

# Investigations

## Civil and Criminal Investigations

### ***Former Professor Pleads Guilty***

On May 1, 2007, a former professor at a Tennessee university pled guilty to a federal felony charge of making a false statement under an NSF grant.<sup>15</sup> When the professor entered the guilty plea, she admitted to sending university employees to a different state to conduct an evaluation project in support of the professor's private consulting business. The evaluation project was separate from the professor's work under the NSF grant at the university, and she was paid consulting fees separate from her university salary.

The university employees were not aware that this work was not part of their regular duties related to the NSF grant, and they submitted the travel claims to the professor. The professor presented the travel claims to the university for reimbursement under the NSF grant, knowing that the work was unrelated to the NSF grant. The professor also admitted that the false statements and other conduct caused a loss of between \$10,000 and \$30,000 and that she abused a position of trust as Principal Investigator (PI) on the NSF grant and center director at the university.

On July 30, 2007, the professor was sentenced to six months home confinement and 2 years probation, and ordered to pay restitution of \$25,598.

### ***Former Research Center Employee Sentenced to Prison for Mail Fraud***

As reported in a previous Semiannual Report,<sup>16</sup> a former employee of an NSF-funded research center pled guilty to one count of mail fraud, in response to an indictment charging the former employee with seven counts of mail fraud. On June 25, 2007, the former employee was sentenced in U.S. District Court to 16 months in prison, 3 years of supervised release, payment of restitution of \$18,214.15, and payment of a special assessment of \$100. We referred the outcome of this investigation to NSF with a recommendation that the subject be debarred for a period of 5 years because she abused

<sup>15</sup> The professor entered the plea in the U.S. District Court for the Middle District of Tennessee in response to a superseding information charging the professor with violation of 18 U.S.C. § 1001. The superseding information replaced a September 2006 indictment for one count of wire fraud and one count of mail fraud, as reported previously. September 2006 Semiannual Report, p.32.

<sup>16</sup> March 2007 Semiannual Report, p.30.

## HIGHLIGHTS

Civil & Criminal Investigations	25
Administrative Investigations	29
Other Matters	37

her position of trust and could readily obtain the same type of employment elsewhere, as well as the fact that her actions were intended solely for her personal financial gain. NSF's decision is pending.

### ***SBIR Phase II Grant Obtained Under False Pretenses is Terminated***

We received a complaint that a PI and small business owner may have wrongfully received a Phase II grant from NSF's Small Business Innovation Research (SBIR) Program. The PI had been an officer and shareholder of the company that received the Phase I grant, but started her own company. Only a Phase I grantee (or an affiliate or successor) is eligible to receive a Phase II SBIR grant.

The PI submitted the Phase II proposal under the name of the original company (Phase I grantee), and listed herself as both PI and Authorized Organizational Representative (AOR). During the Phase II grant process, the PI, as AOR for the original company, told NSF that a "spin-off" company had been formed, and the Phase II research could only be conducted by the "spin-off"<sup>17</sup> company and not at the original Phase I company. Based on the PI's representations as AOR for the original company, NSF accepted the change in grant entity from the original company to the PI's new company.

NSF requested investigative assistance after the President of the original company inquired about the Phase II SBIR grant. Our investigation found that the PI's new company was not an affiliate, or "spin-off," of the original company because the other officers were not aware that the PI negotiated the change of grant entity with NSF and did not approve the transfer of the Phase II grant to the new company. Based on the PI's misrepresentations, NSF terminated the grant to the PI's new company, thereby making \$274,999 available for other purposes. We referred the case to the Department of Justice, which declined to prosecute in lieu of strong administrative action by NSF.

