



NATIONAL SCIENCE FOUNDATION  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

**CLOSEOUT MEMORANDUM**

Case Number: I07100044

Page 1 of 1

The National Science Foundation, OIG opened this investigation based on information that a former University<sup>1</sup> employee<sup>2</sup> (employee) had misused her University purchase card to make personal purchases and charged the costs<sup>3</sup> to a University account and to an NSF award account<sup>4</sup>.

The University returned the misappropriated funds<sup>5</sup> to NSF. The University referred the matter to a State prosecutor's office<sup>6</sup>, which accepted the case for criminal prosecution. The employee subsequently pled guilty to embezzlement and at sentencing was ordered to pay full restitution<sup>7</sup> to the University and ordered to serve 60 months probation.

On April 17, 2009, an Investigation Report was submitted to NSF recommending debarment of the employee for a period of three years.<sup>8</sup> On August 19, 2009, NSF sent a Notice of Proposed Debarment for a period of three years to the employee.<sup>9</sup> On November 17, 2009, NSF notified the former employee that she is debarred from receiving Federal financial and non-financial assistance until September 17, 2012.<sup>10</sup>

No further investigative efforts are required in this case.

Accordingly, this case is closed.

<sup>1</sup> [Redacted]

<sup>2</sup> Michelle Llosa.

<sup>3</sup> [Redacted]

<sup>4</sup> [Redacted]

<sup>5</sup> [Redacted]

<sup>6</sup> [Redacted]

<sup>7</sup> [Redacted]

<sup>8</sup> [Redacted]

<sup>8</sup> See Attached Investigation Report.

<sup>9</sup> See Attached Letter, "Notice of Proposed Debarment."

<sup>10</sup> See Attached Letter, "Debarment."

# National Science Foundation Office of Inspector General



Confidential  
Report of Investigation  
Case Number I07100044  
16 April 2009

This Confidential Report of Investigation is the property of the NSF OIG and may be disclosed outside NSF only by OIG under the Freedom of Information and Privacy Acts, 5 U.S.C. §§ 552, 552a.

## Executive Summary

- Allegation** [REDACTED] University ("University") reported that a former employee, Michelle Llosa, misused her University purchase card by making personal purchases and, subsequently, transferred funds from a University account and an NSF award account to cover the card balances. The employee also created a counterfeit, on-line purchase order directly charging the NSF award account in order to obtain a laptop and related equipment for her personal use.
- The Subject** Llosa was an Administrative Assistant III at the University's College of Education from July 11, 2005 until July 20, 2007.
- OIG Investigation** In October 2007, the University notified NSF OIG that its Office of Internal Audit had completed an investigation into Llosa's questionable purchase card (p-card) use and determined that, from October 2005 to June 2007, Llosa made personal purchases totaling \$24,405.96, of which approximately \$11,765.78 was ultimately charged to the NSF award, which the University restored.
- Prosecution** The University referred the matter to the [REDACTED] Prosecutor's Office, who accepted it for prosecution. On October 27, 2008, the Subject pled guilty to one criminal count of embezzlement. The Subject was sentenced on November 24, 2008 and ordered to pay full restitution of \$32,096.06: \$24,405.96 to the University's College of Education and \$7,691 to the University's Office of Internal Audit. The Subject was also ordered to serve 60 months (5 years) probation.
- OIG Assessment:** The Subject embezzled funds by illegally charging an NSF award for personal purchases she made with her p-card and by creating a counterfeit purchase order for a laptop, which she directly charged to the NSF award. None of the items, which were illicitly purchased, were legitimately related to the NSF award; all were for her personal use.
- OIG Recommends:** Pursuant to 2 C.F.R § 180 *et seq.*, and based upon the facts herein, OIG recommends that NSF debar the Subject for 3 years and prohibit the Subject from working with NSF grant funds for 3 years from the final disposition of this case.

## I. **OIG INVESTIGATION**

### A. **Factual Background**

In October 2007, ██████████ University (the University) notified NSF OIG that a former employee (the Subject),<sup>1</sup> an Administrative Assistant at the University, had used her University issued purchase card (p-card) to make illicit purchases. The University's Internal Audit Department issued a report in August 2007 which ultimately determined that the Subject had embezzled funds and improperly used her p-card. In total, the Subject was responsible for inappropriate purchases totaling over \$24,000, all for her personal use/benefit.<sup>2</sup> Approximately \$11,765.78 of the total amount was fraudulently charged to an NSF award.<sup>3</sup>

