter of reprimand to the subject informing him he has been found to have committed research misconduct, debar the subject for 2 years from receiving federal funds and prohibit the subject for 3 years from reviewing research proposals for NSF. NSF's adjudicator sent the subject a letter of reprimand and debarred the subject for 1 year.

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

<sup>1</sup> The subject is [REDACTED] (the University). Although initially there were two subjects in this case, the University determined that the co-PI, [REDACTED], did not contribute the plagiarized text and had not committed research misconduct. We concurred with the University's assessment regarding the co-PI.

<sup>2</sup> [REDACTED] is the PI and [REDACTED] is the co-PI.  
<sup>3</sup> [REDACTED]  
<sup>4</sup> [REDACTED] is listed as the PI and [REDACTED] is listed as co-PI.

NATIONAL SCIENCE FOUNDATION  
4201 WILSON BOULEVARD  
ARLINGTON, VIRGINIA 22230

June 1, 2004



OFFICE OF THE  
DEPUTY DIRECTOR

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Re: Debarment

On April 17, 2004, the National Science Foundation (NSF) sent you a Notice of Proposed Debarment in which NSF proposed to debar you from directly or indirectly obtaining the benefits of Federal grants for a period of one year. The Notice sets forth in detail the circumstances giving rise to your debarment. NSF's debarment action is based upon the Foundation's administrative record indicating that you engaged in plagiarism in a proposal that you submitted to NSF (NSF Proposal No. ). In that Notice, NSF provided you with thirty days to respond to the proposed debarment.

Over thirty days have elapsed since you received the Notice and NSF has not received a response. Accordingly, you are debarred until April 17, 2005. Debarment precludes you from receiving Federal financial and non-financial assistance and benefits under non-procurement Federal programs and activities unless an agency head or authorized designee makes a determination to grant an exception in accordance with 45 CFR Section 620.215. Non-procurement transactions include grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use, and donation agreements.

In addition, you are prohibited from receiving Federal contracts or approved subcontracts under the Federal Acquisition Regulations (FAR) at 48 CFR Subpart 9.4 for the period of this debarment. 45 CFR Section 620.110(c). During the debarment period, you may not have supervisory responsibility, primary management, substantive control over, or critical influence on, a grant, contract, or cooperative agreement with any agency of the Executive Branch of the Federal Government.

If you have any questions regarding the foregoing, you may contact Lawrence Rudolph, General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

Sincerely,

A handwritten signature in black ink that reads "Joseph Bordogna".

Joseph Bordogna  
Deputy Director

### Summary

The Office of Inspector General (OIG) has concluded subject 1<sup>1</sup> plagiarized text and ideas in a confidential proposal<sup>2</sup> (source proposal) submitted to a foreign research agency<sup>3</sup> (other agency) into his National Science Foundation (NSF) proposal<sup>4</sup> (the NSF proposal). As a result of its investigation, the subjects' University found that subject 1, the PI on the NSF proposal, committed research misconduct under its policy. The University sanctioned subject 1 by: 1) reprimanding him; 2) withdrawing any federal government proposals he submitted as PI; 3) removing his name from pending federal government proposals on which he was a co-PI or key personnel; 4) prohibiting him from submitting proposals for funding to any Federal agency for 2 years; 5) prohibiting him from acting as a peer reviewer for research proposals for any Federal agency for 3 years; and 6) requiring him to certify and provide assurances for 3 years for any proposal he submits to any funding source that the work in the proposal is original to him or appropriately cited. As discussed below, given the plagiarism of both text and ideas, the violation of the confidentiality of peer review, and the interception of a letter sent by NSF-OIG to subject 2, we recommend NSF send a letter of reprimand to subject 1 informing him he has been found to have committed research misconduct, debar subject 1 for 2 years from receiving federal funds and prohibit subject 1 for 3 years from reviewing research proposals for NSF.

