

CLOSEOUT FOR M92020006

BACKGROUND

The complainant, [REDACTED] was an independent film producer who first contacted us on 02/04/92. He had been named as one of two co-PIs on NSF proposal [REDACTED] (the original grant proposal) submitted by [REDACTED] (the original sponsoring institution). The original sponsoring institution failed to qualify as an NSF grantee institution. Subsequently, [REDACTED] agreed to replace the disqualified original sponsoring institution. NSF proposal [REDACTED] was modified to show both [REDACTED] new sponsorship and the complainant's former co-PI as the sole PI, and then awarded as [REDACTED] (the award) with the same title as the original grant proposal but to [REDACTED] (the grantee). The complainant was budgeted as "senior personnel" on the award.

The complainant was also involved as sole PI for a different proposal, on a different subject, [REDACTED] (the second proposal) submitted to NSF by [REDACTED] (sponsoring institution A).

Over time the complainant clarified (1) allegations of intellectual theft and of improper NSF actions related to the change in sponsoring institution on the original grant proposal prior to NSF's making its award to the grantee and (2) an allegation of improper NSF action related to NSF's returning his second proposal when sponsoring institution A decided not to continue as sponsor.

ALLEGATIONS RELATED TO THE AWARD

The complainant alleged that the grantee was allowed to steal his work, as represented in the original grant proposal and in NSF's award, because he was not listed as co-PI on the proposal cover page for NSF's award. The complainant's loss of co-PI status allegedly allowed the grantee to terminate his employment and continue his work without him. Further, NSF staff allegedly were involved in this intellectual theft because of their actions allowing the new sponsoring institution to remove the complainant as a co-PI on the award.

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In its inquiry, OIG found that the award contained nothing which the complainant could identify as having been stolen from him. The complainant admitted, and the PI on the award claimed, that the ideas for the proposed film were those of (a) the PI on the award, the complaint's co-PI on the original grant proposal; (b) the author of the book upon which the film was based; and (c) the scientists the PI on the award consulted as the complainant's former co-PI in preparing the original grant proposal. The complainant's contributions were to be "on-line" in the course of producing the film for which the award was made. OIG found no substance to the complainant's allegation of intellectual theft.

Regarding the complainant's related allegation that NSF staff had not processed the original sponsoring institution's proposal properly, OIG noted that when NSF's Division of Grants and Contracts (DGC) reviewed the original grant proposal, which had been recommended for award, DGC determined that the original sponsoring institution was ineligible. In order to make an award, DGC requires a sponsoring institution with adequate administrative and financial systems in place.

The complainant alleged that the original sponsoring institution's proposal for the award, on which he was listed as a co-PI, was improperly "withdrawn" without his consent when DGC refused to accept the original sponsoring institution as qualified. However, the consent of the co-PI was not required in this case. NSF's Grants Policy Manual (GPM) disqualifies proposals from becoming awards when OMB standards for project and grant management are not met by the sponsoring institution. In this case, with the original sponsoring institution ineligible, the consent of the co-PI is not material. NSF had no choice but to unilaterally "return" the original sponsoring institution's proposal because the original sponsoring institution failed to meet NSF's GPM standards.

Subsequently NSF accepted a reconstituted proposal, which was identical in content to that from the original sponsoring institution except that the new sponsoring institution listed the complainant under senior personnel in its budget document rather than having him sign the new cover page as co-PI. NSF's acceptance, the complainant alleged, made it possible for the grantee to terminate the complainant's employment and to continue NSF's award without him. In fact, NSF awards its grants to qualified institutions, not individual PIs. Further, NSF's GPM recognizes that grantee institutions have the authority to remove or replace PIs and other senior personnel after obtaining NSF approval. In this case the grantee did notify NSF and NSF approved the complainant's removal from the award.

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OIG found no substance to the complainant's allegations of misconduct in science or of improper behavior by NSF staff in connection with handling NSF's award.

ALLEGATION RELATED TO THE SECOND PROPOSAL

The complainant also alleged that the second proposal on which he was sole PI, was improperly "withdrawn" by NSF without his consent, when sponsoring institution A notified NSF's program officer that it would not continue as sponsoring institution for the complainant's second proposal.

NSF's Proposal and Award Manual (PAM) requires that a request for withdrawal of a proposal be signed by both the PI and the authorized institutional representative and that NSF send withdrawal confirmation letters to both the PI and the authorized institutional representative, neither of which occurred in the withdrawal of this proposal. However, the complainant had informed NSF by letter that he had been "fired" by sponsoring institution A, and, the PI was aware of the withdrawal from telephone conversations with the NSF program officer. Indeed, the program officer told the complainant that he could resubmit the proposal under sponsorship of another institution. In these highly unusual circumstances, it is understandable that NSF did not strictly follow the formal requirements of the PAM when it accepted the request for withdrawal from sponsoring institution A without the PI's signature and did not send a written confirmation of the withdrawal to the PI. Because the PI was fully contemporaneously informed of NSF's actions and was in no way harmed by them, and because withdrawal of the proposal was inevitable following the severance of the professional relationship between the PI and sponsoring institution A, OIG believes this allegation is without sufficient substance to pursue further.

CONCLUSION

OIG's inquiry found no substance to either the allegations related to NSF's award or to the allegation related to the complainant's second proposal. We have therefore closed this case.

cc: Senior Scientist, Deputy AIG-Oversight, AIG-Oversight, IG