### ***Explicit Material Discovered on NSF Employee's Computer***

We received information that an NSF employee's computer contained inappropriate material. The employee's hard drive was turned over to OIG in order to perform a computer forensic analysis. Our analysis found over 8,000 inappropriate, sexually-explicit images, videos, and movie files. We determined that the employee had been accessing inappropriate web sites and downloading sexually explicit material onto his NSF computer during work hours. The employee violated NSF's policy regarding the personal use of NSF's communication resources by accessing, viewing, and downloading the sexually explicit material onto his NSF computer. We interviewed the employee and he acknowledged the inappropriate behavior. We referred this matter to NSF for action, and the employee's supervisor issued a counseling letter that was not placed in the employee's personnel file. The employee was subsequently terminated from his position for other reasons.

<sup>17</sup> A "spin-off" occurs when a parent company transfers some of its assets to establish a separate company, and distributes the stock of the new company among the parent company's stockholders.

### ***Investigation Identifies \$78,637 to Be Put to Better Use***

During the course of an investigation, we identified \$78,637 to be put to better use at an Alaskan university. We received an anonymous allegation that the PI was using NSF funds to pay for travel unrelated to two NSF grants. We reviewed the documentation and identified \$78,637 of participant support costs, travel expenses, and indirect costs inappropriately charged to the two grants. The university credited the funds back to the grants, and they will be available for proper expenditures. While there was a problematic use of NSF grant funds, we determined that the allegation about travel abuse was not substantiated.

### ***Material False Statements in a Proposal Resulted in Suspension of Grant and Referral to NSF for Administrative Action***

We received a complaint that the executive director of an education-oriented research firm made false statements in an NSF proposal, and was awarded over \$2 million, in reliance in part on the false statements. Our investigation revealed that the firm submitted an altered letter of support to demonstrate a collaboration that it did not have. In response to our recommendation, NSF suspended the grant during the course of the investigation. After a financial analysis, the U.S. Attorney's Office for the District of Massachusetts declined this case in lieu of strong administrative action by NSF. We referred this matter to NSF with a recommendation that the grant be terminated and the executive director be debarred for a period of 5 years. NSF's decision is pending.

### ***PI Repeatedly Falsifies Grant Project Reports***

OIG Investigations received a referral from our Office of Audit regarding material inaccuracies in a final report project for an NSF grant awarded to a university in Pennsylvania. The purpose of the grant was to facilitate collaboration between the PI and a foreign scientist. The NSF program manager told us he rejected the PI's final report because the foreign scientist told him (1) he did not know he was listed on the PI's grant as a collaborator; and (2) he had not even heard from the PI, much less collaborated with him.

The PI then submitted a revised final report which did not list the foreign scientist as a collaborator. When we first interviewed the PI, he insisted he collaborated with the foreign scientist, but he was unable to produce any evidence of collaboration. The PI asserted that he made an attempt to collaborate with the foreign scientist through the foreign scientist's supervisor, but due to restrictions on foreign travel after 9/11/2001, the foreign scientist was unable to visit. The foreign scientist said the person the PI indicated had never been his supervisor, and that person also did not recall receiving an invitation from the PI.

Because the PI made false statements to NSF in the final project reports and his statement to us, we referred the matter to the Department of Justice. It declined to prosecute in lieu of administrative action by NSF. The PI's home institution returned \$6,720, the funds designated as Participant Support, and prohibited the PI from serving as PI or co-PI on any federal grant. We recommended the Director debar the PI for 3 years. A final decision is pending.

## ***Compliance Plan Oversight Efforts***

OIG investigations of civil and criminal fraud committed against NSF by institutions, universities, public school systems, or corporations are frequently resolved through the offices of United States Attorneys. Terms of sentences and/or settlement agreements typically include the requirement for mandatory Compliance Agreements, based generally upon the principles of the United States Sentencing Commission's Federal Sentencing Guidelines.<sup>18</sup> The Compliance Agreements include the establishment of reasonable compliance standards and procedures; identification of specific high-level personnel responsible for the program; exercise of due care in assignments with substantial discretionary authority; effective communication of standards and procedures; establishment of monitoring, auditing, and reporting systems; consistent enforcement of standards; and a system to respond appropriately to violations. Most such agreements run for 5 years.



