

# Report on Research Compliance Volume 17, Number 3. February 20, 2020

## Report to Congress Lays Bare Research Misconduct, Bids to Reduce Sanctions

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The National Science Foundation (NSF) has upheld several research misconduct findings as recommended by its Office of Inspector General, but overruled OIG on one, according to its recent semiannual report to Congress.<sup>[1]</sup> Issued late last year, the report covers the final six months of fiscal year (FY) 2019, from March 1 to Sept. 30, 2019.

In FY 2019, OIG reported that NSF made a total of six findings of research misconduct, defined as fabrication, falsification and plagiarism, down from 14 in FY 2018. Earlier OIG told RRC its findings in the first half of FY 2019 were affected by the government shutdown.<sup>[2]</sup>

Two cases involved plagiarism and four were in the combined category of fabrication/falsification.

Sanctions included two debarments—one to be followed by an unusually long period of certifications and supervision—and one voluntary exclusion. OIG also made more than a dozen referrals to the Department of Justice for criminal prosecutions and has submitted 35 investigative reports to NSF for action. (For a full list of FY 2019 OIG activities, see accompanying chart.)

Research compliance officials who track misconduct among NSF awardees and employees must refer to OIG's semiannual reports for findings, as, unlike HHS, they are not publicly reported. Also unlike HHS, NSF OIG does not reveal the investigator or institution name unless they've already been made public through court proceedings.

### Two-Year Exclusion Follows PO 'Abuse'

In one misconduct case, NSF initially exceeded OIG's recommendation but, facing a challenge, negotiated different terms. This case involved a former NSF program officer who "submitted an NSF proposal with portions of text copied from a previously declined NSF proposal for which he had served as the cognizant PO."

OIG "concluded the preponderance of evidence indicated the former PO knowingly used text from the declined proposal in his own proposal. Further, in his role as PO, the [principal investigator] PI abused his NSF position and obtained confidential material, which he later impermissibly used for his own proposal."

A one-year debarment; a four-year ban on serving as a peer reviewer, advisor, consultant or Intergovernmental Personnel Act [IPA] rotator; and a reprimand letter "include[ing] language addressing breach of PO confidentiality" were the sanctions that OIG proposed.

NSF agreed there was research misconduct and moved to double the debarment from the recommended two years; the former PO appealed. OIG states in the new report that NSF and the former PO "reached an agreement" that provides for a two-year voluntary exclusion from federal funding. "NSF agreed to vacate the research misconduct finding, but still required the PO to submit certifications and assurances." The report does not say

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for how long certifications will be required.

The agreement has other, less common requirements. For six years the PO will not “seek employment in any capacity,” serve as an IPA assigned to NSF, or “participate as an NSF peer reviewer, advisor, or consultant.”

The outcome of another case did not change for the PI, even though the individual tried. OIG reported in 2018 that a PI had plagiarized text in four NSF proposals and submitted falsified support letters from a collaborator with two of those proposals; he was suspended for 10 days without pay and required to take an online responsible conduct of research (RCR) course.

In its in-depth plagiarism review of the PI’s recent NSF proposals, OIG found “plagiarized text and one figure in four different proposals.” OIG recommended a one-year debarment and three years of certifications, as well as a ban on participating as an NSF peer reviewer for the same period. NSF agreed with OIG’s recommendations, prompting an appeal from the PI to “shorten the time that certifications and assurances would be required.” But NSF didn’t budge and upheld the three-year time frame.

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