

NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

Case Number: A13030045

Page 1 of 1

We investigated an allegation of fabrication in publications describing NSF- and NIH-supported research. The Subject¹ admitted in a voluntary exclusion agreement with the Office of Research Integrity that he falsified data in three publications, each since retracted. In addition to the NSF support, the Subject was supported by an NSF Graduate Research Fellowship. We concluded that the Subject's admitted intentional actions were a significant departure from the standards of the relevant research community, that his actions were part of a pattern of behavior, and that the misconduct had a significant impact on the research record.

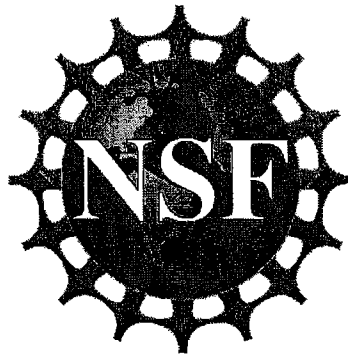
We recommended that NSF make a finding of research misconduct, and debar the Subject for five years. We recommended three years of certifications and assurances after debarment ends, training in the responsible conduct of research, and a bar from participation as a peer reviewer, advisor, or consultant for NSF. NSF imposed a three-year debarment, and three years of subsequent certifications and assurances, in addition to training in the responsible conduct of research.

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

¹

[REDACTED]

National Science Foundation Office of Inspector General



Report of Investigation Case Number A-13030045

June 25, 2014

**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

University Actions:

- Made a finding of research misconduct based on the Subject's admission of data falsification in three publications, acting under their research misconduct policy;
- Directed that the publications be retracted, but took no other action against the Subject as a result of their research misconduct finding;
- Acting under their academic integrity policy, the University expelled the Subject based on his admission of data falsification in his submitted dissertation.

OIG's Investigation and Assessment:

- The Subject entered into a voluntary settlement agreement with HHS-ORI as a result of his data falsification in three publications, each since retracted;
- Although the publications acknowledged NIH support only, the Subject was also supported through the NSF Graduate Fellowship program;
- The Subject falsified data in three publications and multiple conference presentations;
- The Subject's actions were a significant departure from the standards of the relevant research community;
- The Subject acted intentionally;
- The Subject's research misconduct was part of a pattern of behavior;
- The Subject's misconduct had a significant impact on the research record.

OIG recommends that NSF:

- Send the Subject a letter of reprimand notifying him that NSF has made a finding of research misconduct.
- Debar the Subject for a period of five years.
- Bar the Subject from participating as a peer reviewer, advisor, or consultant for NSF during the debarment period.
- Require the Subject to certify to the Assistant Inspector General for Investigations (AIGI) his completion of a responsible conduct of research training program and provide documentation of the program's content within 1 year of NSF's finding. The instruction should be in an interactive format (*e.g.*, an instructor-led course).

For a period of three years after debarment ends:

- Require for each document (proposal, report, etc.) to which the Subject contributes for submission to NSF (directly or through his institution),
 - the Subject submit a certification to the AIGI that the document does not contain plagiarism, falsification, or fabrication; and
 - the Subject submit assurances from a responsible official of his 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.

Background

We became aware that the Subject¹ entered a voluntary settlement agreement² with HHS-ORI for a period of three years beginning [REDACTED], stipulating: 1) that any of his PHS-supported research work will be supervised; 2) that any employing institution will submit an assurance in conjunction with a proposal requesting PHS support that the proposed work is accurately described; 3) that the Subject will not serve as a consultant or reviewer for PHS; and 4) that three publications³ containing falsified data will be retracted. Subsequently, all three publications have been retracted.

The Subject was supported by an NSF Graduate Fellowship Award at his university starting in 2008.⁴ The 2010 fellowship report lists a publication and a presentation⁵ identified in the voluntary settlement agreement as containing falsified data, establishing an NSF nexus.⁶ Neither the university nor ORI advised us of the investigation that culminated in the retractions. On learning of the settlement agreement, we contacted the university, which provided us a copy of their investigation report⁷ and supporting documents.

