

NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

Case Number: A13050070

Page 1 of 1

We received an allegation that a panelist violated NSF's conflicts rules by providing a review of a proposal on which he had a conflict of interests. The attached Report of Investigation describes our investigation that resulted in NSF prohibiting the panelist from serving as a reviewer for 2 years. The closeout documents consist of this Memorandum, our report, and NSF's adjudication. This case is closed with no further action taken.

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



OFFICE OF THE
DIRECTOR

APR 01 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED



Re: Determination of Violation of NSF's Conflict of Interests Rules

Dear Dr. [REDACTED]

While serving as an NSF panelist, you submitted an unsolicited, very favorable written review for a proposal to which you were not assigned. The proposal in question was one in which the Principal Investigator (PI) and co-PI were your collaborators and co-authors. You did not disclose this information. As documented in the attached Investigative Report prepared by NSF's Office of Inspector General ("OIG"), you violated NSF's conflict of interests (COI) rules for failing to disclose the conflict and attempting to positively influence a funding decision on which you had a COI.

Prior to participation on a panel, NSF panelists read and sign NSF Form 1230P. Form 1230P explains conflicts of interests with respect to the review process and specifies panelist responsibilities with regard to potential conflicts:

Your designation as an NSF panelist requires that you be aware of potential conflict situations that may arise. Read the examples of potentially biasing affiliations or relationships listed on the second page or back of this form. As an NSF panelist, you will be asked to review applicant grant proposals. You might have a conflict with one or more. Should any conflict arise during your term, you must bring the matter to the attention of the NSF program officer who asked you to serve as a panelist. This official will determine how the matter should be handled and will tell you what further steps, if any, to take.

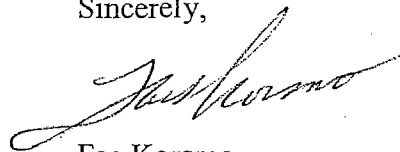
Panelists also receive an in person briefing regarding potential COI.

You attended the subject COI briefing which specifically mentioned collaboration and co-authorship as potential conflicts. You further acknowledged your understanding by executing NSF Form 1230P. Form 1230P explicitly and prominently mentions "collaboration on a project or on a book, article, report, or paper within the last 48 months" as an example of a potential conflict. Your co-authorship with the relevant PI and co-PI occurred but three weeks before your panel service.

I therefore conclude that you violated the NSF COI rules. Accordingly, after assessing the relevant facts and circumstances of this case, I have determined that you are not eligible to serve as a reviewer for NSF for the next two years, specifically until March 31, 2016.

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

Sincerely,

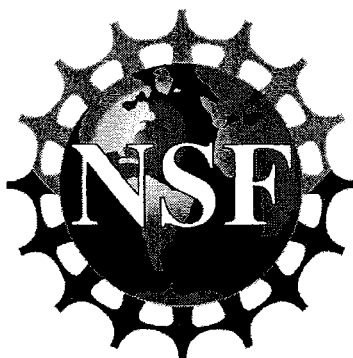
A handwritten signature in cursive script, appearing to read "Fae Korsmo", written in dark ink.

Fae Korsmo
Senior Advisor to the Director

Enclosures:
Investigative Report

Sensitive

National Science Foundation Office of Inspector General



Report of Investigation Case Number A13050070

December 12, 2013

**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

Our office received an allegation of a conflict of interests (COI) violation by a panelist. The panelist did not disclose his collaboration with the PI and co-PI of a proposal for which he submitted a review and lobbied to have funded. Accordingly, we recommend he be prohibited from participating as a peer reviewer, advisor, or consultant for NSF for 2 years.

OIG's Investigation

Subsequent to a panel review, we learned a panelist (the Subject¹) submitted a written review² for a proposal (the proposal³) even though he was not a designated reviewer, nor was he asked to provide one; he was the only panelist who submitted a written review for a proposal to which they were not assigned. He did not submit reviews for any other proposals not assigned to him. The Subject rated the proposal 'Excellent' and was a strong advocate of the proposal during the panel discussion. We learned the Subject was a collaborator and co-author with both the PI and co-PI of the proposal.⁴ Thus, the allegation is the Subject failed to disclose a COI and, additionally, took steps to positively influence the funding decision regarding a proposal on which he had a COI.