Through our investigation, we determined that, in October 2005, the Subject was issued a p-card in conjunction with her University-related duties. Prior to the activation of her p-card, she attended the University's required p-card training,<sup>4</sup> which covered the topic of prohibited purchases and explained the documentation standards for all p-card purchases.<sup>5</sup> After the training, on October 19, 2005, the Subject signed the University's "Purchasing Card Agreement" which states: "The cardholder may not make personal purchases with the Purchasing Card. The University will seek restitution for any inappropriate charges made to the Card. Fraudulent or Intentional misuse of the card will result in revocation and/or criminal charges."<sup>6</sup>

Although the Subject was required by University policy to submit p-card statements and supporting receipts to her immediate supervisor for review each month, the University's investigation determined that the Subject did not do so.<sup>7</sup> In addition, she also failed to retain any p-card statements, attach detailed itemized receipts to the statements, and review and sign the statements certifying that purchases were legitimate and not personal. Therefore, for almost 2 years, the Subject was able to embezzle funds and cover up her illicit scheme.

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<sup>1</sup> Michelle Llosa, Administrative Assistant, ██████████ University, College of Education.

<sup>2</sup> See TAB A, University Report, Exhibits 1, 3, 4, 8 and 9. Some of the vendors Llosa purchased personal items or services from included: Target, Macy's, DSW, JCPenny, Wal-Mart, Amoco Oil, Fashion Nails, T-mobile, Comcast of Lansing, Best Buy, FedEx, 1800 Flowers, as well as others.

<sup>3</sup> TAB D, NSF Award ██████████, See also TAB A, University Report, and Exhibit 4, regarding charges transferred to the NSF award.

<sup>4</sup> Llosa attended training on October 19, 2005. See TAB A, University Report, p.1 under section marked "Overview", also Exhibit 5-Purchasing Card Agreement signed by Llosa and Exhibit 6-Purchase Card Users Manual.

<sup>5</sup> Specifically the University requires: 1) detailed receipts be attached for each charge on the monthly statement, 2) the cardholder sign the statement to signify that all charges are authorized charges and 3) the statements be forwarded to the supervisor/manager for review and approval. See TAB A, University Report, p.1 and Exhibit 6-Purchasing Card Users Manual.

<sup>6</sup> See TAB A, Exhibit 5-Purchasing Card Agreement.

<sup>7</sup> When interviewed by the University, the supervisor indicated that she was not aware she was supposed to review and approve the p-card statements on a monthly basis. See TAB A, University Report p.1 under section marked "Overview". See also Section III(C), Item 11. "Organizational Action" of this ROI, infra, discussing new procedures implemented by the University to address its internal control failures. The University determined, and we concur, that the supervisor was not involved in the fraud.

Because the University had notified the local County prosecutor prior to notifying NSF OIG, the matter was prosecuted at the state level.

## **B. OIG Review and Assessment**

OIG reviewed the University's Internal Audit Report. Based on the records provided by the University, we determined that the Subject's first illicit purchase was made on January 24, 2006 – barely 3 months after receiving training and signing the University's "Purchasing Card Agreement."<sup>8</sup> From January 24, 2006 through June 23, 2007, the Subject continued to purchase items totaling over \$20,000 and charging them to her University-issued p-card. Furthermore, in order to hide her scheme, the Subject embezzled funds to pay the bills for her p-card, using University and NSF funds.<sup>9</sup> In June 2007, the Subject directly charged the NSF award fund in order to obtain almost \$2,000 worth of computer and related equipment.<sup>10</sup> Specifically, the Subject went online, created a counterfeit purchase order (using the NSF award codes) for a laptop computer and related equipment at the University's computer store, and took possession of the computer and related equipment.

Once the University determined that NSF funds had been improperly used, it restored the funds, a total of \$11,765.78 (which included indirect costs), to the NSF award account.

## **II. PROSECUTION**

The Subject plead guilty to one count criminal count of embezzlement,<sup>11</sup> and on November 24, 2008, she was sentenced to serve 60 months (5 years) probation and ordered to pay full restitution of \$24,405.96 to the University's College of Education and \$7,691 to the University's Office of Internal Audit.<sup>12</sup>

## **III. DEBARMENT**

### **A. Grounds for Debarment**

NSF may debar a person for "Conviction . . . for . . . Commission of embezzlement, theft . . . or . . . Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects [the person's] present responsibility . . ." <sup>13</sup> Consequently, OIG recommends that NSF debar the Subject for a period of 3 years. The Subject pled guilty to

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<sup>8</sup> A \$29.59 charge at a Sunaco gas station. See TAB A, Exhibit 1, p. 4.

<sup>9</sup> P-card statements for 3 months, September 2006 – November 2006, were charged against the NSF Award. See TAB A, Exhibit 4.