### OIG's Inquiry

We received an allegation that the NSF proposal (Appendix A), submitted by subjects 1 and 2, contained text and ideas taken from a confidential source proposal submitted by other scientists to the other agency. At our request, the other agency provided our office with an official copy of the source proposal (Appendix B) and a list of the scientists to whom the source proposal was sent for merit review,<sup>5</sup> one of whom was subject 1. During our inquiry, we identified approximately 45 lines of text in several sections of the NSF proposal that appeared copied from the source proposal.

We wrote confidential letters to each subject asking for an explanation.<sup>6</sup> We received a response from subject 1,<sup>7</sup> who admitted he received the source proposal to review and accepted full responsibility for the copied text. He stated that subject 2 had never seen the source proposal and played no role in the preparation of the NSF proposal. Subject 1 explained that, although part of the description of the specific technique in the NSF proposal was copied from the source

<sup>1</sup> Subject 1 is [REDACTED]

Although initially there were two subjects in this case, the University determined that the co-PI, [REDACTED] (subject 2), did not contribute the plagiarized text and had not committed research misconduct. We concur with the University's assessment regarding subject 2.

<sup>2</sup>

[REDACTED] the PI and [REDACTED]

[REDACTED] co-PI. The proposal was submitted on [REDACTED]

<sup>3</sup>

<sup>4</sup>

[REDACTED] is listed as the PI and [REDACTED] as co-PI.

<sup>5</sup> The list of merit reviewers of the source proposal is in Appendix C.

<sup>6</sup> We include our letter to subject 1, which is similar to the letter sent to subject 2, in Appendix D.

<sup>7</sup> Subject 1's response is included as Appendix E, including Exhibits 1 through 7. We received no response from subject 2. We learned later, as discussed in this report, that subject 1 intercepted the Federal Express letter sent to subject 2. Subject 1 only showed the letter to subject 2 when our office referred the investigation to the University, at which time he told subject 2 what he had done and showed him the letter.

proposal, he had extensive experience in developing this technique. He further explained that he meant no harm in copying from the source proposal. He said he did cite the published work of the source proposal's authors properly, only failing to appropriately cite the copied material from the source proposal.

Subject 1 provided documents to support his assertion of his personal friendship with the PI of the source proposal. Subject 1 suggested that he and the source proposal PI were mutually aware of their similar research endeavors through "open communications and shared knowledge," sharing "the very essence of these research proposals" and the specific technology presented. (page 2, Appendix E) He further emphasized that, because he had suggested the co-PI of the source proposal as a possible merit reviewer for his NSF proposal, it should be clear that his actions did not have any "bad intention." (page 3, Appendix E) In addition, subject 1 claimed that he had included the source proposal PI as a suggested reviewer when he submitted the proposal to NSF via FastLane, "but, somehow it did not get printed." (page 3, Appendix E) Finally, in a set of seven exhibits, subject 1 provided examples of his long-time expertise in the development of the specific technology presented in the NSF proposal.

Our analysis of subject 1's response determined that the allegation had substance and we formally referred the allegation to the subjects' University for investigation and its opinion of community standards regarding the subjects' actions.<sup>8</sup>

#### The University's Investigation

The University appointed an *Ad Hoc* Investigation Committee (the Committee) to conduct the investigation. The Committee investigated<sup>9</sup> whether subjects 1 and 2 committed plagiarism by failing to attribute material (text and ideas) used in their NSF proposal to the original authors of the material contained in the source proposal. The Committee interviewed subjects 1 and 2, the present and former Chairs of the subjects' academic department at the University, and the source proposal PI.

The Committee found that

[subject 1] knowingly copied substantial portions of the [source] proposal into the NSF proposal, and knowingly failed to correct his conduct before submitting the proposal to the NSF. Such plagiarism reflects a knowing disregard of accepted standards of practice in the professional community and constitutes research misconduct.