University Investigation

The university initially reviewed an allegation of data falsification in a submitted Ph.D. dissertation under their Academic Integrity Policy.⁸ The dissertation defense, originally scheduled for late August 2012, did not occur, and on August 30, 2012, the Subject's dissertation advisor⁹ made a formal complaint to the University Dean.¹⁰ The Subject was expelled from the graduate school on September 12, 2012.

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² The voluntary settlement agreement is included at Tab 1. It was published

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Each publication acknowledged NIH support.

⁴ Fellowship reports are at Tab 2.

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⁶ The Subject acknowledges NSF graduate fellowship support in his on-line curriculum vita, and the University's report provides details of his NSF support.

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⁸ The university academic integrity policy and the university research misconduct policy are at Tab 4.

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The university Research Integrity Officer (RIO)¹¹ also assessed the complaint to determine whether the issue could be pursued under the university policy¹² definition of research misconduct, and whether a research misconduct proceeding was warranted. During a telephone interview, the Subject¹³ admitted that several publications contained falsified data. Based on this information, the RIO initiated a research misconduct proceeding.¹⁴ The RIO identified NIH support for published research (as acknowledged in the retracted publications), an NIH fellowship (also acknowledged), and an NSF graduate fellowship to the Subject for the period of August 2008 through July 2011.¹⁵ NSF support was not acknowledged in any of the publications, however, one publication was listed in the final report of an NSF Graduate Fellowship Award. Pursuant to university policy, the RIO convened an *ad hoc* committee of the standing university Committee on Research Integrity. This investigation committee (IC) examined sequestered research records,¹⁶ examined the Subject's publications, interviewed the Subject and his faculty advisor, and assessed information provided by the Subject in emails.

The Subject was interviewed by phone¹⁷ where he described his actions in falsifying data in Excel so that the statistical analysis would show support for the testable hypothesis. He stated "I would go ahead and do some stuff to either the reaction time or the accuracy within that, such that something significant would come out on the other end in terms of putting things into the direction of what a theory might be."¹⁸ The Subject stated that the original data files were not altered.¹⁹ The Subject made similar admissions of falsifying data in two other publications.²⁰ The IC report provides specific details regarding the data, figures, and conclusions affected in

¹¹ The university RIO is [REDACTED].

¹² University policy is at Tab 4.

¹³ The admission apparently occurred during a conference call to the Subject on September 5, 2012. No transcript of that call was provided. A signed confession document was later provided by the university; this described falsification in three of the Subject's publications.

¹⁴ The Subject had been expelled from the graduate school by this point.

¹⁵ [REDACTED]

¹⁶ The following files and research records were sequestered September 25-28, 2012: [REDACTED]

¹⁷ The Transcript appears as Attachment 9 in the report (Tab 3). Page numbers are those internal to the transcript.

¹⁸ Subject's transcript, page 14, lines 14-18 (Attachment 9 at Tab 3).

¹⁹ Subject's interview transcript, page 18, lines 15-18 (Attachment 9 at Tab 3).

²⁰ Subject's interview transcript, page 24, lines 3-5 (Attachment 9 at Tab 3), and Subject's interview transcript, page 36, lines 1-6 and lines 11-16 (Attachment 9 at Tab 3).

the three publications.²¹ The Subject explained the motivation for data falsification as his personal investment in the desired results, and a conceptual hypothesis on which to base his academic career.²²

The IC also interviewed the Subject's faculty advisor.²³ The advisor revealed that the Subject had a previous academic integrity violation that resulted in sanctions and training.²⁴ Additionally, there was a second academic integrity violation by the Subject in conjunction with a course he was teaching in the summer leading up to his scheduled dissertation defense.²⁵ These issues led the advisor to closely examine the data supporting the Subject's dissertation. The advisor's discovery of inconsistencies led to the cancellation of the dissertation defense and his complaint of misconduct.²⁶

The IC concluded:

[Subject] has accepted responsibility for knowingly and intentionally falsifying the research as outlined below. [Subject] indicated he manipulated the data in these manuscripts as detailed below because the results were not conducive to [Subject's] hypothesis/theory. He manipulated the data after it was copied into an Excel file in preparation for the statistical analysis. The manipulation was usually done at a single-subject level in the Excel file. [Subject] indicated the raw data were not compromised.²⁷

The IC recommended that: 1) three publications of the Subject be retracted; 2) co-authors of the Subject's other publications should be notified of the completion of the investigation and the finding that there was no finding of falsification in those publications; 3) research collaborators should be informed of the investigation and that there was no finding of falsification related to the collaborative work; and 4) the Dean of the appropriate graduate school should be notified of the findings as they may impact the award of a Master's degree to the Subject.

