

NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

TO: AIGI

File Number: I90080028

Date: 02 March 2002

Subject: Closeout Memo

Page 1 of 1

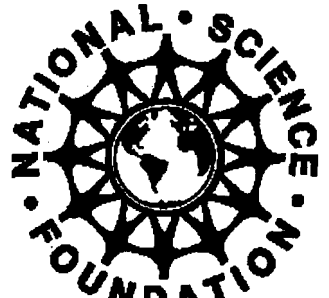
There was no closeout written at the time this case was closed. The following information was extracted from the file in conformance with standard closeout documents.

Our office was informed that the subject¹ was alleged to have committed embezzlement, theft or diversion of grant funds. We found no criminal action but the subject's institution was admonished, the grant was terminated and the unused funds returned to NSF.

Accordingly this case is closed.

[REDACTED]

Name:	Prepared by:	Cleared by:		
	Agent:	Attorney:	Supervisor:	AIGI
Signature & date:				



NATIONAL SCIENCE FOUNDATION
WASHINGTON, D.C. 20550



Office of
Inspector General

**NSF GRANT FUNDS WERE MISAPPLIED
AT [REDACTED]**

(Investigative Report-Case No. I90080028)

Basis for Investigation

In August 1990, the Office of Inspector General (OIG) received an allegation that Dr. [REDACTED], a principal investigator (PI) on two NSF grants awarded to [REDACTED] University (PSU), had used NSF grant funds to pay employees to perform private consulting work. Intentional diversion of grant funds from their intended use is a criminal violation under title 18, U.S.C., sec. 666.

Our initial inquiry disclosed that Dr. [REDACTED] was listed as the PI on two NSF grants to [REDACTED]. On August 12, 1987, [REDACTED] was awarded [REDACTED] " [REDACTED] " which was amended twice. [REDACTED] received \$222,619 under this award. The second grant, [REDACTED] " [REDACTED] " was awarded on July 27, 1989, and PSU received \$77,888 for this award.

Under the authority of the Inspector General Act of 1978, as amended, we investigated the allegation.

Method of Investigation

In response to the allegation, OIG's Office of External Audit conducted an audit and issued an audit report on the above-referenced grants. (See attached Audit Report No. [REDACTED]) Based on information obtained during this audit, we conducted an investigation that included interviews with Dr. [REDACTED] and other individuals who worked on these grants and reviews of additional documentation related to the allegation.

Background

Under these [REDACTED] Dr. [REDACTED] agreed to develop a database on security price transactions from the American Stock Exchange (AMEX) and the New York Stock Exchange (NYSE). Dr. [REDACTED] agreed to disseminate the data to the public without profit and lease the data to academic institutions at the lowest possible price. The income generated from the leasing of the data would continue to fund the cost of maintaining the database after the grants had expired. The NSF

program officer who was responsible for this grant informed us that the technical quality of the database that was developed meets his expectations, and we accept his conclusions in that regard.

As discussed in our audit report, [REDACTED] auditors found that Dr. [REDACTED] misapplied NSF funds by using NSF-funded employees to conduct work related to Dr. [REDACTED] personal consulting business and academic duties. Our audit disclosed that [REDACTED] internal auditors had conducted a detailed review of allegations against Dr. [REDACTED]. [REDACTED] auditors initially questioned \$32,022 charged to the NSF grant and \$3,959 to [REDACTED] accounts. [REDACTED] audit report stated:

In our opinion, Dr. [REDACTED] has misapplied NSF funds, misused departmental funds, and misused University computer resources while administering the micromarket structures project funded by NSF grant. These violations stem from conflicts of interest involving Dr. [REDACTED] personal consulting services, and other personal interests.

The [REDACTED] report recommended that Dr. [REDACTED] reimburse [REDACTED] the total amount of questioned costs. After extensive negotiation, Dr. [REDACTED] agreed to reimburse [REDACTED] \$11,842 from his personal funds. [REDACTED] credited the entire reimbursement, plus indirect costs, to the NSF grant. Dr. [REDACTED] has since relocated to [REDACTED] University and has requested that the remaining grant funds (\$29,473, which includes the reimbursement from Dr. [REDACTED]) be transferred to [REDACTED].

As stated in [REDACTED] we reviewed the [REDACTED] audit and settlement and found it acceptable. However, we questioned an additional \$1,384 for fringe benefits and related indirect costs that should have been credited to the NSF account. In addition, we told [REDACTED] officials that they should have informed us about this matter before entering a settlement with Dr. [REDACTED].