Ginna Ingram poses with colleagues who contributed to her article on compliance programs published in the most recent *Journal of Public Inquiry*.

For the duration of such agreements, OIG staff members work in conjunction with NSF personnel to monitor and oversee the implementation of the required actions. The goal is the establishment of processes and structures at the institution to protect federal NSF funds. We hope and expect that these compliance programs, although imposed as a result of civil or criminal settlements, will lead to a more compliance-oriented environment and will contribute to enhanced operational integrity.

Though the majority of parties subject to such agreements have embraced them as a means of improving their compliance efforts and fostering ethics and integrity, one university was found to be in breach of the agreement for failing to provide a required annual audit. OIG and NSF contacted the university and determined that no effort had been made to conduct the required audit. The university was then found to be in breach of the agreement. The university, already on NSF's list of high-risk organizations, was at risk of losing all NSF funds. The audit was subsequently conducted and the university assured OIG and NSF that the problem will not be repeated with this year's annual audit.

<sup>18</sup> U.S.S.G. §§ 8B2.1, 8C2.5(f), & 8D1.4(c)(1).

## Administrative Investigations

### Actions by NSF Management

#### ***NSF Proposes to Debar a PI for Five Years***

In our last Semiannual Report,<sup>19</sup> we discussed the civil settlement of a False Claims Act case between the Department of Justice and an institution resulting from its wrongful drawdown and expenditure of over \$27,000 in NSF funds after an NSF grant had expired. This settlement resulted in a recovery of over \$52,000.

On August 22, 2007, NSF issued a Notice of Proposed Debarment for a period of five years against the individual responsible for the wrongful drawdown because of the gravity of the misconduct. This is only the third time in its history that NSF has proposed a 5-year debarment. The subject may file an appeal within 30 days of the Notice or the debarment will become final.

#### ***Professor Reviews Proposal for NSF, Then Plagiarizes From It Into His Own Proposal***

Our inquiry into a significant allegation of plagiarism confirmed that a proposal by a professor at an Oregon university contained extensive sections of text and multiple figures duplicated from an earlier proposal that NSF had asked the professor to review. After the professor did not respond to our request for an explanation, we referred the investigation to the university.

The university investigation revealed that the professor kept a copy of the NSF proposal that he had been asked to review, and then re-used text and figures from that proposal in his own proposal, without permission and without attribution. The professor claimed that he did not recognize that the text and figures were not his own, and that his actions were unintentional. However, the university concluded that his actions were intentional, violated academic standards of scholarship, and that his plagiarism was therefore an act of research misconduct. The university prohibited the subject from submitting external proposals for 3 years, required 2 years of subsequent official prior review of any external proposals submitted, and placed a letter of reprimand in the professor's personnel file.

We agreed with the university's conclusions. Based on our recommendations, NSF: made a finding of research misconduct; sent a letter of reprimand to the professor; proposed that the professor be debarred from receiving federal funds for a period of 3 years; required that a responsible official submit assurances to NSF OIG for a period of 3 years after debarment; prohibited the professor, for a period of 3 years, from serving as a peer reviewer of proposals; and required that the professor provide certification to NSF OIG that he has attended an ethics training class.

<sup>19</sup> March 2007 Semiannual Report, p.29.

