We assessed an allegation of plagiarism by the subject in proposals submitted to NSF. We referred the investigation to the subject's university. The university investigation committee confirmed the plagiarism in the NSF proposals. The university adjudicating official made a finding of research misconduct, and the university proposed adverse action against the subject. The university entered a lengthy and continuing appeal and arbitration process. We therefore completed our own investigation. We prepared a report of investigation recommending that NSF: send a letter of reprimand to the subject informing him that NSF has made a finding of research misconduct; debar the subject from receiving federal funds for a period of at least three years commencing on the date of NSF's finding of research misconduct; require the subject to certify that proposals he submits to NSF do not contain plagiarized, falsified, or fabricated material for three years after the debarment period; require that the subject submit assurances by a responsible official of his employer that any proposals submitted by the subject to NSF do not contain plagiarized, falsified, or fabricated material for three years after the debarment period; and bar the subject from serving as a reviewer of NSF proposals for five years commencing on the date of NSF's finding of research misconduct. The NSF Deputy Director made a finding of research misconduct and adopted our recommendations, but established a three-year prohibition against serving as a reviewer for NSF. The subject initially filed an opposition with the NSF Deputy Director, and subsequently filed an appeal with the NSF Director, both of which were denied.

Accordingly, this case is closed.

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1 Professor Patrick Fitzgibbons
Summary

The Office of Inspector General (OIG) concludes that the subject committed research misconduct as a result of his extensive plagiarism in three proposals submitted to the National Science Foundation (NSF). As part of an investigation, the University’s Investigation Committee (IC) concluded that the subject committed research misconduct, and that his actions demonstrated a pattern of plagiarism. The Interim President of the University issued to the subject a Notice of Discipline has been appealed by the subject, and the matter is pending within the University system. Based on the University’s findings and our own investigation, OIG concludes that the evidence supports a finding of research misconduct, and recommends that NSF:

- send a letter of reprimand to the subject informing him that NSF has made a finding of research misconduct;
- debar the subject from receiving Federal funds for a period of at least 5 years commencing on the date of NSF’s finding of research misconduct;
- require the subject to certify that proposals or reports he submits to NSF do not contain plagiarized, falsified, or fabricated material for 3 years after the debarment period;
- require that the subject 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 3 years after the debarment period; and
- bar the subject from serving as a reviewer of NSF proposals for 5 years commencing on the date of NSF’s finding of research misconduct.

OIG’s Inquiry

Our office received an allegation that three NSF proposals written by the subject contained extensive amounts of plagiarized text. Our review of these proposals identified over 80% of each as copied text that was unattributed to the sources. We wrote to the subject to obtain his perspective of the allegation (Tab 1).

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1 Professor Patrick Fitzgibbons

2 CNS 0424480 “Cyber Attack-aware Modular Adaptive Layered Open Trust;” IIS 0424500 “Cyber Security Skills Educator Training Institute (CSSETI) for Central New York;” and CNS 0432657 “Computer Assisted Programmable Wireless Ad Hoc Network Architecture.” These are termed Proposals A, B, and C, respectively, in order of their dates of submission to NSF, and to facilitate later discussion in this report. Proposals A and C are research proposals, and proposal B is a proposal for student training.
The subject confirmed (Tab 2) that the duplicated text and figures in his proposals were derived from the source documents identified in our inquiry letter. Subsequent to our letter, the subject withdrew all three NSF proposals.

The subject stated that his complete list of citations and quotations that identified sources of the duplicated material was not successfully uploaded into FastLane for any of his three proposals. He stated that the conversion of his Word documents into electronic format by FastLane removed the citation superscripts and "block stylizations" that served to differentiate non-original material in the text of his proposals. He also asserted that his requests for assistance from FastLane to resolve these technical difficulties were not answered.

To assess the subject’s assertions regarding FastLane, a FastLane technical expert confirmed that FastLane had no history of removing quotation marks, indentations, or superscript citations from original Word documents. Further, at our request, FastLane experts examined the log of requests for assistance; the log showed no contacts from the subject during the period when the subject submitted his proposals.

Based on the subject’s response, we determined that an investigation was warranted. Consistent with our practice, we referred the investigation to the subject’s University (Tab 3).

University’s Inquiry and Investigation

University policy requires that an allegation first be assessed by the Faculty Assembly Academic Affairs Committee to determine substance. According to University documents (Tab 4), the Committee met, agreed unanimously that the substance of the case was sufficient to warrant investigation, and an Investigation Committee (IC) was formed. The charge to the IC from the Vice Provost for Academic Affairs (Tab 5) asked the committee to determine if the subject committed fabrication, falsification, or plagiarism (as defined by NSF’s regulations); whether any other senior personnel committed fabrication, falsification, or plagiarism; whether any such actions committed constituted a significant departure from accepted practices; whether any such actions were committed intentionally, knowingly, or recklessly; whether any such actions were isolated or part of a pattern; and whether any such actions had a significant impact. The IC report, dated December 30, 2004, is located at Tab 6.

The IC examined documents associated with the case, including the subject's response to our inquiry letter, and interviewed two individuals. The first individual was listed as senior personnel on all three NSF proposals submitted by the subject. The second individual works in

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3 The subject explained that a list of citations and quotations, separate from a list of references, was prepared for each proposal.
4 This term is used by the subject in his response letter (vide infra); we evaluate the term to mean indentation or differentiating font for a section of duplicated text.
5 FastLane experts searched the log for any contact from the University in the period of ... A FastLane technical expert stated that the log shows only one request for assistance from the University, received from a faculty member other than the subject.
6
the University's Office of Sponsored Research. Both individuals stated that the proposals were authored solely by the subject.

