

CLOSEOUT FOR M94120043

This case was brought to our attention by [REDACTED] a program director in the [REDACTED] Program in the Division of Atmospheric Sciences. The program had recommended declination of a proposal from [REDACTED] (Subject #1) of the [REDACTED] Department at [REDACTED] University. The proposal, [REDACTED], was entitled [REDACTED]. The program officer did not notice that one review raised substantial ethical and legal questions that, in keeping with NSF policy, should have been brought to the attention of OIG and should not have been considered as part of the merit review of the proposal. As a result, he included the review in question with the materials he distributed to panel members prior to the panel review of Subject #1's proposal and, after recommending that NSF decline the proposal, sent a copy of the review to Subject #1.

The review in question raised three issues suggesting possible misconduct in science or criminal activity: (1) were the subjects seeking duplicate funding for research that was simultaneously being proposed to NSF as part of a proposal to the Small Business Innovative Research program ([REDACTED], submitted by Dr. [REDACTED] [Subject #2] under the auspices of [REDACTED], [the company] and entitled [REDACTED])? (2) should the subjects have been more forthcoming about the relationship between the two proposals? (3) had Subject #1 made deliberately misleading misrepresentations of preliminary results in his proposal?

OIG examined the two proposals. We determined that there was extensive textual overlap between them, including overlap in the proposed work. We also determined that neither proposal made explicit reference to the other, but that Subject #2's proposal included Subject #1 as a consultant and made clear that it aimed to develop the commercial potential of Subject #1's research. Because the unacknowledged textual overlap raised the possibility of plagiarism, we wrote to the subjects seeking to determine who authored the overlapping text and under what circumstances it came to be included in both proposals.

With regard to the possibility that the subjects were seeking duplicate funding, OIG learned that, before either proposal was submitted to NSF, Subject #1 had discussed with the program officer

the possibility of submitting both a basic research proposal and a proposal to develop the commercial potential of his existing research findings. OIG decided that, having notified a responsible NSF official orally that two closely related proposals might be submitted to NSF, the subjects' failure to make a second written notification at the time of submission was not serious and could therefore not be considered misconduct. OIG concluded, however, that the subjects should have indicated in writing at the time the second proposal was submitted that an overlapping proposal had been submitted to another NSF program, and we wrote letters to the subjects and the company president expressing this view.

In Subject #1's reply to the reviews of his proposal that the program officer sent to him, the subject addressed the issue of whether his preliminary data were accurately represented. In response to doubts raised by the reviewer, the subject presented credible explanations for why his data appeared to be at variance with the findings of other scientists and for why he presented the data comparisons that he did. OIG concluded that there was no evidence that Subject #1 has misrepresented his data and that whatever differences in interpretation there might be between Subject #1 and the reviewer were instances of normal scientific dispute and were not evidence of misconduct.

Both subjects and the company president informed OIG that Subject #2's proposal was written after Subject #1's proposal and that Subject #1 had given permission for Subject #2 to incorporate material from the earlier proposal into the later one "as necessary." Because Subject #1 was a collaborator on Subject #2's project and had given permission for the incorporation of his own work in Subject #2's text, OIG determined that it was within the range of accepted practice for Subject #2 to incorporate this material without citation to the original source.

After the review containing allegations of misconduct was mistakenly sent to Subject #1, both he and the president of the company sent messages to the NSF program officer denying that they had acted improperly and protesting that the two proposals were significantly different from one another. Both also expressed concern that prejudicial statements alleging misconduct be removed from NSF program files. OIG explained to both of them that it is NSF policy to remove such material from program files and that that has now belatedly been done. From discussions with the program officers responsible for handling the two proposals and from an examination of the proposal reviews, OIG concluded that the program officers had ample reason to decline both proposals on their merits. Because we determined that the exclusion of inappropriate material from the review process would not have affected the program officers' recommendations, we chose not to recommend that NSF reconsider these proposals.

OIG concluded that there was no substance to concerns that the

subjects might have committed misconduct in this case. This inquiry is closed and no further action will be taken on this case.

Very truly yours,  
[Signature]