## ***Deputy Director Finds Research Misconduct in Plagiarism Cases***

NSF's Deputy Director made research misconduct findings in several cases we forwarded to her office:

- Our most recent Semiannual Report<sup>20</sup> summarized an egregious case of a New York university professor who plagiarized extensive amounts of text and figures into three proposals submitted to NSF. Consistent with our recommendations, the NSF Deputy Director made a finding of research misconduct; debarred the professor for 3 years from receiving federal funds; prohibited the professor from serving as a reviewer, consultant, or advisor for NSF, and from having responsibility for any other agreements with the federal government; and required that, for 3 years following the period of debarment, the professor certify, and a responsible official of his employer provide an assurance, that any NSF proposals or reports submitted do not contain plagiarized, falsified, or fabricated material. The professor appealed these actions to the NSF Deputy Director, who upheld the actions taken. The professor then appealed to the NSF Director, who also upheld the actions stating the debarment was necessary to “protect the interests of the Federal government.”
- A second professor from a New York university plagiarized extensive text from multiple sources into a proposal submitted to NSF, and into two concurrent research publications acknowledging NSF support.<sup>21</sup> In his defense, the professor claimed that a post-doctoral researcher provided the plagiarized text; however, the institution's investigation proved he was solely responsible. Consistent with our recommendations, NSF made a finding of research misconduct; proposed that the professor be debarred from receiving federal funds for a period of 2 years; prohibited the professor from serving as a reviewer of NSF proposals for 2 years; required, for a period of 2 years after the debarment period, that the professor certify that proposals or reports submitted to NSF do not contain plagiarized, falsified, or fabricated material; required, for a period of 2 years after the debarment period, that the professor submit assurances by a responsible official of his employer that any proposals or reports submitted to NSF do not contain plagiarized, falsified or fabricated material; and required that the professor complete an ethics training course on plagiarism.
- An institution concluded that the PI's act of plagiarizing into four proposals was part of a “pattern of behavior and manifest serious ethical shortcomings.” NSF agreed with our recommendations to make a finding of research misconduct against the PI.<sup>22</sup> For the next 2 years, the PI is required to personally certify and to also obtain assurances from his supervisor that any proposals he submits to NSF does not contain any plagiarized, falsified, or fabricated material. He must also attend a research ethics course within 8 months and provide a certification of attendance and a copy of the course syllabus to OIG.

<sup>20</sup> March 2007 Semiannual Report, p.34.

<sup>21</sup> March 2007 Semiannual Report, p.34.

<sup>22</sup> March 2007 Semiannual Report, p.35-36.

- A Texas university professor resigned from his tenure-track position after a university investigation concluded that he had plagiarized text into CAREER proposals submitted to NSF.<sup>23</sup> In addition, the institution determined that the professor displayed a pattern of plagiarism by copying text into proposals submitted to other agencies. Consistent with our recommendations, NSF made a finding of research misconduct, required the professor to attend a course on research ethics, and, for a period of 2 years from the date of the finding, required the professor to certify that any proposals that he submits to NSF do not contain any plagiarized, falsified, or fabricated materials.
- Finally, as noted in our March 2007 Semiannual Report,<sup>24</sup> we recommended NSF make a finding of research misconduct, specifically plagiarism, against a co-PI. We also recommended NSF require a certification from the co-PI for 1 year stating nothing she submits to NSF violates NSF's research misconduct regulation. The Deputy Director agreed with our recommendations and implemented them.

## Reports Forwarded to NSF Management

### ***Student Claims "Laziness" Caused Him to Fabricate/Falsify Data in Four Manuscripts***

In the most serious case of student misconduct our office has ever investigated, a graduate student at a Washington university admitted he falsified and fabricated NSF-funded research data in four manuscripts, three of which were published. Our office received the allegation following the university's inquiry. During the investigation, the student admitted he falsified and fabricated the data because of "a combination of lack of motivation, laziness and a lack of interest in the work (especially experiments)."

The university's investigation committee found that a preponderance of the evidence proved that the subject intentionally fabricated and falsified data. The university made a finding of research misconduct, dismissed the student from the university, and revoked his master's degree. The university also encouraged the removal of the publications from the co-authors' websites, retraction of the affected publications, and education of the university community about scientific misconduct.

We concurred with the university's findings and we have recommended that NSF: make a finding of research misconduct; send the subject a letter of reprimand; debar him for 3 years, require both certifications and assurances for 3 years following debarment, and bar the subject from serving as an NSF reviewer for 3 years.