With respect to the subject's claim that he contacted the NSF FastLane Help Desk for assistance, and received no response, the IC noted our referral letter statement that NSF FastLane Help Desk logs revealed no record of that request. They noted further that the subject did not provide a copy to NSF OIG of an email that the subject claimed was sent requesting assistance, and that the employee of the Office of Sponsored Research stated that she was contemporaneously unaware of any such difficulties with FastLane.

The IC report stated that the "proposals as submitted contained vast quantities of plagiarized material. Had the extent of intellectual originality been easily identifiable, we do not believe these would have been viewed as credible proposals." The IC concluded that the subject's two research proposals, based on "almost a complete absence of original material," fail to meet "professionally acceptable standards." The remaining proposal is for a training grant rather than original research. The IC considered its content against different standards, but was nevertheless "struck with the almost total lack of originality" in this proposal, and considers it "at best, questionable." The IC concluded that the subject "did, by a preponderance of the evidence, commit research misconduct." It concluded that his actions of plagiarism were intentional, and that they represented a significant deviation from accepted practices of the research community. The IC noted a previous instance in which the subject was disciplined by the University for violation of intellectual property rights, and therefore the IC found evidence of a pattern of disregard for intellectual property rights by the subject.

The interim President of the University issued to the subject a formal Notice of Discipline, and based on the subject's plagiarism in the three submitted NSF proposals, and "actions that constitute research misconduct as defined in the National Science Foundation regulations found in 45 C.F.R. 689" (Tab 7).

**OIG's Investigation**

The University's process in this case is incomplete; the proposed disciplinary action has been appealed by the subject, following processes outlined in the collective bargaining agreement with University faculty. The University has not provided a definitive schedule for completion of the appeals process.

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9 Signed all three proposals electronically as the Authorized Organizational Representative.
10 Investigation Committee report, page 6 (Tab 6).
11 Investigation Committee report, page 3 (Tab 6).
12 Proposals CNS 0432657 and CNS 0424480.
13 Proposal IIS 0424500.
14 The IC used different standards for the subject's two research grants and his one training grant. NSF regulations hold all submitted proposals to the same standards of scholarship. The NSF Grant Proposal Guide states (page 13) for all proposals "NSF expects strict adherence to the rules of proper scholarship and attribution."
15 Investigation Committee report, page 4 (Tab 6).
16 Investigation Committee report, page 4 (Tab 6).
17 Investigation Committee report, page 5 (Tab 6).
18 Interim President of the University.
We assessed documents received from the University, including the report of the IC, and documents provided to NSF and NSF OIG by the subject in communications about the University's investigation.\textsuperscript{19}

Our review of the IC report indicates that the IC followed established University procedures.\textsuperscript{20} We have determined that investigative actions by the University to date have been fair, timely and accurate.

We considered the decision of the IC not to interview the subject.\textsuperscript{21} The University policy on the investigation of allegations of research misconduct does not explicitly require that the IC interview the subject. The Vice President for Academic Affairs indicated to the IC (Tab 5) that the "team may conduct interviews if and only if proper procedures as guided by the union contracts and HR office are allowed." The IC interviewed an employee of the University's Office of Sponsored Research, and interviewed a University faculty member listed as senior personnel on all three of the subject's proposals. The faculty member had a bargaining agreement representative present during the interview. The IC believed there was no significant factual issue in doubt, and that an interview of the subject was not needed.

In communications with NSF and NSF OIG subsequent to our initial contacts, the subject provided additional documents and further explanations regarding the unattributed text in his proposals; these materials were apparently developed for his use in the University process. We examined the explanations provided by the subject in his original response to our inquiry, the subject's additional explanations (Tab 8),\textsuperscript{22} and additional documents identified during our own investigation.

The subject provided three basic explanations regarding the unattributed text in his proposals.

Explanation 1: References and Citations

The subject's first explanation refers to a section he called "References and Citations" that he generated for each of the three proposals. This section included a list of papers used as general references for the ideas in the proposal. He states: "In each of the proposals there was a section for References and Citations that included general works, seminal papers, and studies that were reviewed and helped conceptually with respect to understanding and formulating the overall

\textsuperscript{19} The subject contacted officials within NSF and NSF OIG with concerns about the University's investigative and adjudicative actions. OIG's file on these communications are not included in this report because they are not relevant to OIG's assessment of the allegations. They are, however, available for review.

\textsuperscript{20} The subject complained about NSF OIG's oversight of the University's investigative process. As explicitly stated in the referral letter, and in 45 C.F.R. Part 689 (documents sent to the subject), the University has primary responsibility for investigations of allegations of research misconduct, and the University follows procedures established by its own policy. NSF OIG responsibility consists of evaluating the report of the University investigation, once received, for reasonable compliance with University policy and procedures, and for completeness. NSF OIG may accept the University investigation report in lieu of conducting its own investigation.

\textsuperscript{21} The subject provided a document
proposal and may [sic] to some extent ideas may have been integrated into the proposal but did not include direct quotations.\textsuperscript{23} The list of references in the subject's "References and Citations" section was uploaded into the "References Cited" section of FastLane for each proposal.

