Statement of Allison C. Lerner
Inspector General, National Science Foundation

before the

Committee on Science, Space, and Technology
U.S. House of Representatives

concerning

"Protecting the American Taxpayer: Highlighting Efforts to Protect Against Federal Waste, Fraud, and Mismanagement"

April 19, 2023

Chairman Lucas, Ranking Member Lofgren, and distinguished members of the Committee:

I appreciate this opportunity to discuss the National Science Foundation (NSF) Office of Inspector General's (OIG) efforts to combat waste, fraud, and mismanagement. My office is committed to safeguarding the Foundation's programs and operations and to providing rigorous, independent oversight of NSF.

Background

The National Science Foundation (NSF)

With a budget of approximately $9.9 billion (FY 2023), NSF is the funding source for approximately 25 percent of all federally supported basic research conducted by America's colleges and universities. In many areas, such as mathematics and computer science, NSF is the major source of federal funding. Each year, NSF funds approximately 12,000 competitive awards for research, education, and training; supports about 2,000 colleges, universities, and other institutions; and supports about 350,000 researchers, entrepreneurs, students, and teachers. In 2022, NSF established the Directorate for Technology, Innovation and Partnerships (TIP) — its first new directorate in more than 30 years, which further expands funding for science, technology, engineering, and math (STEM)-related opportunities.

Proposals for funding are assessed by panels of experts as part of NSF's merit review process. Awards are made primarily as grants to institutions of higher education, as well as to research centers and facilities where scientists, engineers, and students undertake research projects. By law, the Foundation must devote a small percentage of its funding to research conducted by small businesses. The Foundation also uses cooperative

agreements and contracts to fund major research equipment such as telescopes, research vessels, Antarctic research sites, and high-end computer facilities.

NSF Office of Inspector General (OIG)

My office is independent from NSF and reports directly to Congress and the National Science Board (NSB). Our mission is to conduct independent and objective audits, inspections, reviews and investigations of NSF programs and operations, and to recommend policies and corrective actions to promote effectiveness and efficiency and prevent and detect waste, fraud, and abuse. Consistent with our statutory mandate, we have an oversight role and do not determine policy or engage in management activities involving the Foundation or program operations. Thus, my office is not responsible for managing any NSF programs, nor do we assess the scientific merit of research funded by the Foundation.

Our office has two main components: the Office of Audits and the Office of Investigations. The Office of Audits conducts audits of NSF's contracts, cooperative agreements, and grants to universities and other research institutions, as well as internal audits of NSF's programs. These audits help ensure that financial, administrative, and programmatic activities are conducted economically, effectively, and in compliance with applicable regulations. The Office of Investigations is responsible for investigating allegations of wrongdoing involving NSF programs and operations, agency personnel, and organizations that, or individuals who, submit proposals to, receive awards from, or conduct business with NSF. It also houses a team of investigative scientists responsible for investigating allegations of fabrication, falsification, and plagiarism in NSF-funded research. When appropriate, we refer the results of these investigations to the U.S. Department of Justice for possible criminal prosecution or civil litigation, or to NSF for administrative resolution.

Although our appropriation is a tiny fraction (0.24 percent in FY 2023) of NSF's appropriation, we have an outsized impact safeguarding against fraud, waste, and abuse. Our reports and investigations regularly contribute to significant recoveries and cost savings to taxpayers. Additionally, our robust outreach program — including publication in professional journals, presentations to large stakeholders, and capstone reports — provide valuable guidance and information to the broader research community, amplifying the impact of our work. In turn, these efforts reduce the risk of fraud, errors, and mismanagement by grant recipients.

Impacts of our audits

From FY 2017 through FY 2022, OIG audited approximately $9.6 billion in NSF funding in 37 states and the District of Columbia. These audits resulted in 131 engagement reports and 19 other products containing a total of $17.5 million in questioned costs and 1,204 recommendations to recover misspent funds and improve awardee and NSF operations. In

addition, OIG issued 537 desk reviews of federally required single audits for which NSF was the cognizant or oversight agency.

As a result of our audits, NSF recouped misspent funds and required award recipients to improve their management of NSF awards to prevent future misuse of taxpayer money. In addition, NSF took corrective actions in response to recent audits, such as improving guidance used for oversight of recipients and subrecipients within the Established Program to Stimulate Competitive Research, enhancing controls over government owned equipment, and automating the control environment to better identify errors and potentially fraudulent transactions. Additionally, we conducted work on NSF's controls over its use of the *Intergovernmental Personnel Act* (5 U.S.C. §§ 3371 – 3376) or IPAs. Our work led to improvement in coordination across NSF offices; better processes to ensure IPA candidates met all program eligibility requirements and to verify IPAs' salary and employment history prior to assignment; and stronger controls to identify potential risks associated with foreign influence.