During our investigation, we discovered that Dr. [REDACTED] also used NSF funds to support his staff's work on a project funded by the [REDACTED] from November 1987 through February 1988. Dr. [REDACTED] and his staff did not begin to work full time on the initial NSF grant [REDACTED] until February or March 1988. Based on interviews and related documentation, we believed salaries and related expenditures were charged to the NSF grant for employees who were working on the [REDACTED] project. For this reason, we questioned \$9,833 in additional costs charged to NSF grants.

[REDACTED] Commission Charges

On November 19, 1987, the Associate Dean for Research, College of Business, authorized [REDACTED] to establish an account for Dr. [REDACTED] and his staff to begin work on the [REDACTED] Commission project pending an

official contract from the Department of the Treasury. At that time, Dr. [REDACTED] had hired a computer programmer and administrative assistant to work on the NSF grant. On November [REDACTED] the Department of the Treasury issued a blanket purchase agreement authorizing \$25,000 to [REDACTED] for computer support, associated services, and supplies to support the [REDACTED] Commission. The agreement was based on a proposal submitted by Dr. [REDACTED] as project director. On January 8, 1988, Dr. [REDACTED] issued his report to the [REDACTED] Commission, and on January 11, 1988, the blanket purchase agreement was amended to increase the amount by \$15,000 to a total of \$40,000.

According to the computer programmer and the administrative assistant employed by Dr. [REDACTED] they worked full time on the Brady Commission project from November 1987 through January 1988 and part time in February and March 1988. However, Dr. [REDACTED] reported to PSU that these employees worked full time on the NSF grant during November and December 1987. [REDACTED] College of Business officials were aware of the contract for the Brady Commission project and questioned Dr. [REDACTED] about the salary charges to the NSF project. When questioned about the charges, Dr. [REDACTED] stated that the employees had worked on NSF-funded projects. At the request of the Associate Dean for Research, College of Business, Dr. [REDACTED] submitted signed monthly statements certifying the time that these employees worked on the NSF and [REDACTED] Commission projects.

According to those monthly statements, Dr. [REDACTED] reported that the computer programmer worked a total of 7 days on the Brady Commission project and the administrative assistant worked on the [REDACTED] Commission project 12 days. Dr. [REDACTED] reported that work on the [REDACTED] Commission project occurred in January 1988, and the employees worked on the NSF project for the remaining time. PSU charged a total of \$1,621 for all salary charges to the [REDACTED] Commission project, while all other salaries were charged to the NSF project.

In May 1988, [REDACTED] closed out the contract for the [REDACTED] Commission project and Dr. [REDACTED] signed a memorandum, "Authorization to Close Fund," which stated that the total expenditures for the Brady Commission project were \$31,240 with an unexpended balance of \$8,760. By signing the memorandum, Dr. [REDACTED] certified that all charges were correct.

On July 29, 1988, Dr. [REDACTED] wrote to a [REDACTED] Commission official at the Department of the Treasury and stated that salary charges for the [REDACTED] Commission contract were incorrect. According to Dr. [REDACTED] letter, the [REDACTED] Commission project had been under-charged \$8,128 for salaries and related expenses. On August 4, 1988, Dr. Wood sent a memorandum to [REDACTED] stating that salary charges for the [REDACTED] Commission project had been incorrectly charged to the NSF project and that PSU should correct the charges.

On August 18, 1988, [redacted] responded that, after 90 days, salary charges could only be transferred from one account to another under exceptional circumstances. In an August 26, 1988, memorandum, Dr. [redacted] responded that salaries were incorrectly charged to the NSF account because immediately after hiring the computer programmer and administrative assistant to work on the NSF project, he and his staff became involved in the [redacted] Commission project. In the memorandum, Dr. [redacted] stated that, "Due to the complexity of the procedures and my unfamiliarity with them, the confusion resulting from the intensity of the effort, the newness of my organization, and failures in communication, the appropriate charges were not correctly made."

[redacted] ultimately denied Dr. [redacted] request to transfer the charges. [redacted] officials reviewed the payroll records, including statements submitted by Dr. [redacted] certifying the time that his staff worked on the NSF and [redacted] Commission projects. These officials determined that Dr. [redacted]'s memoranda, dated August 4 and August 26, 1988, do not support a transfer of the charges. [redacted] officials observed that in May 1988, when the [redacted] Commission account was closed, Dr. [redacted] certified that all charges to that account were correct and did not question the salary charges at that time. [redacted] relied totally on written documentation to support their decision and did not question the computer programmer or the administrative assistant about work actually performed.

Dr. [redacted] has told us that he cannot find the documentation that caused him to write his July 29, 1988, letter stating that \$8,128 was incorrectly charged to the NSF project. Dr. [redacted] told us that he remembers that the employees' workload on the Brady Commission project was heaviest in November and December 1987, and that work on the [redacted] Commission project diminished in January 1988 and was minimal in February 1988.