<sup>10</sup> Per receipt for Mac book and related equipment at TAB A, Exhibit 1, p. 9.

<sup>11</sup> Llosa was charged with 2 Criminal Counts of Embezzlement. [Count 1: Embezzlement – Agent or Trustee \$20,000 or More and Count 2: Embezzlement – Agent or Trustee \$1,000 or More But Less Than \$20,000.] But pled guilty to only Count 2. See TAB B, Felony Case Information and Sentencing Document.

<sup>12</sup> See TAB B, Felony Case Information and Sentencing Document.

<sup>13</sup> 2 C.F.R. § 180.800(a)(3) & (4).

a felony under state law<sup>14</sup> for “Embezzlement by an agent or trustee of \$1,000 or more but less than \$20,000,” and her conduct clearly indicates a lack of business integrity or business honesty that seriously and directly affects their individual present responsibility.

### **B. Burden of Proof**

In debarment actions, the burden of proof lies with NSF to demonstrate by a preponderance of the evidence that cause for debarment exists.<sup>15</sup> “If the proposed debarment is based upon a conviction or civil judgment, the standard of proof is met.”<sup>16</sup> Since the instant proposed debarment is based on the Subject’s conviction for embezzlement, the burden of proof is met.

### **C. Relevant Factors**

The debarment regulation lists 19 aggravating and mitigating factors that the debarring official may consider.<sup>17</sup> The following factors are pertinent to this case:

#### **1. Actual or Potential Harm or Impact<sup>18</sup>**

The Subject’s actions resulted in a financial loss to the University totaling \$24,405.96, of which \$11,765.78 was from NSF award funds. Because she was in a position of trust, the Subject was given a University p-card and by signing the University’s purchase card agreement, the subject agreed to abide by the University’s policies and practices. The Subject used her position of trust to improperly make personal charges to her p-card, then embezzle funds from NSF to hide her scheme. The Subject’s actions caused actual harm to NSF and to the public because she spent NSF award funds for personal and non-NSF award purposes, rather than for the intended public purposes.

#### **2. Frequency or Duration of Incidents<sup>19</sup>**

The Subject began misusing her p-card in January 2006, approximately 3 months after receiving it in October 2005, and continued to misuse it until June 2007. We estimate she misused her card on more than 200 separate occasions, and incurred costs over \$24,000. The Subject’s

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<sup>14</sup> See TAB B, Felony Case Information and Sentencing Document, as well as a copy of the [REDACTED] Penal Code. Specifically Llosa plead guilty to:

being an agent, servant, or employee of [REDACTED] University, [did] convert to his/her own use, without the consent of his/her principal, money, or personal property of his/her principal, having a value of \$1,000 or more but less than \$20,000, that came into the defendant’s possession or under the defendant’s charge or control by virtue of his/her relationship with the principal; contrary to MCL: 750.174(4) (a) [750.1744A]

<sup>15</sup> 2 C.F.R. § 180.850(a) & -.855.

<sup>16</sup> 2 C.F.R. § 180.850(b).

<sup>17</sup> 2 C.F.R. § 180.860.

<sup>18</sup> 2 C.F.R. § 180.860(a).

<sup>19</sup> 2 C.F.R. § 180.860(b).

actions extended over a 2-year period<sup>20</sup> during which she routinely failed to submit reports and receipts to her supervisor for review. Furthermore, she did not retain or reconcile monthly p-card statements or account/fund ledgers on a monthly basis and she removed all p-card statements and account/fund ledgers from the University to conceal the fraud and used her position of trust to hide her illicit scheme.<sup>21</sup>

### **3. Pattern of Wrongdoing<sup>22</sup>**

The Subject began making fraudulent charges within months of receiving her p-card, and continued to make fraudulent charges over a period of 2 years. Furthermore, she continually used her position of trust as a University Administrative Assistant to hide and ultimately pay the bills for the illicit purchases by transferring a portion of the charges to an NSF award account as well as to a University account to cover her expenditures. Through her actions she repeatedly and consistently used her knowledge of University policies and procedures to circumvent the very safeguards designed to prevent such wrongdoing. She also used her position of trust to create a false online purchase order, funded by the NSF award, in order to obtain a computer and related equipment for her personal use.

### **4. Prior exclusions<sup>23</sup>**

The University has no knowledge and we have not seen any evidence that the Subject has been previously excluded or disqualified by a federal agency, state or local government.