### ***Post-Doctoral Researcher Falsifies Data***

A Pennsylvania university notified us it was conducting an investigation into an allegation of data falsification. The investigation focused on a figure in a paper, whose lead author was a post-doctoral researcher (the subject) working

<sup>23</sup> September 2006 Semiannual Report, p.39.

<sup>24</sup> March 2007 Semiannual Report, p.35.

in an NSF-supported PI's laboratory. When the questionable figure was initially brought to the PI's attention, she asked the subject to provide the raw data for review. The subject provided neither the raw data nor a suitable explanation. Subsequently, the PI asked the subject to leave her group and asked another researcher to review the subject's lab computer files related to the figure. None of the data files on the lab computer supported the behavior depicted in the figure. Instead, the researcher found a command file from the subject's plotting software that purportedly showed how the figure was created by manipulating existing data.

During his interview with the investigation committee, the subject agreed the data appeared falsified, but he denied any wrongdoing. He told the committee he prepared the first draft of the manuscript and the figure in question. The committee found none of the subject's data supported the figure as portrayed in the paper. In his defense, the subject alleged that the true data files had been deleted from the computer. However, no evidence could be found to support his assertion.

The committee found a preponderance of the evidence supported the conclusion that the subject falsified the figure, that it was done intentionally, and the falsification was a significant departure from the accepted practices in the physics community. The university's adjudicator reviewed the documentation and accepted the finding of the committee. Since the subject is no longer at the university, it took no action.

We concurred with the university's conclusion and concluded the subject's falsification was research misconduct. We recommended NSF take the following actions: send a letter of reprimand to the subject; debar the subject for 2 years; require certifications from the subject and his supervisor for 2 years after the debarment that his submissions to NSF are in compliance with NSF's research misconduct policy; require the subject to provide proof of the retraction of the published paper; and require the subject to attend an ethics class and provide a copy of the training material.

### ***PI Copied Significant Text, Tries to Blame Post-Doc***

We investigated an allegation of plagiarism in a proposal submitted from a New Mexico university. We found significant text and two figures copied from multiple sources, with copied material in nearly every section of the proposal. The proposal listed a PI and two co-PIs, all from different universities. We wrote each subject asking for an explanation and the two co-PIs responded saying the PI was responsible for the copied text.

In telephone discussions with the PI, he claimed that his former post-doctoral researcher prepared most of the material for a report submitted to a state agency. He said he incorporated material from that document into his proposal without checking whether it was properly referenced.

At that point, we referred the matter to the subject's university for investigation. The university committee contacted the post-doc, who refuted the subject's claims and admitted only limited writing, amounting to one paragraph and



material incorporated from one co-PI's paper (which included one figure). The committee decided not to dwell on the details of who wrote the text, but recognized that the subject, as the signatory to the NSF proposal, is responsible for the material contained in it and, accordingly, committed plagiarism.

The committee recommended the following sanctions: for 1 year, the subject is prohibited from submitting proposals as the sole PI (he must name a collaborator from the university as PI); for 3 years, the subject's proposals must be reviewed by two senior researchers before submission to a sponsor; and the subject must instruct new faculty members enrolled in the university's PI certification course on the seriousness of plagiarism and on the techniques to check their work. These recommendations were accepted by the university adjudicator as well as the subject.

We reviewed two of the subject's prior NSF proposals for plagiarism, one submitted before our inquiry began and one afterward. The proposal submitted before our inquiry began had smaller amounts of text copied from several sources. We concluded there was evidence of a pattern of plagiarism. We recommended that NSF: send the subject a letter of reprimand informing him NSF is making a finding of research misconduct; debar him for 1 year; require him to submit assurances by a responsible official of the University that any proposals he submits do not contain plagiarized, falsified, or fabricated material for 3 years require certifications from the subject for 3 years that all documents he submits to NSF are either his original work or are properly cited; and require the subject to take an ethics course and provide a copy of the training materials to us. A decision regarding this matter is pending.

