

## **Supporting Statement for Paperwork Reduction Submission**

### **Notification Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault (3145-NEW)**

#### **A. Justification**

##### **A.1. Circumstances Requiring the Collection of Data**

As the primary funding agency of fundamental science and engineering research in the United States, NSF is committed to promoting safe, productive research and education environments for current and future scientists and engineers. We consider the Principal investigator (PI) and any co-PI(s) identified on an NSF award to be in positions of trust. The PI, any co-PI(s) and all personnel supported by an NSF award must comport themselves in a responsible and accountable manner during the performance of award activities whether at the awardee institution, on-line, or conducted outside the organization, such as at field sites or facilities, or during conferences and workshops. NSF has developed a new term and condition that requires awardee organizations to report findings/determinations of sexual harassment, other forms of harassment, or sexual assault, regarding an NSF funded PI, or any co-PI. The term and condition also requires the awardee to notify NSF if it places the PI or any co-PI on administrative leave or imposes an administrative action relating to a harassment finding or investigation. This term and condition also makes clear that, after consultation with the awardee, NSF may initiate action if necessary to protect the safety of all awardee personnel, to include requiring the substitution or removal of a PI, or any co-PI, reduction in funding, or suspension or termination of an award. The full text of the new term and condition is provided below:

#### **Article X: Notification Requirements Regarding Sexual Harassment, Other Forms of Harassment, or Sexual Assault**

The Principal Investigator (PI) and any co-PI(s) identified on an NSF award are in a position of trust. These individuals must comport themselves in a responsible and accountable

manner during the award period of performance, whether at the awardee institution, on-line, or at locales such as field sites, facilities, or conferences/workshops.

For purposes of this term and condition, the following definitions apply:

**Sexual harassment:** May include but is not limited to gender or sex-based harassment, unwelcome sexual attention, sexual coercion, or creating a hostile environment, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.

**Other Forms of Harassment:** Non-gender or non-sex-based harassment of individuals protected under federal civil rights laws, as set forth in organizational policies or codes of conduct, statutes, regulations, or executive orders.

**Finding/Determination:** The final disposition of a matter involving sexual harassment or other form of harassment under organizational policies and processes, to include the exhaustion of permissible appeals exercised by the PI or co-PI, or a conviction of a sexual offense in a criminal court of law.

**Administrative Leave/Administrative Action:** Any temporary/interim suspension or permanent removal of the PI or co-PI, or any administrative action imposed on the PI or co-PI by the awardee under organizational policies or codes of conduct, statutes, regulations, or executive orders, relating to activities, including but not limited to the following: teaching, advising, mentoring, research, management/administrative duties, or presence on campus.

The awardee is required to notify NSF of: 1) any finding/determination regarding the PI or any co-PI<sup>1</sup> that demonstrates a violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; and/or 2) if the PI or any co-PI is placed on administrative leave or if any administrative action has been imposed on the PI or any co-PI by the awardee relating to any finding/determination or an investigation of an alleged violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of

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<sup>1</sup> If a co-PI is affiliated with a subawardee organization, the Authorized Organizational Representative of the subawardee must provide the requisite information directly to NSF, as instructed in this paragraph.

harassment, or sexual assault.<sup>2</sup> Such notification must be submitted by the Authorized Organizational Representative (AOR) to NSF's Office of Diversity and Inclusion at [www.nsf.gov/harassment\\_within\\_ten\\_business\\_days\\_from\\_the\\_date\\_of\\_the\\_finding/determination\\_or\\_the\\_date\\_of\\_the\\_placement\\_of\\_a\\_PI\\_or\\_co-PI\\_by\\_the\\_awardee\\_on\\_administrative\\_leave](http://www.nsf.gov/harassment_within_ten_business_days_from_the_date_of_the_finding/determination_or_the_date_of_the_placement_of_a_PI_or_co-PI_by_the_awardee_on_administrative_leave) or the imposition of an administrative action, [whichever is sooner](#).<sup>3</sup> Each notification must include the following information:

- NSF Award Number;
- Name of PI or co-PI being reported<sup>4</sup>;
- Type of Notification: Select one of the following:
  - Finding/Determination that the reported individual has been found to have violated awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault; or
  - Placement by the awardee of the reported individual on administrative leave or the imposition of any administrative action on the PI or any co-PI by the awardee relating to any finding/determination or an investigation of an alleged violation of awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.
- Description of the finding/determination and action(s) taken, if any; and

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<sup>2</sup> Awardee findings/determinations and placement of a PI or co-PI on administrative leave or the imposition of an administrative action must be conducted in accordance with organizational policies and processes. They also must be conducted in accordance with federal laws, regulations, and executive orders.