### **5. Role in Wrongdoing<sup>24</sup>**

For almost 2 years, the Subject planned, initiated, and carried out the wrongdoing. She used her University p-card to buy over \$24,000 worth of items for personal use, in violation of the University's p-card policy, a policy which she was required to review and sign prior to the activation of her p-card. In order to hide her scheme and to circumvent University safeguards designed to prevent misuse of p-cards: the Subject failed to properly submit reports and receipts and concealed her activity from her supervisor.<sup>25</sup> Furthermore, in order to hide the over \$24,000, which she spent on illicit personal purchases, she used her position of trust to distribute the illicit charges between accounts. Ultimately she charged the University and an NSF award account in order to pay the p-card bills.<sup>26</sup>

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<sup>20</sup> October 2005 - June 2007. See TAB A, University Report.

<sup>21</sup> See TAB A, University Report.

<sup>22</sup> 2 C.F.R. § 180.860(c).

<sup>23</sup> 2 C.F.R. § 180.860(d).

<sup>24</sup> 2 C.F.R. § 180.860(f).

<sup>25</sup> The fact that the supervisor failed to do her duty made Subject's concealment of her illegal activity easy. It does not alter Subject's culpability.

<sup>26</sup> See TAB A, University Report.

## **6. Acceptance of Responsibility<sup>27</sup>**

Although the Subject pled guilty after protracted negotiation with the county prosecutor, she does not appear to have fully accepted responsibility for her actions. It was only after she was questioned by the University auditors that she admitted to having misused her p-card. Even through the Subject told University officials that she wished to reimburse the University for the illicit expenditures, she never made any attempt to repay any of the funds. Furthermore, when asked to identify the extent of her wrong doing, the Subject under-reported the amount by 27 percent, identifying only \$17,827.16 in inappropriate charges,<sup>28</sup> rather than the \$24,405.96 identified by the University.

## **7. Repayment<sup>29</sup>**

As part of her sentence, the court ordered the Subject to make restitution of \$32,096.96: \$24,405.96 to the University's, College of Education and \$7,691 to University's Office of Internal Audit.<sup>30</sup> The University restored funds to the NSF award totaling \$11,765.78.<sup>31</sup>

## **8. Cooperation of the Subject<sup>32</sup>**

The Subject provided only minimal cooperation to the investigation. During the course of her wrong-doing, the Subject hid her actions by removing all fund ledgers and p-card statements from the University to conceal her illicit activity. The Subject did not provide these or other pertinent records to the auditors or assist in the investigation, thus causing the University to spend an inordinate amount of time, effort, and money to determine the full scope of the Subject's scheme.

## **9. Pervasiveness of Wrongdoing<sup>33</sup>**

In 2 previous NSF OIG cases<sup>34</sup> our recommendation to NSF has resulted in debarments of 3 years. We are unaware of any other University case similar in duration or scope. In general, the University's safeguards were successful in preventing such wrongdoing. It is only through her position of trust that the Subject was able to circumvent the policies and practices in place. Nonetheless, the University has initiated further internal controls and safeguards in its purchase card program as a result of this matter.

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<sup>27</sup> 2 C.F.R. § 180.860(g).

<sup>28</sup> See TAB A, Exhibit 2 – Personal and Prohibited Purchases, prepared by Michelle Llosa, and Exhibit 7 – Michelle Llosa's resignation letter.

<sup>29</sup> 2 C.F.R. § 180.860(h).

<sup>30</sup> See TAB B, Felony Case Information and Sentencing Document.

<sup>31</sup> See TAB C, Email notification and attachments regarding charges removed from NSF Award in June 2007.

<sup>32</sup> 2 C.F.R. § 180.860(i).

<sup>33</sup> 2 C.F.R. § 180.860(j).

<sup>34</sup> NSF OIG Case Numbers [REDACTED]

## **10. Position Held by Subjects<sup>35</sup>**

The Subject held a position of trust as an Administrative Assistant and was given a great deal of control over use of the p-card and data entry of transactions/purchases. She abused her authority in several ways – one by the illicit use of a University p-card, to facilitate the commission of her offenses and circumventing safeguards in place. Another, by creating a counterfeit purchase order for a laptop, which she retained for her personal use, and fraudulently charging it to the NSF award account. Furthermore, concealing her fraudulent activities by intentionally removing all p-card statements and account/fund ledgers.

## **11. Organizational Action<sup>36</sup>**

OIG has determined that the University has taken action to address the concerns raised as a result of this case. They have hired an Administrator to review all p-card purchases for questionable/irregular transactions. The University repaid NSF for all the fraudulent charges on the NSF award account.

## **IV. RECOMMENDATION**

Despite the Subject's sentence, she continues to possess the skills to be hired in positions administering federal awards, and given the amount of restitution she must repay, \$32,096.96, she is likely to seek future employment. In order to further protect the interests of the public and NSF, we recommend that NSF debar the Subject for 3 years following the disposition of this case.