Based on our interviews with the employees, related documentation from [redacted] files, and the contract for the [redacted] Commission project, we questioned \$9,833 of salary and related costs charged to the NSF grant from November 19 through December 31, 1987. We did not question costs for January because we found documents signed by Dr. [redacted] in February 1988, certifying the exact number of days that the employees worked on the [redacted] Commission project during January 1988. This certification is consistent with the fact that the [redacted] Commission report was issued on January 8, 1988. We did not question any costs for February and March 1988 since we were not able to determine even roughly how much time employees spent working on the [redacted] Commission and the NSF projects during February and March 1988.

Inappropriate Administration of Grants and Salary Supplementation by Dr. [redacted]

[redacted] internal audit and our audit and investigation have

established that Dr. [REDACTED] did not appropriately administer NSF grants and that some NSF grant funds were diverted from their intended use. After reviewing all relevant evidence, including documents and a sworn statement provided by Dr. [REDACTED], we have not concluded that Dr. [REDACTED] intentionally diverted NSF grant funds. We are, however, concerned about the pattern of charges for work unrelated to these grants. This, in and of itself, creates a sufficient basis to terminate the existing grant. At the very least, NSF should impose special controls on the remaining grant funds.

In addition to the charges for work unrelated to the grant, we found that Dr. [REDACTED] did not act in accordance with the expectations of NSF program staff concerning the extent to which he and others could profit from the database developed under the NSF grants. Because NSF's expectations were not clearly stated, we have not concluded that Dr. [REDACTED] intentionally deviated from NSF's expectations. We believe, however, that this important issue was never adequately discussed or resolved by NSF, [REDACTED], and Dr. [REDACTED].

This occurred, in part, because Dr. [REDACTED] received and controlled grant income, then used the grant income to make supplemental salary payments to employees paid under the grant and to himself. Our audit found that [REDACTED], which was responsible for monitoring and controlling grant income, had improperly given full control over the collection and use of the grant income to the [REDACTED] (4). [REDACTED] is a [REDACTED] not-for-profit corporation established to distribute the data produced under the grant. Dr. [REDACTED] established [REDACTED] and is its executive director. Because [REDACTED] did not monitor or control grant income, there was a lack of accountability over grant income. This situation allowed Dr. [REDACTED] to use grant income without [REDACTED] oversight. This lack of control contributed to Dr. [REDACTED] misuse of NSF and [REDACTED] funds.

The NSF program officer told us that he expected [REDACTED] to control grant income and had instructed Dr. [REDACTED] not to use project income from the leasing of the database to increase either his salary or the salary of others supported under the grant. The program officer wrote a diary note that stated:

I had a series of telephone conversations with Robert [REDACTED] about the lease/year pricing of the NYSE and AMEX data tapes. He plans to charge \$1500 per user for access to these data tapes. This cost includes a 20% royalties payment to him for the development of the software and a supplement to his academic salary to compensate him for being Executive Director of the [REDACTED]. The compensation for royalties and for his salary as Executive Director would about double his academic salary.

I told him we would fund this project only if he agreed to eliminate the software royalties and the additional compensation as executive director as charges for leasing NYSE and AMEX data now and in all future leasing arrangements. Leasing arrangements on data sets funded by NSF could not be used to increase his or others academic salaries. He agreed to these terms.

In a July 13, 1987, letter to the NSF program officer, Dr. [REDACTED] stated:

The data funded by the NSF grant will be leased at the lowest possible rate to academics which, in the opinion of the board of oversight, does not jeopardize the financial health of the organization established to provide the data. The cost-basis use to determine the lease rate for these data will not include any salary arrangements that increase the academic salary of those receiving support from this grant, nor any royalty payments. Specifically, this refers to transactions data from the New York and American Stock Exchanges through the period of the grant, and any future updates of these data following the termination of the grant.

The NSF program officer told us that he thought that the issue was resolved and forwarded the final program approval for the grant. However, our auditors found documentation which indicated Dr. [REDACTED] planned to use project income from [REDACTED] activities to increase his salary and the salaries of some employees paid under the grant. Our investigation revealed that in October 1987, when Dr. [REDACTED] hired the computer programmer to work on the grant, Dr. [REDACTED] promised to supplement the programmer's NSF-funded salary paid through [REDACTED] by \$7,000 annually. In November 1987, Dr. [REDACTED] also hired the administrative assistant to work on the grant and promised to supplement the assistant's NSF-funded salary by \$4,000 annually.