We examined the information provided by the subject in the "References Cited" section for each of the three NSF proposals submitted. In Proposal A, a research proposal, 39 references are listed. Thirty-two of these references are duplicated from one source -- a research proposal previously submitted by others,\textsuperscript{24} which the subject states that he found on the web. The ordering, the format and even the typographical errors within the reference citations are identical to those in the source document. Although extensive text from that source was duplicated into the subject's proposal, no reference notations (either by number or author name) appear anywhere within the text of the project description. Of the remaining 7 references, our further investigation revealed that a sequence of four was apparently duplicated directly from a web page that included a presentation on the general topic of the proposal.\textsuperscript{25}

Proposal B, a training proposal, contains a "References Cited" section containing nine entries. No reference notations (either by number, footnote, or author name) appear within the project description of the proposal. Additionally, our further investigation revealed the list of references to be an exact duplicate (including order, format, and typographical errors) of a reference list contained in a document available on the web\textsuperscript{26} that is not cited in the proposal (Tab 9).

Proposal C, a research proposal, contains a "References Cited" section with 75 entries. The references given are an exact duplicate (including order, format, and typographical errors) of the reference list in an NSF proposal submitted previously by other researchers\textsuperscript{27}, from which the vast majority of the text in the project description of the subject's proposal C was also duplicated. The reference numbers used by the other researchers in their text recur in the duplicate text submitted by the subject in his own proposal. We note that the acronym used by other researchers in their proposal for the product of their work was globally changed by the subject for the duplicated text and figures.

\textsuperscript{23} Subject's response letter, page 2 (Tab 2).
\textsuperscript{24} We had not identified the presentation as a potential source document in our inquiry letter to the subject, or identified Figure 1 as plagiarized. However, we ask in our letter to the subject if there are additional source documents other than those we identify.
\textsuperscript{25} We had not identified the presentation as a potential source document in our inquiry letter to the subject, or identified Figure 1 as plagiarized. However, we ask in our letter to the subject if there are additional source documents other than those we identify.
\textsuperscript{26} We had not identified the presentation as a potential source document in our inquiry letter to the subject, or identified Figure 1 as plagiarized. However, we ask in our letter to the subject if there are additional source documents other than those we identify.
\textsuperscript{27} We had not identified the presentation as a potential source document in our inquiry letter to the subject, or identified Figure 1 as plagiarized. However, we ask in our letter to the subject if there are additional source documents other than those we identify.
The subject’s explanation that the "References and Citations" section that he uploaded into the "References Cited" section consisted only of general references to the subject area has no bearing on why he copied unattributed text into his proposals. However, his explanation led us to determine that the subject had also directly copied the references into the "References Cited" sections of all three of his NSF proposals.

Explanation 2: Footnotes and Quotations

The subject stated in his response letter that he had composed a section called "Footnotes and Quotations" that was to have been uploaded into the supplementary documents section of each of his three proposals. The subject conceded, however, that he did not upload the section "Footnotes and Quotations" into FastLane for any of his three proposals. A footnote is indicated in text by a superscript number or other demarcation, and we note that the texts for the project descriptions of all three proposals do not contain numbers or citations for any footnotes. A footnote is conventionally placed at the bottom of a page where it appears. We found no footnote citation superscripts and no footnote texts in any of his proposals.

Specifically, the subject stated that the FastLane conversion of his submitted Word document into a PDF file "resulted in the removal of superscript font that was used extensively for footnoting and quotation."29 The subject further claimed that the PDF conversion process used by FastLane "apparently altered the block stylization" of the original Word document for the project description text of all three of his submitted NSF proposals.30 We spoke with the technical expert for the NSF FastLane system about alleged difficulties with the conversion of a Word document into PDF format, and the claimed removal of superscript citations from Word documents. The technical expert stated that no version of FastLane has exhibited such difficulties, and there is no history of claims, and no precedence, for the disappearance of superscripted citations from submitted Word documents. In addition, the technical expert retrieved from archived tapes, and provided to us, copies of the original Word document for the project descriptions, and text files for the "References Cited" section, associated with submission of two of the subject's proposals.31 Tab 10 contains the printouts of

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28 NSF Grant Proposal Guide, NSF 03-041, Section 2.j., page 27.
29 Subject's response letter, page 2 (Tab 2).
30 Subject's response letter, page 3 (Tab 2). As noted previously, we expect "block stylization" to include a differentiating indentation of duplicated text, or a change in font of such duplicated text.
31 Proposals A and C, the research proposals.
these original Word documents and text files. These original Word documents do not contain any superscript citations for footnotes in either proposal. These original Word documents do not contain any "block stylization" that is not accurately reflected in the corresponding FastLane PDF document generated for either proposal. Therefore, the preponderance of the evidence does not support the subject’s explanation.

Explanation 3: FastLane Assistance Issue

In his response to our inquiry letter, the subject claimed that he "sent an email to the FastLane Help Desk at this time [ ] indicating this problem."\(^32\) Therefore, we asked the FastLane Help Desk to examine its logs of assistance requests.\(^33\) On August 25, 2004, the FastLane Help Desk confirmed that the logs showed no record of a request for assistance from the subject. Subsequently, during the University’s investigation, the Provost asked that OIG again ask the NSF FastLane Help Desk to review its logs to determine whether the subject sent a request for assistance on [ ] Pursuant to this request, on [ ], OIG contacted NSF FastLane experts a second time to ask that they re-examine the logs.\(^34\)

The NSF FastLane expert conducted a detailed examination of the server logs, and confirmed that the subject sent an email message to the Help Desk on [ ], with an indicated message date of [ ]\(^35\) asking for assistance with proposal submission (Tab 11). This email message is not labeled as a resend, or as a test message, although all of the subject’s proposals had been submitted a year earlier, and had been subsequently withdrawn. The FastLane help desk responded with appropriate suggestions, just as if the email request was genuine, and related to a current submission. Examination of the logs also revealed that the subject sent a second email message on [ ] (also in Tab 11). This message contains text nearly identical to that of the [ ] email from the subject. However, in this [ ] message, the indicated message date is [ ]. The server date and time stamps of this message confirm, however, that it was sent to the FastLane Help Desk on [ ].