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<sup>35</sup> 2 C.F.R. § 180.860(k).

<sup>36</sup> 2 C.F.R. § 180.860(l).

## Attachments

TAB A: University Report with Attached Exhibits.

TAB B: Felony Case Information and Sentencing Document along with a copy of the [REDACTED] Penal Code.

TAB C: Email Notice of Improper Charges removed from NSF Award in June 2007.

TAB D: Copy of NSF Award [REDACTED] documents from E-jacket.

NATIONAL SCIENCE FOUNDATION  
4201 WILSON BOULEVARD  
ARLINGTON, VIRGINIA 22230



OFFICE OF THE  
DEPUTY DIRECTOR

AUG 19 2009

**CERTIFIED MAIL --RETURN RECEIPT REQUESTED**

Michelle Llosa

*Re: Notice of Proposed Debarment*

Dear Ms. Llosa:

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 three years from the date of your release from prison. 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. In addition, you will be prohibited from receiving any Federal contracts or approved subcontracts under the Federal Acquisition Regulations ("FAR"). 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.

*Reason for Debarment*

Your debarment is based upon a referral from NSF's Office of Inspector General ("OIG"). NSF's record demonstrates that you pleaded guilty to one count of embezzlement for misconduct in which you engaged as an administrative assistant with [REDACTED] University's ("University") College of Education. You were sentenced to sixty months of probation. In addition, you were ordered to pay restitution in the amount of \$24,405.96 to the University's College of Education, and \$7,691.00 to the University's Internal Audit Department.

### *Regulatory Basis for Debarment*

Pursuant to 2 CFR 180.800, debarment may be imposed for:

(a) Conviction of or civil judgment for –

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(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice.

In any debarment action, the government must establish the cause for debarment by a preponderance of the evidence. 2 CFR 180.850. If, as in this case, the proposed debarment is based upon a conviction or civil judgment, the standard of proof is met. *Id.* Therefore, your conviction for embezzlement supports a cause for debarment under 2 CFR 180.800(a)(3).

### *Length of Debarment*

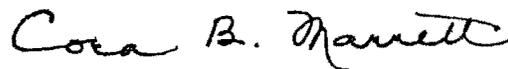
Debarment must be for a period commensurate with the seriousness of the causes upon which an individual's debarment is based. 2 CFR 180.865. Generally, a period of debarment should not exceed three years but, where circumstances warrant, a longer period may be imposed. *Id.* Having considered the seriousness of your actions, as well as the relevant aggravating and mitigating factors set forth in 2 CFR 180.860, we are proposing debarment for a period of three years.

### *Procedures Governing Proposed Debarment*

The provisions of 2 CFR Sections 180.800 through 180.885 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 proposed debarment. 2 CFR 180.815, 180.820. Please note, however, that because your debarment is based on a conviction, you will not have an opportunity to challenge the facts underlying the conviction. 2 CFR 180.830(a). 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,

A handwritten signature in cursive script that reads "Cora B. Marrett".

Cora B. Marrett  
Acting Deputy Director

Enclosures:  
Nonprocurement Debarment Regulations  
FAR Regulations

cc:

NATIONAL SCIENCE FOUNDATION  
4201 Wilson Boulevard  
ARLINGTON, VIRGINIA 22230

NOV 17 2009



OFFICE OF THE  
GENERAL COUNSEL

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Michelle Llosa

***Re: Debarment***

Dear Ms. Llosa:

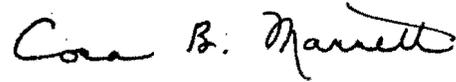
On September 17, 2009, the National Science Foundation (“NSF”) sent you a Notice of Proposed Debarment in which NSF proposed to debar you from directly or indirectly obtaining the benefits of Federal grants for three years. The Notice sets forth in detail the circumstances giving rise to NSF’s decision to propose your debarment. Specifically, NSF indicated in the Notice that the proposed debarment is based upon your conviction for embezzlement. In that Notice, NSF provided you with thirty days to respond to the proposed debarment.

Over thirty days have elapsed and NSF has not received a response. Accordingly, you are debarred until September 17, 2012. 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 2 CFR Section 180.135. 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. 2 CFR Section 180.170. 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, please contact [REDACTED] Assistant General Counsel, National Science Foundation, Office of the General Counsel, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia, 22230.

Sincerely,

A handwritten signature in cursive script that reads "Cora B. Marrett".

Cora B. Marrett  
Acting Deputy Director