²¹ IC report, pages 5-8 (Tab 3).

²² Subject's interview transcript, Page 45, lines 1-15 (Attachment 9 at Tab 3).

²³ [REDACTED]

²⁴ Advisor interview transcript, page 4, lines 12-24 (Attachment 11 at Tab 3). This violation occurred in November 2011, during the period when the Subject was supported by his NSF graduate fellowship. There is no further description of this violation in the report. The interview with the advisor occurred November 12, 2012, after the Subject had already been expelled from the graduate school pursuant to the academic integrity policy.

²⁵ Advisor interview transcript, page 5, lines 8-20 (Attachment 11 at Tab 3). This violation occurred in July 2012, after the Subject's graduate fellowship support ended on June 30, 2013, and was apparently related to the Subject's teaching of a summer course. There is no further description of this violation in the report.

²⁶ The advisor's complaint is included at Tab 5. The complaint addresses alleged data falsification in the dissertation. The university IC considered data falsification only in the publications.

²⁷ Investigation report, page 5 (Tab 3).

The publications have since been retracted, and the IC report indicates that coauthors were contacted. We received no notice of action taken by the Dean with respect to the Subject's Master's degree, or notice of any other adjudication by the university.²⁸

OIG's Investigation

We contacted the Subject to solicit comments on the university investigation and action, but received no reply.²⁹ Because the University did not review the draft dissertation as a part of its academic integrity procedure in this matter, we examined the Subject's dissertation, and could find no direct overlap with falsified data identified by the IC in the publications. The complaint by the Subject's advisor did not address the data in these publications, but was instead directed at the Subject's submitted dissertation. The complaint contained a particular example of alleged data falsification. This example was not examined by the IC.³⁰

OIG's Assessment

Pursuant to the NSF research misconduct regulation, we assessed whether the university's investigation report was fundamentally accurate and complete, and whether the university followed reasonable procedures. We conclude that the report was generally accurate and complete with respect to the three publications in which the Subject admitted to data falsification. However, the University did not thoroughly review the details of dissertation-related data fabrication allegation, instead choosing to expel the student based on his general admission of guilt.

A finding of research misconduct by NSF requires that: 1) there be a significant departure from accepted practices of the relevant research community, 2) the research misconduct be committed intentionally, or knowingly, or recklessly, and 3) the allegation be proved by a preponderance of the evidence.³¹

Acts

The Subject manipulated data such that the statistical analysis results more favorably supported his research hypothesis. The Subject's actions resulted in falsified data being reported in three research publications.

²⁸ The Subject was expelled from the graduate school on September 12, 2012. The date of the IC report is December 19, 2012.

²⁹ The Subject seems to be currently employed [REDACTED].

³⁰ In the usual procedure, our investigation of a research misconduct issue is deferred while the university, which accepts a referral, completes its own investigative process. We provide guidance on process so that we can accept the report from the university in lieu of conducting our own investigation.

³¹ 45 C.F.R. §689.2(c).

Level of intent

The Subject admitted to intentional manipulation of research results, resulting in falsification of data that appeared in research publications.

Significant departure

The integrity of research results is central to scientific community and public confidence in the results. Falsification undermines the central tenet of reproducibility, which allows the results to be confirmed and extended by colleagues. Publication of falsified data distorts the expert understanding of current research, and diverts resources wastefully spent attempting to reproduce results that were false from the start. Falsification is unfailingly a serious deviation from the standards of the scientific research community.

Based upon the Subject's admission, we conclude the preponderance of the evidence shows that the Subject falsified data in three publications and therefore we conclude that he committed 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.³²

Seriousness

The Subject's actions were predicated on an intentional and designed manipulation of data such that the statistical analysis supported the desired hypothesis. The Subject stated that he desired that these hypotheses to form the basis of a future research career. The Subject's actions not only had an immediate effect, but his forecast that he could base his future research from an invalid hypothesis elevates the seriousness of his actions.

