



NATIONAL SCIENCE FOUNDATION  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

## CLOSEOUT MEMORANDUM

Case Number: A10110084

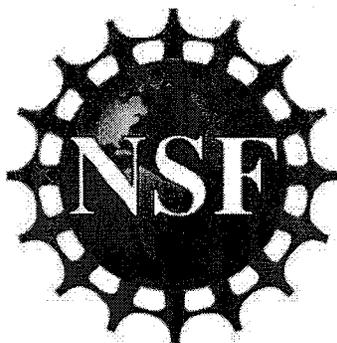
Page 1 of 1

Our investigation determined that the Subject<sup>1</sup> intentionally plagiarized from a confidential NSF proposal. NSF made a finding of research misconduct by the Subject; sent a letter of reprimand to the Subject; required the Subject to submit certifications to the Assistant Inspector General for Investigations (AIGI), NSF OIG for three years; required the Subject's employer to submit assurances to the AIGI of NSF OIG for three years; prohibited the Subject from serving as a reviewer of NSF proposals for three years; and required the Subject to provide certification to the AIGI that she has completed a course on the responsible conduct of research.

This memo, the attached Report of Investigation, and the letter from NSF with a finding of research misconduct constitute the case closeout. Accordingly, this case is closed.

<sup>1</sup> [REDACTED]

National Science Foundation  
Office of Inspector General



Report of Investigation  
Case Number A-10110084

July 29, 2013

**This Report of Investigation is provided to you  
FOR OFFICIAL USE ONLY.**

It contains protected personal information, the unauthorized disclosure of which may result in personal criminal liability under the Privacy Act, 5 U.S.C. § 552a. This report may be further disclosed within NSF *only* to individuals who *must* have knowledge of its contents to facilitate NSF's assessment and resolution of this matter. This report may be disclosed outside NSF *only* under the Freedom of Information and Privacy Acts, 5 U.S.C. §§ 552 & 552a. Please take appropriate precautions handling this report of investigation.

### Executive Summary

#### The University's investigation concluded that:

- the Subject copied a figure from a confidential NSF proposal that she reviewed and used it in a presentation without attribution;
- the Subject committed plagiarism that was a significant departure from accepted standards of the community; and
- the Subject's actions were intentional, knowing, and reckless.

#### OIG's investigation established that:

- the Subject plagiarized a figure from an NSF proposal she reviewed;
- the Subject violated the confidentiality agreement of NSF reviewers by sharing copies of NSF proposals with her students; and
- the Subject violated the NSF agreement with reviewers by retaining electronic copies of NSF proposals that she reviewed.

#### OIG concludes that:

- **Acts:** The Subject plagiarized from a confidential NSF proposal, and violated NSF's confidentiality agreement for reviewers.
- **Intent:** The Subject acted intentionally.
- **Standard of Proof:** A preponderance of the evidence supports the conclusion that the Subject's plagiarism from a confidential NSF proposal was a significant departure from the standards of the research community, and therefore constitutes research misconduct.

#### OIG recommends that NSF:

- Send the Subject a letter of reprimand notifying her that NSF has made a finding of research misconduct.
- Require the Subject complete a responsible conduct of research training program and provide documentation of the program's content within 1 year of NSF's finding. The format should be an instructor-led course and specifically include topics such as reviewer confidentiality and plagiarism.

#### For a period of 3 years from the date of NSF's finding:

- Require for each document (proposal, report, etc.) to which the Subject contributes for submission to NSF (directly or through her institution),
  - the Subject to submit a certification to the AIGI that the document does not contain plagiarism, falsification, or fabrication.
  - the Subject to submit assurances from a responsible official of her employer to the AIGI that the document does not contain plagiarism, falsification, or fabrication.
- Bar the Subject from participating as a peer reviewer, advisor, or consultant for NSF.

**OIG Inquiry**

We assessed an allegation that the Subject<sup>1</sup> used a figure, taken from a National Science Foundation (NSF) proposal<sup>2</sup> that she reviewed, in two public presentations without attribution. We confirmed that the individual reviewed the proposal, and that the figure appears in the proposal. We confirmed the appearance of the figure (as part of a larger figure) in two presentations on which the Subject is an author, both of which occurred after proposal was reviewed by the Subject. Accordingly, we wrote to the Subject to invite her explanation.<sup>3</sup>