### ***Professor Plagiarizes in Four NSF Proposals***

An investigation revealed that four proposals submitted to NSF by a Michigan university professor contained plagiarism. We initially received an allegation that two of the professor's NSF proposals contained plagiarism. The university investigated and found that the professor knowingly committed significant plagiarism in a total of four NSF proposals, as well as small amounts of plagiarism in numerous proposals he submitted to other funding entities. The university froze the professor's salary for 2 years, required him to receive and provide training on academic integrity, and required him to provide certifications to his department chair for 1 year that proposals he submits are free of plagiarism.

All of the professor's plagiarism was derived from sources available on the internet. In both his initial response to us and in his testimony in the university's investigation, the professor explained his view that material that he found on the internet, or that he considered to be common knowledge, or that did not contain technical content, did not warrant distinction and citation. He also perceived plagiarism to embrace only the misappropriation of someone else's ideas, as opposed to words that he viewed as conveying no significant ideas. However, in the course of our review of the university's investigation, the professor told us that he is now aware of and embraces the scholarly community's standards for quotation and attribution, and he has changed his practices appropriately.

We concluded that the professor knowingly copied a significant quantity of text and two figures in his four NSF proposals. We recommended that NSF's Deputy Director: send a letter of reprimand to the professor informing him that NSF has made a finding of research misconduct; require him to certify and obtain supervisory assurance that each proposal and report he submits to NSF does not contain plagiarized, falsified, or fabricated material for 3 years after the date of the finding of research misconduct; and require him to submit proof that he completed a research ethics course within 1 year of the finding of research misconduct. NSF's decision is pending.

### ***PI Plagiarizes in Four NSF Proposals***

Our investigation concluded that a PI at a Massachusetts university plagiarized text from several source documents into four NSF proposals, two of which were funded. As part of our initial review, the PI described the copied text as definitions or facts, all of which appeared in the background sections of the proposals. The PI claimed there was no intent on his part to omit any acknowledgments.

We did not accept his explanations, and referred the investigation to his institution. The institution's investigation committee concluded that in addition to plagiarized text in the three earlier proposals, the PI also plagiarized text in a fourth proposal, his most recent submission to NSF. The committee concluded the PI committed research misconduct and recommended the PI: receive a letter of censure; get appropriate training and education in this matter; provide certification and assurances for 2 years to the chair of his department that his proposals and reports follow accepted practices; and develop, implement, and deliver a presentation to new faculty on the acceptable practices in citing the work of others. The institution's adjudicator endorsed the finding and recommendations of the committee.

We concurred with the university's conclusion that the PI committed research misconduct. We recommended that NSF: send a letter of reprimand to the PI informing him that NSF has made a finding of research misconduct; for 3 years after the debarment, require him to certify and obtain supervisor assurance that proposals he submits to NSF do not contain plagiarized, falsified, or fabricated material; bar him from serving as a peer reviewer of NSF proposals for 2 years; and direct him to attend a course in research ethics. We await the Deputy Director's decision regarding this matter.

### ***University Holds PI and Two Co-PIs Accountable for Plagiarized Text***

A Wisconsin university held a PI and two co-PIs responsible for plagiarized material inserted into an NSF proposal by just one of the co-PIs. We determined that a proposal submitted to NSF by a university in Wisconsin contained text copied from multiple sources. We wrote separately to the PI and two co-PIs, who responded jointly that they were taking the allegation seriously—and they had referred the matter to the university. They stated some of the copied text was probably appropriate as it was in the public domain. However, they also acknowledged the inadequacy of citations in the literature review. The questioned

text was prepared by one of the co-PIs (the subject), a research associate, but the PI and other co-PI said they did not provide enough supervision during the preparation of the proposal.