In the list of exhibits prepared by the subject (Tab 8), Item 3b reads: "Copy of above email retransmitted on [ ] from PI addressed to Fastlane to verify if the destination address is correct and to determine if a reply would be received from Fastlane help desk." The subject's list of exhibits does not include the second email with the altered date.

The subject’s messages sent to the FastLane Help Desk in 2005 verify the accuracy of the FastLane log of requests for assistance, and NSF’s appropriate response. Our investigation confirms that no requests for FastLane assistance were received from the subject during 2004 when he submitted his three proposals. We conclude that the subject sent the second message to NSF FastLane on [ ], with a message date changed to [ ], in an

\(^{32}\) Subject's response letter, page 5 (Tab 2).

\(^{33}\) [ ] [ ]

\(^{34}\) The Branch Chief provided oversight for the re-examination of the log files.

\(^{35}\) The message date is the date recorded within the field of the message itself. This date, for example, would reflect the date set on the personal computer that hosts the email program. Usually the date on the hosting computer is the current date, unless specifically altered.
attempt to mislead the investigation by providing apparent support for his claim of problems with
FastLane during his proposal submissions.

Our investigation concludes that none of the subject's explanations of the extensive plagiarism in
his proposals are credible. The FastLane submission process includes user prompts to ensure the
accuracy of the documents submitted. For instance, during the submission process, a page is
provided to users titled "Proofreading Complete" that asks the users "Do you Accept the
Results?" A positive response from the user is required. If the subject had the claimed
difficulties in submission of two proposals on [redacted], it is reasonable to expect that
he would have been especially attentive to accuracy in submitting the third proposal six weeks
later on [redacted]. Instead, the subject claimed that he committed the same oversights,
and experienced the same unresolved technical difficulties, with his third proposal. Had the
University's Office of Sponsored Research been informed of difficulties by the subject, it is
reasonable to assume that it would have initiated inquiries or corrections. As noted in our review
of the IC report, the IC interviewed the employee of that office, and she stated that she was
unaware of such difficulties. We found no inquiries or corrections in the NSF proposal jackets
for any of the three proposals.

The OIG investigation concludes, by a preponderance of the evidence, that the subject's
proposals submitted to NSF contain extensive text and other materials duplicated exactly from
the works of others, and that no citation to the source documents for those materials was
provided by the subject. Our investigation concludes that the citations claimed to be present by
the subject in his documents uploaded into FastLane were absent from these original Word files.
Our investigation concludes that the technical difficulties claimed by the subject in submission of
his proposals into FastLane are not supported by the documents, and contradicted by other
evidence. Table 1 is a summary of the plagiarism for the subject's three NSF proposals.

| Proposal | Purpose | Submitted | Plagiarized Text | Plagiarized References | Plagiarized Figures | "Footnotes and Quotations"
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>Training</td>
<td>[redacted]</td>
<td>13 of 15 pages</td>
<td>9/9</td>
<td>0/0</td>
<td>Absent</td>
</tr>
<tr>
<td>C</td>
<td>Research</td>
<td>[redacted]</td>
<td>13 of 15 pages</td>
<td>75/75</td>
<td>1/1</td>
<td>Absent</td>
</tr>
</tbody>
</table>

**OIG's Assessment**

A finding of research misconduct by NSF requires that (1) there be a significant departure from
accepted practices of the relevant research community, that (2) the research misconduct be
committed intentionally, or knowingly, or recklessly, and that (3) the allegation be proved by a
preponderance of the evidence.\(^\text{36}\)

\(^{36}\) 45 C.F.R. §689.2(c) (2002).
The subject admitted that the documents identified in our inquiry letter are the sources of the duplicated text and figures in his three proposals. The subject conceded that the duplicated text is not differentiated in any way in his proposals, and that citations do not appear in his proposals. In Proposal A, more than 13 of the 15 pages of text, and three figures in the project description, are copied from uncited sources. In Proposal B, more than 13 of the 15 pages of text in the project description are copied from uncited sources. In Proposal C, more than 13 of the 15 pages of text, and one figure, in the project description, are copied from uncited sources. References in each of the three proposals are also substantially plagiarized. The subject's claim of FastLane technical difficulties is refuted by our investigation.

Intent

The subject's clear intent is demonstrated in the gross extent of plagiarism in his three proposals. The University IC summarized the subject's intent as follows: the subject "does not dispute that work of others [sic] contained in his proposals; he was clearly aware of them at the time that he crafted his proposals. To write a proposal consisting of verbatim material from other sources strung together by short phrases, transition sentences, or changes in title from the original text, is an action that can only be done intentionally." We concur with the IC that the subject's actions were willful and intentional, with direct intent to deceive NSF into funding three unoriginal proposals.

Standard of Proof

The University IC found that the subject's acts were research misconduct, as shown by a preponderance of the evidence. Our own investigation, supported by additional examination of documents, including the original Word documents uploaded into FastLane (retrieved from archive tapes) and the identification of additional web sites apparently used as sources of text, figures, and references in the subject's proposals, also clearly shows that the allegation of plagiarism is proved by a preponderance of the evidence. The subject admits that each of the 21 source documents identified in our inquiry letter was a source of duplicated text and figures in his proposals.