The Committee [found] that [subject 2] had not seen and was unaware of the [source] proposal prior to his learning of the NSF's allegation on Sept. 13, 2002, and that he played no role in copying portions of the [source] proposal into the

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<sup>8</sup> Because subject 2 provided no response to our initial letter of inquiry, we were unable to conclusively determine his role in the alleged plagiarism. We were unable to contact subject 2 confidentially because he had no email address at the University and because his only listed telephone number at the University was in a shared laboratory with subject 1, and so our referral included subject 2.

<sup>9</sup> The Committee's report is in Appendix F.

NSF proposal. Therefore, [subject 2] has not committed plagiarism. [page 2, Appendix F]

The Committee specifically determined that subject 1 had copied "more than 50 full or partial lines of text and headings" and that subject 1 "admits that he copied this material from the [source] proposal." [page 4, Appendix F] It determined that subject 1's act was a significant departure from the standards of scholarship in subject 1's field.<sup>10</sup> The Committee further stated that plagiarism of material from a confidential proposal,

pose[d] an even greater threat to the integrity of the scientific endeavor than the copying of published work, for a number of reasons. First, plagiarism from a confidential proposal is harder to discover, and so may more easily go undetected. Second, the possibility of personal financial gain may be stronger when copying from another's research proposal, since such material may represent newer and more novel scientific work than previously published work, and hence it could be more attractive to potential sources of funding and thus likelier to be funded.

Third, plagiarism of another's research proposal that was received in the context of a confidential peer review process subverts the integrity of that process. The success of academic science depends fundamentally on the integrity of peer review, and on the willingness of good scientists to participate fully, honestly, and energetically in the good-faith creation, review, and critique of scientific proposals. Breach of confidentiality could potentially threaten the willingness of scientists to submit proposals that fully and accurately reflect the details of their science, out of fear that they may be "scooped" by competitors or colleagues who are reviewing their proposals, which in turn could impede the ability of peer reviewers to assess the true merits of a proposal. Without trust and confidence in the ethical conduct of peer review, the integrity and quality of science is threatened. [page 5, Appendix F]

Further, the Committee found that subject 1 copied original scientific ideas and concepts into his NSF proposal. The Committee determined that the material copied by subject 1 in the Methodology Section of the NSF proposal (pp. 12-14) was a "significant part of the scientific 'core' of the proposal." [pages 4-5, Appendix F] The Committee states that

[g]iven the extensive nature of the copying from the [source] proposal into a central scientific section of the NSF proposal (the "Methodology" section), he has plagiarized both the original authors' language and their ideas. [page 12, Appendix F]

The Committee's report summarized subject 1's three main defenses or justifications for his conduct. First, subject 1 said his "previous professional relationship and correspondence with" (page 10, Appendix F) the PI of the source proposal resulted in his assuming, innocently and unconsciously, that it was all right to use the materials from the source proposal. Second, subject 1 claimed he already had some of the ideas in his own mind that were presented in the

<sup>10</sup> Page 4, Appendix F.

source proposal when he received it for review (page 10, Appendix F). Third, subject 1 explained that the combination of deadline pressures and the overheating of the room in which he prepared the NSF proposal resulted in his carelessness (page 10, Appendix F). The Committee concluded that it did

not believe that any of these defenses or justifications mitigate the offense or affect the Committee's findings that [subject 1] knowingly copied material from the source document without permission or proper attribution. [page 10, Appendix F]

The Committee reviewed many documents previously authored by subject 1 to determine if there existed any pattern of behavior (17 of subject 1's submitted proposals beginning in 1992, and 14 NSF proposals submitted by other scientists and sent to subject 1 for merit review over the past 4 years<sup>11</sup>). It found no further evidence of any other copying by subject 1.