In the interviews with the university's investigation committee, all three agreed that parts of the literature review in the NSF proposal were not correctly cited. The subject took responsibility for the copied text. The PI and co-PIs, in support of their belief that some of the text was in the public domain, referenced a CDC website stating "materials produced by federal agencies are in the public domain and may be reproduced without permission." The committee concluded that neither the concept of public domain nor the idea that content can be reproduced without permission implies that text written by another person can be copied without attribution.

The committee concluded this was a clear case of plagiarism and suggested the university require for 1 year that grant applications from the three investigators be certified by a committee of researchers. The university's adjudicator determined the act constituted plagiarism and all three subjects were responsible for the content of the grant proposal. The adjudicator accepted the committee's recommendation and concluded that all three investigators committed research misconduct.

We believe that the university's actions were appropriate and reflected high academic standards in holding the subject, the PI, and the co-PI all accountable for the contents of their proposal. However, we concurred with the university's assessment that the PI and the co-PI acted negligently (carelessly), which does not meet the threshold for a finding of research misconduct under NSF's regulation. We also concurred with the university that a preponderance of evidence proves the subject's action was a significant departure from accepted practices.

We recommended that NSF send a letter of reprimand to the subject informing him he has been found to have committed research misconduct. Since the subject will have his grant proposals certified by a university-appointed committee of researchers for 1 year, we recommended that NSF require the subject to provide a copy of the committee's certification for 1 year. In addition, we recommended that NSF: require the subject to provide a certification that nothing he submits to NSF for a period of 1 year violates its research misconduct regulation; and require the subject to take an ethics class to better learn about ethical issues and scholarly standards regarding plagiarism.

## Plagiarism On the Increase

Serious allegations of plagiarism received by OIG have been on the rise for the past several years. NSF takes plagiarism seriously, as illustrated by the agency's Proposal and Award Policies and Procedures Guide (PAPPG), where for two decades it has stated:

*NSF expects strict adherence to the rules of proper scholarship and attribution. The responsibility for proper attribution and citation rests with authors of a proposal; all parts of the proposal should be prepared with equal care for this concern. Authors other than the PI (or any co-PI) should be named and acknowledged. Serious failure to adhere to such standards can result in findings of research misconduct.<sup>25</sup>*

Subjects of our plagiarism investigations often express the belief that NSF proposals are not held to the same standards as journal publications. However, NSF's PAPPG and its predecessors are very clear regarding the agency's expectation for proper citation to any reference materials used in the development of a proposal. This expectation extends to the use of reference materials from electronic web sites.

In recent years we have also seen an increase in the number of subjects who blame graduate students for plagiarized material in their proposals. Subjects claim they asked their graduate students to provide background summary material and then use that material directly in their proposal. In a number of these investigations, the graduate student had left the university and there was no documentation to prove a student ever provided the material. In these cases, professors have been held accountable for the plagiarism in their proposal.

If NSF believes that plagiarism is serious enough to warrant a finding of research misconduct, the consequences can be significant. Agency actions against a researcher can include a letter of reprimand, request for certifications from the researcher on future submissions, requests for assurances from the researchers Dean or Department Chair regarding future submissions, and debarment in the most egregious cases. Researchers should take great care when developing proposals, and especially when using summary materials provided by a graduate student or colleague. Each proposal's PI and any co-PIs are personally responsible for the content of that proposal and its adherence to the highest scholarly standards.

<sup>25</sup> NSF 07-140 at I-4. The language has changed little since it first appeared in the 1987 revision of Grants for Research and Education in Science and Engineering, NSF 83-57.

## Other Matters

### ***NSF Agrees to Enhance Oversight of Cost Sharing Compliance***

In October 2004, the National Science Foundation changed its policy to eliminate cost sharing requirements imposed by NSF programs. The change in policy applied only to new solicitations, and did not affect prior or subsequent awards that promised cost-sharing contributions, even when not required to by a solicitation.