The same preponderance of evidence standard refutes the subject's claim of exonerating technical difficulties.

Mitigating Factors

We identify no mitigating factors that explain the willingness of the subject to plagiarize vast quantities of text, figures, and references into his three proposals submitted to NSF.

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37 Investigation Committee report, page 6 (Tab 6).
We conclude that the subject sent a message to NSF FastLane on [redacted], with the message date altered to [redacted], in an attempt to support his own explanation of events. We conclude that this was a willful effort by the subject to generate false evidence, and that this act adds to the overall seriousness of this case. The subject’s response to the draft ROI also contributes additional aggravating factors.

OIG's Recommended Disposition

When deciding what appropriate action to take upon a finding of misconduct, NSF must consider:

(1) How serious the misconduct was; (2) The degree to which the misconduct was knowing, intentional, or reckless; (3) Whether it was an isolated event or part of a pattern; (4) Whether it had a significant impact on the research record, research subjects, other researchers, institutions or the public welfare; and (5) Other relevant circumstances.[38]

Seriousness

The subject submitted three NSF proposals in a six-week period. Each of the three proposals contained extensive plagiarism, with 13 of 15 pages in the proposal description in each proposal a duplication of text (usually verbatim) from uncited source documents. In two proposals, a source from which extensive text was drawn was an NSF proposal submitted previously by other researchers. Inherent in the plagiarized text of that proposal is the intellectual property of those researchers -- the organization, structure, and perspective of the proposed research work. In addition to the text, figures that describe the work of others were plagiarized by the subject; the sources of the figures were not cited. Reference lists that had been compiled by others were plagiarized by the subject; the sources of the reference lists were not cited. The extensive plagiarism of the subject is an egregious violation of the standards of scholarship, and of the fundamental tenets of research ethics.

Degree of Intent

The subject's actions were undeniably intentional. Consider the case of Proposal C, submitted by the subject as his original work, but which is a near-complete duplication of the NSF proposal submitted by other researchers. The subject acquired a copy of this proposal from the web, globally changed an acronym for the proposed central product of the proposed research, and resubmitted it as his own. In doing so, the subject misappropriated extensive creative work expended by the authors of the original proposal, including text, figures, work plans, and references. The subject states: "Any misrepresentation or lack of proper referencing was purely unintentional in nature . . ."[39] The subject's actions were unabashedly intentional; he followed a pattern of wholesale plagiarism of the work (text, figures, and references) of others into three

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38 45 C.F.R. § 689.3(b).
39 Subject's response letter, page 1.
separate NSF proposals. The subject uploaded Word documents without differentiating quotation marks or citations into FastLane, and then later claimed technical difficulties with the submission process as an explanation for their absence. The subject's claims of requests for assistance with alleged technical difficulties is not supported by NSF's documentary record, or by the interview conducted by the IC. The subject's claim of technical difficulties is undermined by an absence of any follow-up by him to ensure that the first two proposals were accurately uploaded, or of any corrections to them following their submission, or of any change in his actions during the submission of his third proposal six weeks later.

**Pattern**

The subject submitted three proposals to NSF, with the third submitted six weeks after the first two. The pattern of plagiarism in the project descriptions of the first two proposals is mirrored in the third. The technical difficulties claimed by the subject in submission of his first two proposals did not alter his pattern of composition, or cause him to check for accuracy in submission of the third. The IC report included information that the subject had been formally disciplined by the University on at least one previous occasion for a violation of intellectual property rights. We conclude that there is a clear pattern to the subject's conduct that reveals a willingness to plagiarize and a fundamental disregard for the intellectual property rights of others.

**Impact on the research record**

The subject voluntarily withdrew all three proposals after learning of this investigation. There is no impact on the research record of the plagiarism in the subject's submitted NSF proposals.

**Other relevant circumstances**

The subject's claims of unintentional actions, technical difficulties, or misconceptions about acceptable uses of the intellectual property of others are belied by his specific actions and by the specific facts of the case. We conclude that the subject is not truthful about his technical difficulties with FastLane. We conclude that the subject has not accepted direct personal responsibility for his actions.

**The Subject's Response to Draft Investigation Report**

The subject's responses to the draft ROI do not dispel the factual conclusions of the report regarding the extensive plagiarism in his three proposals submitted to NSF. His responses repeat assertions that have been factually disproved. For completeness, we gather the subject's responses in Tab 13, and assess relevance for each of them there. The vast majority of the responses contain no new information and do not lead to any changes in this report. Two of the subject's responses contain material relevant to the draft ROI, and are therefore considered here.
Emails to the FastLane Help Desk

In the draft ROI, we considered the subject's initial claims in his July 2004 letter to us that he sent emails to the FastLane Help Desk. We concluded that he did not send such emails, and conveyed that information to the University in our referral of investigation. During the University process, the Vice Provost later asked us whether an email was sent to the FastLane Help Desk on a specific date, apparently reflecting the continued insistence of the subject that he had sent such email. As detailed in our draft ROI, NSF technical experts examined the email logs again, and documented two emails sent by the subject to the Help Desk. The metadata for these emails was examined carefully, and we confirmed the send and receive dates. We concluded that one email had been altered to make the message date appear that it had been sent in July. We viewed this alteration as an attempt to manufacture evidence in support of the subject's previous claims made to us. Those same claims were apparently made to the University as well. We included that conclusion in our draft ROI.