In her response<sup>4</sup> to our letter of inquiry, the Subject admitted that she copied the figure from the NSF proposal. The Subject described her use of the figure as a placeholder in her first overview presentation,<sup>5</sup> stating that she used it because she was rushed in preparing the presentation. The reuse of the Figure in a second later presentation<sup>6</sup> occurred when a slide from the first was reused in a presentation composed by others. The Subject stated that she forgot that the placeholder figure was still there when she provided the slides to be re-used. The Subject described the figure as “common knowledge.”<sup>7</sup>

The Subject’s response did not dispel the allegation of plagiarism, and raised a concern about her compliance with the NSF agreement with reviewers, given the admission that she kept an electronic copy of the proposal after the review process was complete. Accordingly, we referred an investigation to the university.<sup>8</sup> The Research Integrity Officer concluded that there was sufficient substance to convene a university investigation committee (IC).

**University investigation**

We received a copy of the university investigation report.<sup>9</sup> The investigation committee (IC) reviewed documents provided by our office, interviewed the Subject, and provided a transcript of the Subject’s interview. The Subject was accompanied by counsel<sup>10</sup> for the interview.

In her interview with the IC, the Subject distinguished two types of information in an NSF proposal: 1) information generally available to the public; and 2) confidential information.<sup>11</sup>

1 [REDACTED]

2 Tab 1.

3 Tab 2.

4 [REDACTED]

5 Subject response letter (Tab 2).

6 Tab 3.

7 Tab 4.

8 Subject’s counsel is [REDACTED].

9 Subject interview transcript, page 12 (included in the materials at Tab 4).

The Subject asserted in her interview that the figure that she took from the reviewed proposal constitutes information generally available to the public, that NSF does not restrict the use of public information found in proposals,<sup>12</sup> and that the figure cannot be “attributed as another person’s idea, process, result, or works.”<sup>13</sup> The Subject contended that any information provided within the background section of a proposal submitted to NSF is publicly available.<sup>14</sup> Finally, because the figure cannot be attributed to another person, the Subject asserted that her actions do not constitute plagiarism.<sup>15</sup> The Subject additionally claimed that since use of the figure in her presentations was not part of proposing or performing research funded by NSF, then her action cannot constitute research misconduct as defined by NSF.<sup>16</sup> The Subject then claimed that issues of pattern of behavior and intent are thereby moot.<sup>17</sup>

Although the Subject asserted that the figure she copied is common knowledge,<sup>18</sup> she admits in the interview that she “personally [doesn’t] even know” what the values in the copied figure mean.<sup>19</sup> Asked by the IC how she could conclude that the figure was public information when she did not understand its details, the Subject explained that the type of computational problem that the figure exemplified was public information.<sup>20</sup> The Subject stated that she searched the web for appropriate illustrative figures to use in her presentation, but she could not find anything satisfactory. She then remembered the figure in the proposal, and since she had retained an electronic copy of the proposal after the NSF panel review, she copied the figure from the proposal.<sup>21</sup> The Subject explained to the IC how the copied figure appeared in a second presentation when the slide was reused by others, and how the copied figure was replaced in a proceedings publication with a figure that she later created.<sup>22</sup> In answer to a question, the Subject stated she would have required 30 or 40 minutes to create a figure equivalent to the one she copied from the NSF proposal.<sup>23</sup>

The Subject stated:

So I do understand that I should not have done and copied the figure and copy and paste. It was really an honest mistake. So I really just feel sorry about that.<sup>24</sup>

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<sup>12</sup> Subject interview transcript, page 13.

<sup>13</sup> Subject interview transcript, page 14.

<sup>14</sup> Subject interview transcript, page 38.

<sup>15</sup> Subject interview transcript, page 14.

<sup>16</sup> Subject interview transcript, page 16.

<sup>17</sup> Subject interview transcript, page 17.

<sup>18</sup> Subject interview transcript, page 39.

<sup>19</sup> Subject interview transcript, page 39.

<sup>20</sup> Subject interview transcript, page 43-44.

<sup>21</sup> Subject interview transcript, pages 44-47.

<sup>22</sup> Subject interview transcript, page 57.

<sup>23</sup> Subject interview transcript, page 70.

<sup>24</sup> Subject interview transcript, page 31.