The Committee concluded that

the plagiarism committed by [subject 1] represents research misconduct of a serious degree. The seriousness is aggravated by the fact that it occurred in connection with a breach of confidentiality in the peer review process established by [the other agency]. It is also aggravated by what the Committee believes is [subject 1's] inability or unwillingness to understand the wrongful nature of his conduct, as illustrated by his defenses of it. Finally, the seriousness of this misconduct is aggravated by [subject 1's] interception of NSF's initial June 2002 correspondence to [subject 2], thereby depriving his Co-PI of the opportunity to defend himself and potentially obstructing the NSF's initial inquiry in the matter.<sup>12</sup>

While it does not mitigate the seriousness of his plagiarism, [subject 1] has made it clear that he alone is responsible for it. [Subject 1] has cooperated in the investigation, apologized for his conduct, and has made consistent efforts in his letter to NSF and his testimony to the Committee to make it clear that [subject 2] played no part in the plagiarism. [Subject 2's] testimony is consistent with [subject 1's], and the Committee concludes that [subject 2] did not commit plagiarism. [page 13, Appendix F]

#### **Subject 1's Response to the University's Investigation Report**

Subject 1 received a draft copy of the University's Investigation Report. He requested that the Committee and the President of the University consider clarifying and or modifying two

<sup>11</sup> On request, our office provided the Committee copies of NSF proposals subject 1 received for merit reviewed over the past 4 years.

<sup>12</sup> As required by section 4(d) of the Inspector General Act of 1978, as amended (5 U.S.C. App. 4(d)), we referred this matter to the Assistant United States Attorney's (AUSA's) Office [REDACTED] for possible obstruction of justice. The AUSA declined to prosecute.

issues.<sup>13</sup> First, he asked that the letter of reprimand have a finite length of time that it would be in his file, after which it would be removed. Second, he requested that his two pending proposals not be withdrawn. He explained he would withdraw his name, but does not want his collaborator on one proposal and subject 2 on the second to suffer.

The Committee informed subject 1 that it "decided to make no changes to the report that was provided to you in draft form."<sup>14</sup>

### University Action Against Subject 1

The University imposed the following sanctions against subject 1: a) a letter of reprimand to be placed in subject 1's Department file to be available for future reviews of subject 1; b) a withdrawal of all pending proposals subject 1 submitted as PI; c) a removal or re-designation of subject 1 from any pending proposal at a Federal agency on which he is a co-PI or key personnel; d) a prohibition for subject 1 to submit a proposal for funding to any Federal agency as a PI, co-PI, or other key personnel, for 2 years from the date of his reprimand letter; e) a prohibition for subject 1 to act as a peer reviewer of research proposals for any Federal agency for 3 years from the date of the reprimand letter; and f) a required certification by subject 1 and assurances by two specified University representatives that any proposal he submits for 3 years contains only original or properly attributed work.

### OIG's Assessment

We believe the University's Investigation Report was accurate and complete in addressing the alleged plagiarism, and the University followed reasonable procedures; therefore, we accept the report in lieu of doing our own investigation. NSF's misconduct regulation, 45 C.F.R. part 689, was revised in 2002. The alleged plagiarism by subject 1 occurred before April 17, 2002, the effective date of NSF's revised regulation. Accordingly, we apply the definition of "misconduct" from the version of NSF's regulation in effect when the misconduct occurred. A finding following the procedures of the current regulation (45 C.F.R. part 689.2(c) (2002)) requires that: (1) there be a significant departure from accepted practices of the relevant research community, (2) the research misconduct be committed intentionally, or knowingly, or recklessly, and (3) the allegation be proven by a preponderance of the evidence.<sup>15</sup>

### *The Act*

Based upon the evidence, we concur with the University's conclusion that subject 1 copied about 50 lines of text from the confidential source proposal into his NSF proposal. NSF's Grant Proposal Guide clearly states:

NSF expects strict adherence to the rules of proper scholarship and attribution. The responsibility for proper attribution and citation rests with authors of a proposal; *all parts of the proposal should be prepared with equal care for this*

<sup>13</sup> Appendix F, subject 1's letter of [REDACTED] to the AOR is at end of the University's Investigation Report, before the Attachments.

<sup>14</sup> Appendix F, AOR's letter of [REDACTED] to subject 1 is at end of University's Investigation Report before the Attachments.