We note that the subject wrote to Deputy Director Joseph Bordogna on [redacted] with complaints about the investigative process. He wrote: "However, and most suspicious is that mysteriously on [redacted] [the OIG investigator] did in fact find evidence of such an email that I sent in [redacted] and that he had provided evidence that the Fastlane Help desk did respond the next day." and "What is even more peculiar is that I did receive such a reply from the Fastlane Help desk but not in [redacted], instead one year later! In fact I received two responses from the Fastlane Help Desk this past month, one was in reply to the initial email I sent to the Help Desk in [redacted] and the other in response to an identical message I sent in [redacted]. I sent the identical message simply out of curiosity to see if in fact the Fastlane Help Desk would respond to it since I never received a response to the one I sent the previous year."

After he was confronted in the draft ROI with information about the email messages, and the dates they were actually sent, the subject changed his explanation to more closely fit the proven facts. Specifically, he now claims that the message sent to the NSF FastLane Help Desk on [redacted] (with the date appearing in the message as [redacted]) had been in the outbox queue of his email program, allegedly residing there, unknown to him, for over a year. The subject now explains that the message of [redacted] was not actually "inadvertently" sent until [redacted], when he opened the file. However, this revised explanation still does not mesh with the facts. The subject claims that the second message ([redacted]) was not sent until "opened" on [redacted], but this explanation fails to explain how the first "resend" of the "identical" message four days earlier did not "inadvertently" send the same queued message. It is also unclear how the subject could have opened those emails to present them to the University, as he claims he did, without "inadvertently" sending them. We also note that, in fact, these two messages are not "identical," as claimed by the subject. The text in the two messages (see Tab 11) differs by one word. This lends additional support to our conclusion that the second message was fabricated, and its send date altered.

40 As can be seen in the emails in Tab 12, the messages differ by the appearance of the word "would" in the last sentence of the email text.
The preponderance of the evidence does not support the subject’s most recent assertion that this message resided for a year in the outbox queue of his email program. Rather, the preponderance of the evidence supports our conclusion that the subject created and mailed email messages in an attempt to manufacture evidence to support his initial claims. In sum, the preponderance of the evidence supports a series of false statements made knowingly by the subject to NSF and NSF OIG in the course of this investigation.

"Exculpatory evidence" on a computer hard drive

On receipt of the response from the subject that indicated the existence of a hard drive from a colleague’s computer claimed to contain “exculpatory evidence,” we contacted to ask the University to provide us with any reports or documents related to this claimed evidence. On informing us that it had received the hard drive and provided it to the provided OIG with a copy of the forensic analysis conducted. We include a synopsis of the forensic analysis at Tab 14; the entire report is available for inspection.

As demonstrated in Tab 14, forensic analysis of the hard drive provides direct evidence of altered dates for emails and document files, and the creation of false directories that contain email "attachments." The subject claims to us (and to the University) that these files provide exculpatory evidence. They do not. We conclude that the subject was explicitly aware that the files were altered (he cites them as support for his previously made claims of dates), and further that he may himself have been involved with these alterations. In sum, this evidence provided by the subject, and touted by the subject as exonerating, directly implicates him in additional attempts to manufacture evidence in support of his claims. His repeated willingness to do so constitutes a significant aggravating factor in this case.

In sum, the subject’s responses to the draft ROI neither support his claims of technical difficulties, nor do they dispel the seriousness of the plagiarism that he committed. Therefore, we have not changed our report, or our recommendations. Moreover, based on false statements made by the subject, we referred this matter to a United States Attorney’s Office. The Assistant U.S. Attorney declined prosecution in lieu of administrative action.

In his response, the subject claims repeatedly that NSF OIG did not notify him of our own investigation, despite his admission that he had been provided a copy of the referral letter that confirms that an NSF OIG investigation was underway. In response to his concerns, we provided an opportunity to provide any additional documents or comments to us for an extended period after his receipt of our draft ROI. As noted, the subject’s responses do not dispel the factual conclusions of the report, and repeat assertions that were disproved. The subject’s responses are gathered in Tab 13, and the relevance for each of them assessed there.

41 We referred the case to , Assistant U.S. Attorney, Northern District of New York. declined prosecution in lieu of administrative action.
Recommendation

Based on the evidence, OIG recommends that NSF:

- send a letter of reprimand to the subject informing him that NSF has made a finding of research misconduct;\(^{42}\)

- debar the subject from receiving Federal funds for a period of 5 years commencing on the date of NSF’s finding of research misconduct;\(^ {43}\)

- require the subject to certify that proposals or reports he submits to NSF do not contain plagiarized, falsified, or fabricated material for 3 years after the debarment period;\(^ {44}\)

- require that the subject 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 3 years after the debarment period;\(^ {45}\) and

- bar the subject from serving as a reviewer of NSF proposals for 5 years commencing on the date of NSF’s finding of research misconduct.\(^ {46}\)

\(^{42}\) A finding of research misconduct and a letter of reprimand is a Group I action (45 C.F.R. §689.3(a)(1)(i)).

\(^{43}\) Debarment of an individual is a Group III action (45 C.F.R. §689.3(a)(3)(iii)).

\(^{44}\) Certification by an individual is authorized in 45 C.F.R. §689.3(a).

\(^{45}\) Requirement for assurances is a Group I action (45 C.F.R. §689.3(a)(1)(ii)).