I'd like to apologize. I know that it was several mistakes made on my part. I know that some of them have been due to the style, the work style that I have. It's very carelessly done, no intention. I literally sleep four, five hours only, and many of these mistakes would be carelessly done and I really apologize. Personally I know how busy all of you are, and I apologize to NSF and the PI of the proposal.<sup>25</sup>

The Subject described her process for review of NSF proposals. She stated that she first downloaded proposals through Fastlane. She claimed at first that NSF does not require any confidentiality agreements prior to download,<sup>26</sup> but then admitted that she did not remember if NSF did or not have a confidentiality agreement in place.<sup>27</sup> The Subject agreed that she signed a confidentiality agreement at the end of her service on an NSF review panel,<sup>28</sup> but stated that she did not read the agreement.<sup>29</sup>

During her interview, the Subject stated she provided copies of NSF proposals to her students, and asked them to review the proposals.<sup>30</sup> An IC member pointed out that the NSF confidentiality agreement explicitly states that the proposals are not to be shared; the Subject responded that she did not read the agreement at the time she downloaded the proposals,<sup>31</sup> and did not read the agreement until she received the inquiry letter from NSF OIG.<sup>32</sup> The Subject admitted that she placed electronic copies of the proposals onto a university server so as to provide access to them by her students,<sup>33</sup> and explained to the students that the proposals were confidential.<sup>34</sup> The Subject did not know if students made copies of the NSF proposals placed on the server.<sup>35</sup>

The IC concluded that the Subject's actions constituted plagiarism,<sup>36</sup> were a significant departure from accepted practices,<sup>37</sup> and were committed intentionally, knowingly, and recklessly.<sup>38</sup> The IC concluded that the Subject's actions were an isolated event, although the IC did not investigate whether material from confidential NSF proposals appeared in the Subject's other presentations, proposals, or publications. The IC did not interview the Subject's students, and did not investigate whether the proposals were copied by the students or whether they still resided on the university server. The IC concluded that the Subject's actions had no significant impact.

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<sup>25</sup> Subject interview transcript, page 86.

<sup>26</sup> Subject interview transcript, page 18.

<sup>27</sup> Subject interview transcript, page 19.

<sup>28</sup> Subject interview transcript, page 19.

<sup>29</sup> Subject interview transcript, page 22.

<sup>30</sup> Subject interview transcript, page 26 and page 28.

<sup>31</sup> Subject interview transcript, page 26.

<sup>32</sup> Subject interview transcript, page 27.

<sup>33</sup> Subject interview transcript, page 29.

<sup>34</sup> Subject interview transcript, page 29.

<sup>35</sup> Subject interview transcript, page 81.

<sup>36</sup> IC report, page 7.

<sup>37</sup> IC report, page 8.

<sup>38</sup> IC report, page 8.

The IC recommended that the Subject apologize to NSF and to the PI of the proposal from which the figure was copied, take actions to remove copies of the presentation from public websites, and take action to remove stored copies of confidential NSF proposals from devices she controlled. The IC recommended that the Subject receive training in the responsible conduct of research, and should train her current and future graduate students in the responsible conduct of research.<sup>39</sup>

The Subject provided comments on the university IC report through her counsel. The Subject denied that she committed plagiarism, because the copied figure appeared in a presentation that did not present her research, and the figure represented common knowledge.<sup>40</sup> Accordingly, the Subject asserts that her actions do not fit within the definition of plagiarism used by the university or by NSF. The Subject denied that her actions were intentional, knowing or reckless because she was unfamiliar with NSF conditions of confidentiality in the review of proposals.<sup>41</sup>

The university Vice Chancellor accepted the IC report, its findings, and the recommended actions. The Vice Chancellor instructed the Subject to 1) apologize to NSF and the PI of the proposal from which the figure was taken, 2) contact the relevant organizations to remove public access to the two presentations that contain the copied figure, and 3) remove electronic copies of previously reviewed NSF proposals from devices under her control. In addition, the Vice Chancellor directed that appropriate responsible-conduct-of-research training be completed by the Subject.

### OIG's Assessment

We concluded that the university investigation report was fundamentally accurate and complete, and that the university followed reasonable procedures. We wrote to the Subject and her counsel to invite comment on the university inquiry report. Subject's counsel responded,<sup>42</sup> *inter alia*, that the Subject's actions do not fit the federal definition of plagiarism: "appropriation of another person's ideas, processes, results or words without giving appropriate credit" since the copied figure was "simply an example of a symbol or visual tool. She could have replaced that figure with countless alternative figures, charts, symbols, etc. The underlying resource is irrelevant."<sup>43</sup>

The preamble to the federal research misconduct policy specifically addresses the issue of material taken from proposals during the merit review process:

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<sup>39</sup> IC report, page10.

<sup>40</sup> Counsel's response appears as Appendix K in the university report.

<sup>41</sup> Counsel letter, page 6 (Appendix K).