Pattern

The Subject's falsification impacted publications that were published between 2010 to 2012; the Subject's research misconduct thus occurred over a period of years, establishing a pattern of behavior.

³² 45 C.F.R. § 689.3(b).

Impact on the Research Record

The Subject's falsifications led to the retraction of three publications. The falsified data also appeared in multiple conference proceedings, for which no formal retraction process exists. Both the publications and the proceedings had co-authors, whose research efforts have been diminished by the Subject's actions. The Subject manipulated data that was reported in three research publications. Although these publications were subsequently retracted, they have been cited a total of 57 times by other researchers as of the date of this report; these citations predate the retractions.

OIG's Recommendations

We recommend that NSF:

- Send the Subject a letter of reprimand notifying him that NSF has made a finding of research misconduct.³³
- Debar the Subject for a period of five years
- Bar the Subject from participating as a peer reviewer, advisor, or consultant for NSF during the debarment period.³⁴
- Require the Subject to certify to the Assistant Inspector General for Investigations (AIGI) his completion of a responsible conduct of research training program and provide documentation of the program's content within 1 year of NSF's finding.³⁵ The instruction should be in an interactive format (*e.g.*, an instructor-led course).

For a period of three years after debarment ends:

- Require for each document (proposal, report, etc.) to which the Subject contributes for submission to NSF (directly or through his institution),
 - the Subject submit a certification to the AIGI that the document does not contain plagiarism, falsification, or fabrication;³⁶ and
 - the Subject submit assurances from a responsible official of his employer to the AIGI that the document does not contain plagiarism, falsification, or fabrication.³⁷
- Bar the Subject from participating as a peer reviewer, advisor, or consultant for NSF.³⁸

³³ A Group I action 45 C.F.R. 689.3(a)(1)(i).

³⁴ A Group III action 45 C.F.R. 689.3(a)(3)(ii).

³⁵ This action is similar to Group I actions 45 C.F.R. 689.3(a)(1).

³⁶ This action is similar to 45 C.F.R. 689.3(a)(1)(iii).

³⁷ A Group I action 45 C.F.R. 689.3(a)(1)(iii).

³⁸ 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
DIRECTOR

JAN 08 2015

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

[REDACTED]
[REDACTED]
[REDACTED]

Re: Notice of Research Misconduct and Proposed Debarment

Dear Mr. [REDACTED]:

As a graduate student in the [REDACTED] ("University"), while supported primarily through the National Science Foundation ("NSF") Graduate Fellowship Program, you falsified data in three publications. This research misconduct is documented in the attached Investigative Report ("Report") prepared by NSF's Office of Inspector General ("OIG"). As described in the OIG Report, you admitted that you falsified data in at least three publications. A University investigation also concluded that you admitted to knowingly falsifying the data, resulting in your expulsion from the University graduate program and retraction of the publications.

In light of your misconduct, this letter serves as formal notice that NSF is proposing to debar you from directly or indirectly obtaining the benefits of federal grants for five years. During the 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 the 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.

This letter also serves as formal notice that NSF is proposing to enter a finding of research misconduct against you. Appropriate required actions related to this finding are discussed in more detail below.

Research Misconduct

Under NSF's regulations, "research misconduct" is defined as "fabrication, falsification, or plagiarism in proposing or performing research funded by NSF ..." 45 CFR § 689.1(a). NSF defines "fabrication" as "making up data or results and recording or reporting them." 45 CFR §

689.1(a)(1). "Falsification" is defined as "manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record." 45 CFR § 689.1(a)(2).

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(c).