\(^{46}\) Prohibition from serving as a reviewer is a Group III action (45 C.F.R. §689.3(a)(3)(ii)).
On or about February 10, 2004, the University submitted two proposals to NSF for which you were identified as the Principal Investigator. The first was entitled, "Cyber Attack-aware Modular Adaptive Layered Open Trust," and the second was entitled, "Cyber Security Skills Educator Training Initiative for Central New York." On March 25, 2004, the University submitted another proposal to NSF, entitled, "Computer Assisted Programmable Wireless Ad Hoc Network Architecture," for which you were identified as the Principal Investigator. As documented in the attached investigative report prepared by NSF’s Office of Inspector General ("OIG"), each of these three proposals contained plagiarized text.

In light of your misconduct, this letter serves as formal notice that the National Science Foundation ("NSF") is proposing to debar you from directly or indirectly obtaining the benefits of Federal grants for a period of three years. During your period of debarment, you will be precluded from receiving Federal financial and non-financial assistance and benefits under non-procurement Federal programs and activities. See 45 CFR Part 620, Subparts A, B and I. In addition, you will be prohibited from receiving any Federal contracts or approved subcontracts under the Federal Acquisition Regulations ("FAR"). See 45 CFR 620.125. Lastly, during your debarment period, you will be barred from having 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. See 45 CFR 620.115.
In addition to proposing your debarment, I am prohibiting you from serving as an NSF reviewer, advisor, or consultant until November 15, 2009. Furthermore, for three years after the period of debarment expires, I am requiring you to certify that any proposals or reports that you submit to NSF do not contain plagiarized, falsified, or fabricated material. For this same period of time, you must submit assurances by a responsible official of your employer that any such proposals or reports do not contain plagiarized, falsified, or fabricated material. Lastly, by December 31, 2007, you must complete an ethics training course on plagiarism, and certify in writing to the OIG that you have done so.

Scientific Misconduct and Sanctions other than Debarment

Under NSF’s regulations, “research misconduct” is defined as “fabrication, falsification, or plagiarism in proposing or performing research funded by NSF ...” 45 CFR §689.1(a). NSF defines “plagiarism” as “the appropriation of another person’s ideas, processes, results or words without giving appropriate credit.” 45 CFR §689.1(a)(3). A finding of research misconduct requires that:

1. There be a significant departure from accepted practices of the relevant research community; and
2. The research misconduct be committed intentionally, or knowingly, or recklessly; and
3. The allegation be proven by a preponderance of evidence.

45 CFR §689.2(c).

Each of the three proposals identified previously contains verbatim and paraphrased text from other source documents. By submitting proposals to NSF that copy the ideas or words of another without adequate attribution, as described in the OIG investigative report, you misrepresented someone else’s work as your own. In addition, you failed to properly acknowledge or credit the authors of the source documents in your proposal. Your conduct unquestionably constitutes plagiarism. I therefore conclude that your actions meet the applicable definition of “research misconduct” set forth in NSF’s regulations.

Pursuant to NSF’s regulations, the Foundation must also determine whether to make a finding of misconduct based on a preponderance of the evidence. 45 CFR §689.2(c). After reviewing the Investigative Report, NSF has determined that, based on a preponderance of the evidence, your plagiarism was committed knowingly and constituted a significant departure from accepted practices of the relevant research community. I am, therefore, issuing a finding of research misconduct against you.

NSF’s regulations establish three categories of actions (Group I, II, and III) that can be taken in response to a finding of misconduct. 45 CFR §689.3(a). Group I actions include issuing a letter of reprimand; conditioning awards on prior approval of particular activities from NSF; requiring that an institution or individual obtain special prior approval of particular activities from NSF;
and requiring that an institutional representative certify as to the accuracy of reports or certifications of compliance with particular requirements. 45 CFR §689.3(a)(1). Group II actions include award suspension or restrictions on designated activities or expenditures; requiring special reviews of requests for funding; and requiring correction to the research record. 45 CFR §689.3(a)(2). Group III actions include suspension or termination of awards; prohibitions on participation as NSF reviewers, advisors or consultants; and debarment or suspension from participation in NSF programs. 45 CFR § 689.3(a)(3).

In determining the severity of the sanction to impose for research misconduct, I have considered the seriousness of the misconduct; our determination that it was knowing; the determination that it was three instances of misconduct, as opposed to an isolated incident; your attempts to cover up your misconduct; your unwillingness to accept responsibility for your actions; and the lack of contrition that you demonstrated during the course of the investigative process. I have also considered other relevant circumstances. 45 CFR § 689.3(b).

I, therefore, take the following actions:

- For three years from the end of your debarment period, you are required to certify that proposals or reports you submit to NSF do not contain plagiarized, falsified, or fabricated material.

- For three years from the end of your debarment period, you are required to submit assurances by a responsible official of your employer that any proposals or reports you submit to NSF do not contain plagiarized, falsified, or fabricated material.

- From the date of this letter through November 10, 2009, you are prohibited from serving as an NSF reviewer, advisor, or consultant.

- You are required to complete an ethics training course on plagiarism by December 31, 2007. You must certify in writing to the OIG that such training has been completed.

Regulatory Basis for Debarment

Pursuant to 45 CFR 620.800, debarment may be imposed for:

(b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as –

(1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions; or

(3) A willful violation of a statutory or regulatory provision or requirement
In any debarment action, the government must establish the cause for debarment by a preponderance of the evidence. 45 CFR 620.850. In this case, you knowingly plagiarized data in three grant proposals submitted to the Foundation. Thus, your actions support a cause for debarment under 45 CFR 620.800(b).