<sup>3</sup> Such notification must be provided regardless of whether the behavior leading to the finding/determination, or placement on administrative leave, or the imposition of an administrative action occurred while the PI or co-PI was carrying out award activities.

<sup>4</sup> Only the identification of the PI or co-PI is required. Personally identifiable information regarding any complainants or other individuals involved in the matter must not be included in the notification.

- Reason(s) for, and conditions of, placement of the PI or any co-PI on administrative leave or imposition of administrative action.

The awardee, at any time, may propose a substitute investigator if it determines the PI or any co-PI may not be able to carry out the funded project or activity and/or abide by the award terms and conditions.

In reviewing the notification, NSF will consider, at a minimum, the following factors:

- a. The safety and security of personnel supported by the NSF award;
- b. The overall impact to the NSF-funded activity;
- c. The continued advancement of taxpayer-funded investments in science and scientists; and
- d. Whether the awardee has taken appropriate action(s) to ensure the continuity of science and that continued progress under the funded project can be made.

Upon receipt and review of the information provided, NSF will consult with the AOR, or designee. Based on the results of this review and consultation, the Foundation may, if necessary, assert its programmatic stewardship responsibilities and oversight authority to initiate the substitution or removal of the PI or any co-PI, reduce the award funding amount, or where neither of those previous options is available or adequate, to suspend or terminate the award.

Other personnel supported by an NSF award must likewise remain in full compliance with awardee policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault. With regard to any personnel not in compliance, the awardee must make appropriate arrangements to ensure the safety and security of other award personnel and the continued progress of the funded project.

Notification of these actions is not required under this term and condition.

End of Article X

## **A.2. Purpose and Use of Data**

The purpose and use of the data is for NSF to be notified that the ability of the PI or co-PI to implement the activities of the award may be impacted, and to allow consultation between NSF and the awardee to determine whether any further action is required.

## **A.3. Use of Automation**

Reporting can be done online via the following link:

[https://www.test.nsf.gov/od/odi/notification\\_form.jsp](https://www.test.nsf.gov/od/odi/notification_form.jsp)

## **A.4. Efforts to Identify Duplication**

No other federal agencies or organization within NSF collects the same data.

## **A.5. Small Business Consideration**

N/A

## **A. 6. Consequences of Less Frequent Collection**

N/A

## **A.7. Special Circumstances for Collection**

N/A

## **A. 8. Federal Register Notice and Outside Consultation**

The agency's notice, as required by 5 CFR 1320.8(d), was published in the *Federal Register* on March 5, 2018, at 83 FR 9342, and 192 comments were received.

## **A. 9. Gifts or Remuneration**

N/A

## **A.10. Confidentiality provided to respondents**

Information will be provided through a secure portal to NSF's Office of Diversity and Inclusion (ODI), and will not be available on any of NSF's regular business systems. ODI

will share information with other personnel within NSF (such as the attorneys within the Office of the General Counsel) only on a need to know basis.

**A. 11. Questions of a Sensitive Nature**

No questions of a sensitive nature are used.

**A. 12. Estimate of Burden**

We anticipate up to one hour of burden for reporting. The number of reports is largely unknown at this time; however, we will propose up to 100 reports a year for a burden total of 100 hours.

**A. 13. Capital/Startup Costs**

N/A

**A. 14. Annualized Cost to the Federal Government**

N/A; this is part of conducting the activities of the program.

**A. 15. Changes in Burden**

N/A; this is a new request.

**A. 16 Publication of Collection**

N/A

**A. 17 Approval to Not Display OMB Expiration Date**

N/A

**A. 18 Exception to Item 19 of OMB Form 83-I Certification Statement**

N/A

**B. STATISTICAL METHODS**

N/A