<sup>42</sup> The response is essentially identical to that provided to the university.

<sup>43</sup> Response letter, page 4 (Tab 5).

*Issue:* A number of commenters interpreted the definition of plagiarism to imply that using material gathered during the peer review process was acceptable as long as it is cited.

*Response:* The policy is intended to address the problem of reviewers who take material from the peer review process and use it without attribution. This constitutes plagiarism. We have deleted the phrase "including those obtained through confidential review of others' research proposals and manuscripts" to avoid any appearance of condoning a breach of confidentiality in the peer review process.<sup>44</sup>

The definition of research misconduct is:

Research misconduct means fabrication, falsification, or plagiarism in proposing or performing research funded by NSF, reviewing research proposals submitted to NSF, or in reporting research results funded by NSF.<sup>45</sup>

An act of plagiarism linked to the review of NSF proposals is therefore within the scope of NSF's research misconduct regulation, which provides the basis for our investigation and assessment, and for our recommendations. In addition, copying a figure falls squarely within the definition of plagiarism, notwithstanding the Subject's efforts to characterize a figure as a mere "tool" rather than the expression of the creator's particular ideas, processes or results. Finally, the Subject's contention that although she signed the reviewer agreement she should not be held to it, because she did not read it, is unpersuasive on its face. Further, assuming she didn't read it, she was still presented with a slide on confidentiality that instructs reviewers to destroy all copies of proposals. Downloading proposals to her own computer, sharing them with students and posting them on websites is a far cry from destroying them, as she had been instructed to do.

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.<sup>46</sup>

#### Acts

The Subject copied a figure from the confidential NSF proposal, and used it without attribution in her presentation. She gained access to the figure by reviewing a proposal submitted to NSF. Although the figure was part of a larger image, the Subject's copying was facilitated by the fact that the Subject improperly retained copies of the NSF proposals she reviewed. The NSF

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<sup>44</sup> Executive Office of the President; Federal Policy on Research Misconduct; Preamble for Research Misconduct Policy, 65 FR 76260 (Tab 6).

<sup>45</sup> 45 C.F.R. §689.1(a).

<sup>46</sup> 45 C.F.R. §689.2(c).

reviewer agreement<sup>47</sup> states that materials from proposals cannot be re-used by reviewers, and that the proposals cannot be shared with others without notification to the NSF program officer and the Subject signed this agreement.

The Subject's curriculum vita<sup>48</sup> lists extensive experience in research and education, and appointments at a national laboratory complementing her university appointment. In each of the scientific communities in which she is involved, plagiarism is a violation of the standards of scholarship. NSF's reviewer agreement is clear on the confidentiality of the review process, and the Subject's actions are contrary to the standards of the reviewer community. We conclude the Subject failed to ensure adequate attribution to words written by others, and the Subject committed acts of plagiarism that significantly departed from accepted standards of the relevant research community.

#### Intent

The Subject admitted to retrieving a saved electronic copy of the proposal she reviewed, and copying a figure from it into her presentation. The admission established her level of intent as purposeful or intentional.

#### Standard of proof

We conclude that direct comparison of the figure in the proposal with that in the Subject's presentation, and the lack of attribution for the figure, establish the Subject's plagiarism by a preponderance of the evidence. Because these actions represent a significant departure from accepted practices, and were intentionally committed, we conclude that the Subject's plagiarism constitutes research misconduct.

#### 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.<sup>49</sup>

#### Seriousness

To admittedly conserve her time and effort, the Subject intentionally took advantage of a resource to which she had unique access through her participation in the NSF review process.

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<sup>47</sup> NSF Form 1230P (Tab 7).

<sup>48</sup> Tab 8.

<sup>49</sup> 45 C.F.R. § 689.3(b).

Her actions undermine the trust that proposal authors must have in that process, specifically, that text, figures, ideas and research plans presented in proposals are treated in confidence.

#### Pattern

The Subject asserts that she has not improperly copied any other material. The IC report stated that it found no evidence of a pattern.

#### Impact on the Research Record

We did not identify any significant impact on the research record.

#### Other relevant circumstances

The Subject's plagiarism is linked to her service as a reviewer for NSF. The NSF reviewer confidentiality agreement is signed by each reviewer, and the topic of confidentiality is covered in the presentation given to all of them. The agreement states specifically that material from the proposals is confidential, that proposals are not to be shared, and are not to be retained. The Subject's stated failure to read the agreement as a first-time reviewer for NSF does not excuse her disregard for the stated requirements. The Subject admitted to retaining electronic copies of proposals, and sharing them with her students, both violations of the agreement she signed. Finally, she then used the proposal as a source from which to copy a figure to use in her presentation. The Subject's violations are relevant to NSF's decision and actions in this case.

