



NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

Case Number: A14120068

Page 1 of 1

A University informed us it had investigated an allegation that one of its faculty violated the confidentiality of NSF's merit review process. During the University's inquiry, the reviewer (the subject) admitted he shared NSF proposals with his staff without seeking the requisite permission from NSF's Program Manager. We concurred with the University that the subject violated NSF's confidentiality rules. Accordingly, we recommend NSF find the subject violated NSF's confidentiality rules for panelists and take an additional action. NSF made a finding and prohibited the subject from serving as a reviewer, advisor, or consultant for NSF for three years. Accordingly, this case is closed with no further action taken. This memorandum, NSF's adjudication, and OIG's report of investigation compose the closeout.

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

JUN 05 2015



OFFICE OF THE
DIRECTOR

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

[REDACTED]

Re: Letter of Reprimand: Violation of National Science Foundation Confidentiality Rules

Dear Dr. [REDACTED]

The National Science Foundation (NSF) ensures that proposals submitted for taxpayer funding are reviewed in a fair, competitive, transparent and in-depth manner through its merit review process. NSF's rules regarding confidentiality in the merit review process are absolutely critical to maintaining the integrity of that process.

While serving as a NSF panelist, you violated NSF's confidentiality rules by disclosing NSF proposals in contravention of your explicit agreement not to share them. The details of your violation are set forth in the attached Report of Investigation of the NSF Office of Inspector General.

In light of this violation, you are barred from participating as a panelist, advisor or consultant for NSF for a period of three years from the date of this letter.

Should you have any questions about the foregoing, please contact Peggy Hoyle, Deputy General Counsel, at (703) 292-8060.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard O. Buckius".

Richard O. Buckius
Chief Operating Officer

Sensitive

National Science Foundation Office of Inspector General



Report of Investigation Case Number A14120068

February 19, 2015

**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

A reviewer's University received an allegation of a violation of the confidentiality of NSF's merit review process. It conducted an inquiry, during which the reviewer admitted he shared copies of proposals with his staff without seeking the requisite permission from NSF's Program Manager. We concur with the University that the subject violated NSF's confidentiality rules. Accordingly, we recommend NSF send a letter of reprimand to the subject notifying him that NSF has made a finding that he violated NSF's confidentiality rules for panelists and prohibit him from serving as a reviewer for one year.

The University's Inquiry

The University¹ notified OIG that it had conducted an Inquiry into an allegation of professional misconduct—violation of the confidentiality of NSF's merit review process, as codified in NSF's Form 1230P, when serving as a panelist in November 2012.² Specifically, the Subject³ allegedly provided a copy of the panel's proposals to two of his staff without seeking requisite permission from the NSF Program Manager⁴ and then allowed them to listen to the panel deliberations without informing the program manager or the other panelists.

The University assigned two senior administrators to serve as an Inquiry Committee (IC).⁵ During its inquiry, the IC interviewed the Subject and one of the staff members.⁶ The IC determined that two years ago, the Subject told two members of his staff they would have to work on a weekend reviewing and ranking proposals for an NSF panel on which he was participating. To accomplish this, the Subject shared confidential NSF proposals with his staff, but without seeking the required prior permission from NSF. In his interview, the Subject acknowledged he had signed NSF's confidentiality agreement and said he now considered his action to be a violation of that agreement, although it did not occur to him at the time that it was.⁷ The Subject denied allowing the two staffers to listen in on the panel

¹ [REDACTED]

² The relevant section of NSF Form 1230P states:

3. Your Obligation to Maintain the Confidentiality of Proposals and Applicants.

The Foundation receives proposals in confidence and protects the confidentiality of their contents. For this reason, you must not copy, quote, or otherwise use or disclose to anyone, including your graduate students or post-doctoral or research associates, any material from any proposal you are asked to review. If you believe a colleague can make a substantial contribution to the review, please obtain permission from the NSF program officer *before* disclosing either the contents of the proposal or the name of any applicant or principal investigator.

³ [REDACTED]

⁴ [REDACTED]

⁵ [REDACTED]

[REDACTED]

⁶ The University's report and four attachments is Tab 1.

⁷ Tab 1, Inquiry Report, p. 3

deliberations. Shortly after the IC's interview of the subject, the Subject notified his supervisor that he planned to retire at the end of September 2014.⁸

The IC concluded the Subject violated NSF's confidentiality agreement for panelists. Since the Subject had retired, the IC did not recommend any action with regard to the Subject, but did recommend the University 1) consider an educational outreach to inform faculty about the importance of maintaining confidentiality of the review process; and 2) inform NSF OIG about the matter as evidence it takes the issue seriously.

In his response to the IC's report,⁹ the Subject again admitted his violation of the confidentiality agreement and expressed deep regret.¹⁰ The University adjudicator accepted the IC's findings and both recommendations.¹¹

OIG's Assessment

We concluded the University's report was accurate and complete, and it followed reasonable procedures.¹² Thus, we accept its findings. Our review of panel information pertinent to this case indicated there were 21 proposals assigned to 8 panelists to review. The Subject provided written reviews for 10 proposals, and, given the amount of time worked by the staff members, it is likely they saw all the proposals.¹³ Based on the evidence available, we conclude the Subject violated this agreement by sharing confidential proposals from a panel with his staff. PIs expect proposals sent to NSF to remain confidential. By not seeking permission from the NSF Program Manager, the Subject denied NSF an opportunity to determine if either of the staff members had conflicts and created a situation where individuals unknown to NSF had access to its proposals.

OIG's Recommendations

Based on the evidence, we recommend NSF:

- Send the Subject a letter of reprimand notifying him that NSF has made a finding that he violated NSF's conflict rules for panelists.

For 1 year as of the date of NSF's finding:

- Bar the Subject from participating as a peer reviewer, advisor, or consultant for NSF.

⁸ Tab 1, Attachment 4

⁹ Tab 2

¹⁰ Tab 2, p. 3

¹¹ Tab 3

¹² 45 CFR § 689.9(a)

¹³ On Tab 2, p. 1, the Subject estimates one staff member reviewed the proposals for approximately 4-5 hours, while another reviewed them approximately 8-9 hours. The complainant estimates he spent about 9 hours reviewing 11 proposals [Tab 1, Inquiry Report, p. 3]