Having promised cost sharing, awardees are required to: meet their cost sharing commitments; maintain records of their contributions; and, if the total cost sharing commitment is \$500,000 or more, provide annual and final certifications of the amount of cost sharing provided. Because several recent investigations revealed significant failures to meet cost sharing commitments, we conducted a review of grantees' compliance with cost sharing reporting requirements, as well as NSF's oversight of those reports. While most awardees were meeting their cost sharing commitments, 24 of the 85 awards we reviewed had cumulative shortfalls ranging from approximately \$44,000 to nearly \$1.8 million. Numerous awards were missing cost sharing reports, or the reports contained inconsistent information.

The failure of awardees to provide clear information demonstrating that they were meeting their cost sharing obligations *shouldn't* raise a policy or procedural issue, because procedures are already in place to ensure that the NSF program officer reviews the information provided and takes action when necessary. However, our review indicates that those procedures are not always being followed. In fact, the extent of the missing reports and documented shortfalls was notable because for each of these awards the program officer and division director approved additional incremental funding despite inadequate documentation of cost sharing compliance. We investigated each incident to determine whether disparities in reporting and compliance reflect false statements or claims by certain awardees.

Under NSF's revised cost sharing policy, relatively few new awards involve cost sharing obligations, but those obligations should be met. We recommended that NSF develop an initiative to require program officers to review the cost sharing information provided by awardees carefully, take action when cost sharing commitments fall short, and ensure that in no circumstances will an awardee be provided further funding under an award when it has failed to provide the required information and certifications. NSF accepted our recommendation and implemented steps to ensure compliance with cost sharing obligations.



OIG summer interns celebrate an award to colleague John Merkel with Dr. Boesz and Bill Kilgallin.

The National Science Board has been asked to report to Congress on the impact of its policy to eliminate cost sharing. The response taken by NSF to our recommendation in this matter will help ensure that the cost sharing requirements in place for any current and future awards will be enforced.

### ***Antideficiency Act Investigation Leads to Management Recommendations***

We received an allegation that NSF had been conducting an internal investigation into a possible Antideficiency Act violation, a matter within our investigative purview.<sup>26</sup> We found that NSF had actually been processing a negotiated settlement of a contract claim received in fiscal year (FY) 2007 for FY 2006 contract costs, and that the claim created the potential for a violation of the Act, depending on the availability of FY 2006 funds and the validity of the claim.

NSF ultimately negotiated a 50% reduction in the costs as part of a proposed settlement of the contract claim, and eventually determined that sufficient FY 2006 funds to pay the negotiated settlement could be obtained by deobligating funds not spent under other contracts, and paid the claim using those funds. Thus, no violation of the Act occurred.

In the course of the investigation, OIG noted certain aspects of NSF's contracting and budget functions that warrant further evaluation by NSF. First, OIG recommended that NSF develop better policies for managing the risk of simple human error in reviewing and analyzing financial documents in routine contracting transactions, and incorporate those policies into its Contracting Oversight Program.

Second, because of the substantial responsibility placed on COTRs and the lack of useful reference materials, OIG recommended that NSF accelerate publication of a planned COTR handbook, noting that a well-trained COTR can and should function as an important management control.

Third, NSF did not appear to review the available universe of contracts and other sources of FY 2006 funds for available excess funds to pay this claim for at least 8 months after the potential appropriation deficiency became known. NSF's delay was in part an effort to reserve funds to pay for indirect-rate adjustments and other unanticipated charges. The contractor's claim, in combination with NSF's delay in resolving the claim, gave rise to the allegation we investigated. OIG therefore recommended that NSF review its procedures for responding timely to potential appropriation deficiencies.

---

<sup>26</sup> The Antideficiency Act provides that government employees may not obligate or spend more government funds than Congress provides to agencies, or make purchases or contracts before funds are made available by Congress. Violations of the Act must be reported to the President, Congress, and the Comptroller General, and violators are subject to civil and criminal penalties.