Your admission of data falsification in three publications permits me to conclude that your actions meet the applicable definition of falsification as set forth in NSF's regulations. Page 3

Pursuant to NSF's regulations, the Foundation must also determine whether to make a *finding* of research misconduct based on a preponderance of the evidence. 45 CFR § 689.2(c). After reviewing the OIG Report and your admission of data falsification, NSF has determined that, based on a preponderance of the evidence, your falsification of data was committed intentionally 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 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 sanctions to impose for research misconduct, I have considered the seriousness of the misconduct; my determination that it was committed intentionally; the fact that the misconduct had an impact on the research record because the falsified data appeared in three publications that were cited a total of 57 times by other researchers as of the date of the OIG Report; and the fact that the misconduct was not an isolated incident, but occurred in three separate publications. I have also considered other relevant circumstances. See 45 CFR § 689.3(b).

Based on the foregoing, I am imposing the following actions on you:

In addition to your debarment, I am prohibiting you from serving as an NSF reviewer, advisor, or consultant to NSF for five years from the date that this research misconduct determination becomes final. Furthermore, for three years after the expiration of your debarment period I am requiring that you submit certifications, and that a responsible official of your employer submit assurances that any proposals or reports you submit to NSF do not contain plagiarized, falsified,

or fabricated material. Moreover, within one year from the date that this research misconduct determination becomes final, you must certify the completion of a comprehensive responsible conduct of research training course, and provide documentation of the program's content.

All certifications, assurances, training documentation, and data management plans should be submitted in writing to NSF's Office of the Inspector General, Associate Inspector General for Investigations, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Debarment

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

- (b) Violation of the terms of a public agreement or transaction so serious as to affect the integrity of the agency program, such as –
 - (1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;
 - ...
 - (3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction; or
- (d) Any other cause of so serious or compelling a nature that it affects your present responsibility.

In any debarment action, the government must establish the cause for debarment by a preponderance of the evidence. 2 CFR § 180.850. In this case, you admitted that you intentionally falsified data while conducting NSF-funded research. Thus, your action supports a cause for debarment under 2 CFR §§ 180.800(b) and (d).

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. 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 your debarment for five years.

Appeal Procedures for Finding of Research Misconduct and Procedures Governing Proposed Debarment

Appeal Procedures for Finding of Research Misconduct

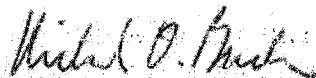
Under NSF's regulations, you have 30 days after receipt of this letter to submit an appeal of this finding, in writing, to the Director of the Foundation. 45 CFR § 689.10(a). Any appeal should be addressed to the Director at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. If we do not receive your appeal within the 30-day period, the decision on the finding of research misconduct will become final. For your information, we are attaching a copy of the applicable regulations.

Procedures Governing Proposed Debarment

The provisions of 2 CFR §§ 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 debarment. 2 CFR § 180.820. Comment 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, I am attaching a copy of the Foundation's regulations on non-procurement debarment and FAR Subpart 9.4.

Should you have any questions about the foregoing, please contact [REDACTED] Assistant General Counsel, at (703) 292-[REDACTED]

Sincerely,



Richard O. Buckius
Chief Operating Officer

Enclosures:

Investigative Reports (3/25/14, 5/21/14, 6/25/14)
Nonprocurement Debarment Regulations
FAR Regulations
45 CFR Part 689

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF THE
DIRECTOR

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

[REDACTED]
[REDACTED]
[REDACTED]

Re: Research Misconduct Determination and Notice of Debarment

Dear [REDACTED]:

On January 8, 2015, the National Science Foundation ("NSF") issued you a Notice of Research Misconduct Determination and Proposed Debarment ("Notice"). As reflected in the Notice, NSF proposed the following: debar you for five years, require you to complete a responsible conduct of research training course within one year, require you to submit contemporaneous certifications on any NSF proposals or reports for three years, and require your employer to submit contemporaneous certifications on any NSF proposals or reports for three years. In that Notice, NSF provided you with thirty days to appeal the research misconduct determination and to respond to the proposed debarment. You submitted information dated January 20, 2015, appealing the research misconduct determination and in opposition to the proposed debarment. In consideration of the information you submitted on appeal of the research misconduct determination and in opposition to the proposed debarment, we have determined that the research misconduct determination is final but the debarment period will be mitigated to three years.

Pursuant to 45 C.F.R. § 689.3(b), NSF should consider the following relevant factors in deciding what final action to take:

- (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.