We verified the panel was briefed on COIs, during which collaboration and co-authorship were mentioned as potential conflicts. We verified the Subject attended the briefing and professed his understanding of potential COIs as demonstrated by his signing of NSF Form 1230P.⁵ Form 1230P specifically lists "Collaboration on a project or on a book, article, report, or paper with the last 48 months" as a potential COI that should be disclosed to the Program Officer (PO). The Subject participated on the panel 3 weeks after he co-authored a paper with the PI and co-PI.

We wrote to the Subject who acknowledged he "strongly advocated for a proposal led by people who also appeared as co-authors on a manuscript submitted less than one month before the proposal review".⁶ He expressed regret at overlooking his collaboration and provided several reasons why he failed to disclose his conflict. He said neither he, the PI, nor the co-PI were the lead author of the paper; this was his first interaction with the PI and co-PI; the interactions were via email, not in person; and the interactions were limited. The Subject acknowledged going out of his way to submit a review of a proposal not assigned to him, but did so

¹ [REDACTED]

² Tab 1

³ [REDACTED] was submitted by [REDACTED] and lists [REDACTED] as the PI, with [REDACTED] as the co-PI.

⁴ Tab 2 is the cover page of a paper they uploaded to the arXiv, [REDACTED]

⁵ Tab 3

⁶ Tab 4, p. 1.

because this was the only one that excited him. He acknowledged participating in the discussion as well.

OIG's Assessment

The Subject failed to disclose his collaboration with the PI and co-PI of the proposal. As noted above, the Subject's collaboration with the PI and co-PI are clearly mentioned as potential COIs in the NSF Form 1230P,⁷ which he signed, and on which he was briefed by a PO before the panel. He took explicit steps to strongly express his support of the proposal both by strongly advocating for it during the discussion and by submitting a positive written review, despite the fact that he was not an assigned reviewer of the proposal. The Subject's COI, together with his strong lobbying, created an impression with the PO that he had inappropriately supported the project. The Subject's excuse for doing so is neither convincing nor exculpatory. He said he did not recognize the PI's and co-PI's names because he didn't physically meet with them and only wrote the manuscript with them via email. It is difficult to believe that even if only emails were exchanged, that the Subject wouldn't recognize the names of his co-authors, especially since the manuscript was submitted only weeks prior to his panel service. In addition to the individual COIs, the Subject also has organizational connections to the PI and co-PI.⁸ Given the individual and organizational connections, we conclude the Subject purposefully failed to disclose to NSF his COI with the proposal in an attempt to positively bias the panel and PO.

While NSF expects panelists to advocate for proposals they believe are meritorious, NSF also expects panelists to disclose factors that may constitute COIs, so the PO can make informed decisions about the objectiveness of reviewers' opinions. Deception has no place when POs are deciding how to uphold NSF's gold standard of peer review and fulfill NSF's mission. In this case, the PO⁹ was deceived through the Subject's actions, which impacted the PO's program. When the PO realized the Subject's failure to disclose his COIs, he had to re-evaluate the reviews, the panel summary, and his own review analysis to remove the conflicted, positive bias introduced by the Subject. He consulted with his management and his divisional conflicts officer to ensure that, ultimately, he was making an unbiased decision on behalf of NSF.

⁷ This potentially disqualifying COI is also codified in the GPG II, Exhibit II-2: Potentially Disqualifying Conflicts of Interests.

⁸ The Subject may have been positively biased because his home institution supports both the PI and co-PI, and both previously worked at his home institution. The Biosketches of the PI and co-PI indicate both were previously at the Subject's home institution before the Subject went there. The Current & Pending Support (CPS) of the PI indicated three current grants from the Subject's home institution, and the CPS of the co-PI also indicated three current grants—the PI and co-PI have one grant in common, so they have a total of five grants between them from the Subject's home institution.

⁹ [REDACTED] is a PO in [REDACTED].

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 a period of 2 years as of the date of NSF's finding:

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