We found that Dr. [REDACTED] used grant income from the leasing of the data to pay supplemental salary payments totaling \$12,400 to the computer programmer and the administrative assistant in 1989. We questioned Dr. [REDACTED] about these payments. Dr. [REDACTED] stated that he understood that he could not use project income to supplement his academic salary, but the salaries for these employees were not academic salaries. We disagree with Dr. [REDACTED]. The salaries were paid by [REDACTED] an academic institution, with NSF funds. In addition, the NSF program officer stated that he made it clear to Dr. [REDACTED] that project income was not to be used to increase Dr. [REDACTED]'s salary or the salaries of individuals who received NSF-supported funds.

Furthermore, documents revealed that Dr. [REDACTED] also allocated \$40,000 per year to be paid to him from ISSM's budget for serving

as the executive director. When we questioned Dr. [REDACTED] about supplementing his academic salary from the grant income, he responded that he had budgeted funds for a salary as executive director, but that he had not received any salary payments except a one-time payment of \$35,000 that he received in 1991. According to Dr. [REDACTED] that payment came after [REDACTED] received \$55,000 from a commercial firm for sponsorship of [REDACTED] and for leasing the data. According to Dr. [REDACTED] because the source of the cash flow was from a non-academic institution, the payment did not violate the intent that royalty or salary payments not be funded by lease revenues from universities.

We believe that prior to this investigation Dr. [REDACTED] did not fully communicate to NSF that he and [REDACTED] had sole control of the grant income outside the [REDACTED] accounting system. Dr. [REDACTED] and [REDACTED] also used grant income to make supplemental salary payments which was not in accordance with the expectations of the NSF program staff. Dr. [REDACTED] has admitted that he has made some mistakes in managing these grants and is hopeful that the benefits resulting from the project offset these mistakes. According to Dr. [REDACTED], the database is currently serving 39 universities, and the income from the leasing of data has produced sufficient cash reserves such that the survival of the database is not threatened. In fact, the NSF program officer said that he believes NSF has received an excellent product for the amount of money it has invested. Dr. [REDACTED] positive work, however, does not alleviate our concerns.

Inappropriate Actions by [REDACTED]

We have concluded that [REDACTED] failed to maintain control of the subject grants in accordance with the Grant General Conditions by inappropriately delegating control of the grant income to an independent organization controlled by Dr. [REDACTED]. In accepting these grants, [REDACTED] agreed to comply with applicable federal requirements and to prudently manage all expenditures and actions affecting the grants. We believe [REDACTED]'s performance in this regard was deficient.

Furthermore, we conclude that [REDACTED] was aware of administrative problems associated with Dr. [REDACTED]'s management of these grants and failed to notify NSF of these problems. Grant General Conditions state that the grantee is encouraged to seek the advice and opinion of NSF on special problems. Clearly, [REDACTED] was confronted with many "special problems" concerning Dr. [REDACTED]'s management of these grants, yet [REDACTED] did not seek the advice of the NSF program staff or contracting officer.

We were concerned about this matter because -- without telling NSF -- [REDACTED] conducted a detailed review of the allegations that Dr. [REDACTED] diverted NSF grant funds, which involved possible criminal violations. [REDACTED] review concluded that [REDACTED] had misapplied NSF grant funds. Subsequently, [REDACTED] officials negotiated and

accepted a settlement with Dr. [REDACTED] without notifying NSF. Part of the settlement included a clause that restricted [REDACTED] from releasing the investigation and settlement except when required by law. Finally, [REDACTED] officials approved a recommendation to transfer the remaining funds to Dr. [REDACTED] at [REDACTED] University. This transfer of funds would return control of all remaining grant funds to Dr. [REDACTED] including the \$11,842 that Dr. [REDACTED] reimbursed to [REDACTED]. [REDACTED] later credited this amount to the NSF grant.

[REDACTED] has acknowledged that it would have been preferable to notify NSF at the point when their internal auditors concluded that NSF funds had been misapplied. [REDACTED] stated that they intend to establish specific written policy that will require [REDACTED] to notify the appropriate granting agency of internal audit findings involving misappropriated funds. In addition, [REDACTED] has refunded \$11,217.00 to NSF. This amount includes \$9,833.00 used for salaries, fringe benefits and indirect charges relating to charges against the NSF grants for work relating to the [REDACTED] Commission Project, and \$1,384.00 questioned in Audit Report No. [REDACTED].

Recommendation

Based on the above-stated findings and conclusions, we recommend that NSF should, at a minimum, reach a written agreement with Dr. Wood and Memphis State University concerning the control and use of grant funds and grant income. In addition, because of the pattern of charges for work unrelated to the grants, NSF should require [REDACTED] University to impose appropriate, special controls on Dr. [REDACTED] to ensure that only reasonable and proper costs are charged to the grant.

Given the relatively small amount of grant funds remaining in the account, as well as the relatively expensive administrative costs to develop and impose new fiscal controls, we suggest that NSF terminate this grant for the convenience of the government and all unused grant funds be returned to NSF.

December 13, 1991