<sup>15</sup> 45 C.F.R. § 689.2(c).

*concern.* Serious failure to adhere to such standards can result in findings of misconduct in science.<sup>[16]</sup>

Subject 1 clearly did not adhere to the rules of proper scholarship and attribution when he committed this act.

The Committee further concluded that some of the copied text contained ideas that were original to the authors of the source proposal and that those ideas were central to the proposed scientific methodology in the NSF proposal. We concur.

We further concur with the University that plagiarizing text and stealing ideas from a *confidential proposal* makes this act even more egregious because it cuts at the heart of the peer review process. Effective and successful merit review depends on scientists trusting that their proposals will be handled in a confidential and fair manner. We agree with the University that subject 1's act was a significant departure from accepted practice.

#### *Intent*

As noted previously in this report, the Committee concluded subject 1's copying of text and ideas was knowing. We concur with the Committee's findings of facts and its assessment of intent. The Committee established this fact in its interviews with subject 1. (Appendix F, Attachment 4)

#### *Standard of Proof*

We conclude a preponderance of the evidence shows subject 1 committed research misconduct when he knowingly copied about 50 lines of verbatim and paraphrased text from the confidential source proposal, including ideas original to the authors of the source proposal.

#### **OIG's Recommended Disposition**

In deciding what actions are appropriate when research misconduct is found, NSF must consider several factors. These factors include how serious the misconduct was; the degree to which the misconduct was knowing, intentional, or reckless; whether it was an isolated event or part of a pattern; whether it had significant impact on the scientific record; and other relevant circumstances.<sup>17</sup>

In comparison to some cases that resulted in findings due to plagiarism, we believe the amount of copied text is moderate. We also recognize that subject 1's plagiarism does not form a part of a pattern. However, we believe there are several aggravating factors and circumstances associated with this case that must weight heavily in our recommendation as to its disposition. First, subject 1 not only copied text, but also copied ideas, which became central to the core of the research he was proposing. Such intellectual theft is research misconduct of the most serious kind. Second, plagiarism of both text and ideas derived from a violation of confidentiality of merit review is very serious and warrants significant action by NSF to maintain the scientific community's confidence in the merit review process, regardless of which agency's merit review process is compromised. Third, subject 1 purposely intercepted correspondence from our office, to subject 2 regarding our inquiry. This resulted in the needless inclusion of subject 2 in the University's investigation and slowed down if not obstructed our inquiry.

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<sup>16</sup> Italics emphasis added to text from NSF's *Grant Proposal Guide*, p.1, section I. B.

<sup>17</sup> 45 CFR § 689.3(b).

We conclude that subject 1 acted knowingly when he copied text and ideas from the confidential source proposal into his NSF proposal. We conclude the consummate actions of subject 1 make this case of research misconduct very serious.

We conclude subject 1's plagiarism warrants a finding of research misconduct. The University's action is appropriate, but will not protect the Federal government's interests if subject 1 elects to change institutions and does not protect the merit review process at NSF. We recommend that NSF make a finding of research misconduct and send a letter of reprimand to the subject.<sup>18</sup> Consistent with the University, we recommend subject 1 be debarred for 2 years from receiving any Federal funds<sup>19</sup> and that the debarment period begin at the time that NSF's letter of reprimand is sent. Further, to protect the merit review process, we recommend that subject 1 be prohibited from reviewing any NSF proposals for 3 years.<sup>20</sup> These recommendations fully protect the Federal government's interests and are consistent with the University's adjudication.

#### **Subject's Response to the Draft Investigation Report**

The subject received a copy of the draft investigation report. He elected not to respond.<sup>21</sup>

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<sup>18</sup> The letter represents a Group I action (45 CFR § 689.3(a)(1)(i)).

<sup>19</sup> This is a Group III action (45 CFR § 689.3(a)(3)(iii)).

<sup>20</sup> This is a Group III action (45 CFR § 689.3(a)(3)(ii)).

<sup>21</sup> Appendix G.