**Length of Debarment**

Debarment must be for a period commensurate with the seriousness of the causes upon which an individual’s debarment is based. 45 CFR 620.865. Generally, a period of debarment should not exceed three years but, where circumstances warrant, a longer period may be imposed. 45 CFR 620.865. Having considered the seriousness of your actions, as well as the relevant aggravating and mitigating factors set forth in 5 CFR 620.860, we are proposing debarment for a period of three years.

**Procedures Governing Proposed Debarment**

The provisions of 45 CFR Sections 620.800 through 620.855 govern debarment procedures and decision-making. Under our regulations, you have 30 days after receipt of this notice to submit, in person or in writing, or through a representative, information and argument in opposition to this debarment. 45 CFR 620.860. Comments submitted within the 30-day period will receive full consideration and may lead to a revision of the recommended disposition. If NSF does not receive a response to this notice within the 30-day period, this debarment will become final.

Any response should be addressed to Lawrence Rudolph, General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230. For your information, we are attaching a copy of the Foundation’s regulations on non-procurement debarment and FAR Subpart 9.4.

Sincerely,

Kathie Olsen
Deputy Director

Enclosures:
Investigative Report
Nonprocurement Debarment Regulations
FAR Regulations
Patrick W. Fitzgibbons

Re: Debarment

Dear Dr. Fitzgibbons:

On November 22, 2006, 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 three years. The Notice sets forth in detail the circumstances giving rise to NSF's decision to propose your debarment. Specifically, NSF proposed your debarment for knowingly submitting three proposals to NSF that contained plagiarized text. In the Notice, NSF provided you with an opportunity to respond to the proposed debarment.

On January 16, 2007, you filed a timely response to the Notice. In this response, you urged NSF not to debar you for several reasons including: (1) the investigation conducted by the Office of Inspector General ("OIG") into your misconduct was inaccurate and discriminatory; (2) NSF is precluded from taking action until a decision is rendered in your arbitration hearing against the University; and (3) debarment is unnecessary because the University has prohibited you from applying for any Federal grants for the last two and a half years. In addition, you have argued that I must recuse myself from further participation in this matter. As detailed below, I am not persuaded by any of your arguments.

First, you have offered no evidence to demonstrate either that the OIG investigation of your misconduct was discriminatory, or that the information collected during the course of that investigation was inaccurate. You will not have an additional opportunity to challenge the facts because your response contained only general denials to the information contained in the Notice of Proposed Debarment. Second, your arbitration hearing with the University has no bearing on NSF's determination as to the proper course of action to take regarding your misconduct. Third, in accordance with applicable regulations, NSF has considered the relevant aggravating and mitigating factors in determining whether to debar you, and the length of such a debarment, including the actions that the University has taken previously against you. Notwithstanding the
University's actions, I believe that a three year debarment period is necessary to protect the interests of the Federal government. Lastly, you have offered no legitimate reason for me to recuse myself in connection with this matter. Thus, I am issuing this Notice of Debarment.

For all of the foregoing reasons, you are debarred until March 19, 2010. 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 § 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 § 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.

Under NSF's regulations, you have 30 days after receipt of this letter to submit an appeal of this decision, in writing, to the Director of NSF. 45 CFR § 689.10(a). Any appeal should be addressed to the Director at:

National Science Foundation
4201 Wilson Boulevard
Arlington, Virginia 22230

If we do not receive your appeal within the 30-day period, this decision will become final.

If you have any questions regarding the foregoing, please contact [redacted] Assistant General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia, 22230.

Sincerely,

Kathie L. Olsen
Deputy Director
Dear Dr. Fitzgibbons:

On November 22, 2006, Dr. Kathie Olsen, the National Science Foundation’s (“NSF”) Deputy Director, issued to you a Notice of Proposed Debarment and Notice of Misconduct in Science Determination. In this Notice, Dr. Olsen set forth the reasons for rendering a finding of scientific misconduct against you. As a result of this misconduct, NSF: (1) proposed to debar you for three years; (2) prohibited you from serving as an NSF reviewer, advisor, or consultant until November 10, 2009; (3) required that you submit certifications and assurances in connection with any proposal or report you submit to NSF for three years after the expiration of your debarment period; and (4) mandated that you complete an ethics training course on plagiarism by December 31, 2007.

On January 16, 2007, you simultaneously responded to the Notice of Proposed Debarment and appealed the Misconduct in Science Determination. On April 4, 2007, after reviewing your response to the Notice of Proposed Debarment, Dr. Olsen debarred you until March 19, 2010. Pursuant to NSF’s regulations, you have timely appealed this debarment decision. Thus, you currently have two appeals pending before me – your appeal of the debarment action taken on April 4, 2007, as well as your appeal of the other administrative actions taken on November 22, 2006.

Your appeals are denied. The evidence in the investigative report prepared by the Office of Inspector General demonstrates that you submitted three proposals to NSF that contained plagiarized text. Although you assert that you have evidence in your possession to rebut this conclusion, you have not presented such evidence to NSF despite being given numerous opportunities to do so. Moreover, you have offered no legitimate reason for me to recuse myself
in connection with this matter. The other arguments you raise in your appeals were previously addressed thoroughly by Dr. Olsen in the Notice of Proposed Debarment and Notice of Misconduct in Science Determination issued on November 22, 2006, as well as the Final Notice of Debarment, issued on April 4, 2007. These decisions are affirmed in their entirety.

This is NSF's final administrative action in this case. There is no further right of appeal. If you have any questions about the foregoing, please call Lawrence Rudolph, General Counsel, at (703) 292-8060.

Sincerely,

Arden L. Bement, Jr.
Director