In addition, a debarment official may consider factors similar to those listed above and additional mitigating and aggravating factors found in 2 C.F.R. § 180.860 when making a debarment decision, including:

...

(g) Whether you have accepted responsibility for the wrongdoing and recognize the seriousness of the misconduct that led to the cause for debarment.

...

(i) Whether you have cooperated fully with the government agencies during the investigation and any court or administrative action. In determining the extent of cooperation, the debarment official may consider when the cooperation began and whether you disclosed all pertinent information known to you.

...

(q) Whether you have taken appropriate disciplinary action against the individuals responsible for the activity which constitutes the cause for debarment.

(r) Whether you have had adequate time to eliminate the circumstances within your organization that led to the cause for the debarment.

(s) Other factors that are appropriate to the circumstances of a particular case.

2 C.F.R. §§ 180.860(g), 180.860(i), 180.860(q), 180.860(r), and 180.860(s).

Based on your appeal and opposition, I have decided to credit you with "time already served," as you suggested. Generally, you argued that NSF should mitigate the proposed actions because you cooperated with the investigation, you were not at fault for any delay in reporting the matter to NSF, you are not currently in research related academia, and you accepted voluntary exclusion actions with the Department of Health and Human Services. I find your response regarding cooperating with the investigation, that you are not currently in research academia, and your voluntary exclusion agreement to be compelling arguments for mitigating the actions in your case. However, your remaining arguments did not provide sufficient information to support any further mitigating of the proposed actions under these factors. I note that your appeal and opposition included an admission of intentionally falsifying the data in the three publications. Thus, your debarment period will be mitigated from five to three years.

Research Misconduct and Debarment Actions

As a result of your research misconduct determination and debarment:

- For three years you are prohibited from acting as a participant in federal agency transactions that are covered transactions unless an exception applies, and prohibited from acting as a principal of a person participating in those covered transactions. *See* 2 C.F.R. §§ 180.130, 180.200, and 180.980.
- For three years you are prohibited from participating in certain non-procurement transactions throughout the executive branch of the federal government which include but are not limited to grants (including serving as a reviewer), cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurances, payments for specified uses, and donation agreements. *See* 2 C.F.R. § 180.970. No agency in the executive branch shall enter into, renew, or extend, primary or lower-tier covered transactions in which you are either a participant or principal, unless the head of the agency grants an exception in writing.
- In addition, you are prohibited from receiving federal contracts or approved subcontracts under the Federal Acquisition Regulations at 48 C.F.R. Subpart 9.4 for the period of this debarment. *See* 2 C.F.R. § 180.925. 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.
- During the length of your debarment, your name will be published in the General Services Administration's web-based System for Award Management (SAM), containing the names of contractors debarred, suspended, proposed for debarment, or declared ineligible by any federal agency; this information is referred to in 2 C.F.R. § 180 as the Excluded Parties Listing System (EPLS).¹
- For three years after your debarment expires, you must submit contemporaneous certifications that any proposals or reports you submit to NSF do not contain plagiarized, falsified, or fabricated material. All certifications and assurances should be submitted in writing to the following e-mail address: certification@nsf.gov.
- For three years after your debarment expires, you must submit contemporaneous assurances by a responsible official of your employer that any proposals or reports you submit to NSF do not contain plagiarized, falsified, or fabricated material. All

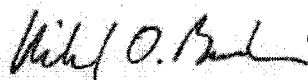
¹ EPLS has transitioned to the new system SAM, accessible at www.sam.gov. *See* 77 Fed. Reg. 120 (June 21, 2013). It is anticipated that in the future 2 C.F.R. § 180 will be revised to reflect that the name of the EPLS has been changed to SAM.

certifications and assurances should be submitted in writing to the following e-mail address: certification@nsf.gov.

- Finally, within one year you are required to complete a comprehensive responsible conduct of research training course, and provide documentation of the program's content. The instruction should be in an interactive format (e.g., an instructor-led course, workshop, etc.) and should include a discussion of fabrication and falsification.

Should you have any questions about the foregoing, please contact [REDACTED] Assistant General Counsel, at (703) 292-8060.

Sincerely,



Richard O. Buckius
Chief Operating Officer