#### OIG's Recommendations

We recommend that NSF:

- Send the Subject a letter of reprimand notifying her that NSF has made a finding of research misconduct.<sup>50</sup>
- Require the Subject complete a responsible conduct of research training program and provide documentation of the program's content within 1 year of NSF's finding.<sup>51</sup> The format should be an instructor-led course and specifically include topics such as review confidentiality and plagiarism.

For a period of 3 years as of the date of NSF's finding:

- Require for each document (proposal, report, etc.) to which the Subject contributes for submission to NSF (directly or through her institution),
  - the Subject to submit a certification to the AIGI that the document does not contain plagiarism, falsification, or fabrication.<sup>52</sup>

<sup>50</sup> A Group I action 45 C.F.R. 689.3(a)(1)(i).

<sup>51</sup> This action is similar to Group I actions 45 C.F.R. 689.3(a)(1).

<sup>52</sup> This action is similar to 45 C.F.R. 689.3(a)(1)(iii).

- the Subject to submit assurances from a responsible official of her employer to the AIGI that the document does not contain plagiarism, falsification, or fabrication.<sup>53</sup>
- Bar the Subject from participating as a peer reviewer, advisor, or consultant for NSF.<sup>54</sup>

Certifications, assurances, and certificate of attendance should be sent to the Assistant Inspector General for Investigations for retention in OIG's confidential file.

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<sup>53</sup> A Group I action 45 C.F.R. 689.3(a)(1)(iii).

<sup>54</sup> A Group III action 45 C.F.R. 689.3(a)(3)(ii).

NATIONAL SCIENCE FOUNDATION  
4201 WILSON BOULEVARD  
ARLINGTON, VIRGINIA 22230



OFFICE OF THE  
DEPUTY DIRECTOR

JAN 13 2014

**CERTIFIED MAIL --RETURN RECEIPT REQUESTED**



*Re: Notice of Research Misconduct Determination*

Dear [REDACTED]:

You copied a figure without attribution from a proposal submitted to the National Science Foundation ("NSF") into two public presentations you conducted. As documented in the attached Investigative Report prepared by NSF's Office of Inspector General ("OIG"), your misconduct constitutes plagiarism.

**Research Misconduct and Proposed Sanctions**

Under NSF's regulations, "research misconduct" is defined as "fabrication, falsification, or plagiarism in proposing or performing research funded by NSF, reviewing research proposals submitted to NSF, or in reporting research results 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(e).

Your presentations contained a figure copied from a proposal that you reviewed in conjunction with NSF's merit review process. By preparing a presentation that copied 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. Your conduct unquestionably constitutes plagiarism. I therefore conclude that your actions meet the definition of "research misconduct" set forth in NSF's regulations.

Pursuant to NSF 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 recklessly 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, and our determination that it was committed intentionally. I have also considered the fact that your misconduct was not part of a pattern of misconduct, and had no significant impact on the research record, as well as other relevant circumstances. 45 CFR § 689.3(b).

After assessing the relevant facts and circumstances of this case, I am taking the following actions against you:

- (1) Until December 1, 2016, you must provide certifications to the OIG that any proposal or report you submit to NSF as a PI or co-PI does not contain plagiarized, falsified, or fabricated material;
- (2) Until December 1, 2016, you must submit assurances from a responsible official of your employer to the OIG that any proposal or report you submit to NSF as a PI or co-PI does not contain plagiarized, falsified, or fabricated material;
- (3) Until December 1, 2016, you are prohibited from serving as a peer reviewer, advisor, or consultant for NSF; and

- (4) By December 1, 2014, you must attend a responsible conduct of research training program and provide documentation of the program's content to the OIG. The format should be an instructor-led course and specifically include topics such as review confidentiality and plagiarism.

The certifications, assurances and training documentation should be submitted in writing to OIG, Associate Inspector General for Investigations, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Procedures Governing Appeals

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 the Foundation. 45 CFR § 689.10(a). Any appeal should be addressed to the Director at the 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.

For your information, we are attaching a copy of the applicable regulations. If you have any questions about the foregoing, please call [REDACTED], Deputy General Counsel, at (703) 292-8060.

Sincerely,



Fae Korsmo  
Senior Advisor

Enclosures

- Investigative Report
- 45 C.F.R. Part 689