Impacts of our investigations

From FY 2017 through FY 2022, OIG conducted nearly 700 investigations in 50 states and the District of Columbia, as well as Puerto Rico, Canada, and Antarctica. OIG investigations resulted in recoveries of more than $43 million and further helped protect NSF research funds through 57 debarments of individuals and entities, 16 voluntary exclusions of individuals, 26 award suspensions, and 17 award terminations. In addition, NSF took more than 250 other administrative actions based on our recommendations. OIG investigators also worked with NSF to improve numerous administrative practices and procedures to help prevent fraud and continued its leadership and outreach efforts on research security.

NSF OIG's Efforts to Combat Waste, Fraud, and Mismanagement

At NSF OIG, we use our audit and investigative expertise and our in-depth understanding of the Foundation's programs, operations, and policies to protect NSF funds and hold individuals who misuse those funds accountable. My testimony today will focus on three key areas:

1. Our oversight addressing the strength and integrity of NSF's programs and internal controls;
2. Our efforts to hold people accountable for wrongdoing and to use insights from such cases to strengthen internal controls; and
3. Our collaborative approaches to ensure effective stewardship of NSF funds and prevent wrongdoing.

Additionally, I will share our office's perspectives on the Council of the Inspectors General on Integrity and Efficiency's (CIGIE) legislative initiatives related to grant fraud, which aim to enhance oversight and strengthen enforcement.

I. Our oversight addressing the strength and integrity of NSF's programs and internal controls

We use a flexible, risk-based approach to ensure maximum impact of our limited audit resources

Our Office of Audits reviews NSF programs and operations to ensure that administrative, programmatic, and financial aspects of NSF operations are conducted effectively, efficiently, and economically. We also audit NSF-funded grants, contracts, and cooperative agreements. By providing independent and objective assessments of NSF's programmatic and financial performance, we help NSF improve its business policies and practices to better support its mission.

Assessing risks and planning audit work

We use risk assessments, data analytics, and other methodologies to help us determine the best way to deploy our limited audit resources.

Many of our audits are focused on NSF recipients' compliance with the terms and conditions of their funding. Roughly 93 percent of NSF's annual appropriation is awarded to the recipient community to conduct scientific research and strengthen the STEM education pipeline. NSF's active portfolio of research funding at any given time includes approximately 2,000 institutions, 45,000 awards, and $40 billion in grants, cooperative agreements, and contracts. To ensure we are conducting effective oversight over these award funds, we conduct an annual risk assessment. This assessment is conducted across NSF's entire recipient population and incorporates such risk factors as experience of the awardee, number of subrecipients receiving funding under the award, or institutions that have experienced a rapid increase in funding. We use the results of this analysis to apply our limited oversight resources to situations and institutions that appear to be at high risk.

To focus our audits of NSF operations on the most critical areas, we use continuous monitoring procedures to identify risks related to new programs, emerging trends, budgetary shifts, and changes to NSF's management and legislative priorities. We also review single audits[1] of NSF recipients to see if they reveal evidence of weaknesses in

[1] Uniform Guidance requires colleges, universities, and non-profit organizations that expend $750,000 or more a year in federal awards to obtain an annual independent financial audit, referred to as a "single audit." NSF relies on the results of single audit reports to plan its oversight efforts,

internal controls that make the organization more susceptible to fraud. We then assess the magnitude, probability, and overall impact to the Foundation of any risks identified. We use the results of this process to develop an audit plan that addresses the areas that represent the highest risk to the agency. Through these audits, we are able to help NSF recover funds that have been used inappropriately and strengthen its controls to prevent fraud, waste, and abuse.

Using flexible audit processes to obtain maximum impact

Most of our audits of NSF recipients are conducted by auditors working for us under a contract that gives us flexibility to focus on the highest risk areas and use our limited resources efficiently and effectively. These audits generally start with a survey phase where the auditors conduct procedures to evaluate the recipient's overall grant management environment. Based on the results of those procedures, we move forward with additional audit work that best responds to the risks identified. Our options include conducting an incurred cost audit,[2] an accounting system audit, an internal control audit, or a custom audit with unique objectives. We can also end the audit if the risks identified do not necessitate further audit work. Having the flexibility to pursue many different audit paths enables us to follow the biggest risks, wherever they take us, and to provide more effective oversight of NSF's funds.

In recent years, our audits of NSF programs have begun with a series of audits at recipients to verify whether they are properly using and accounting for award funds. We use the results of those audits to identify problems that are occurring at multiple recipients and other ways for NSF to improve its management of the program and provide that feedback to NSF in a capstone report. This two-pronged audit approach has made our program assessments richer, as we are able to focus not only on NSF's policies and procedures, but also how they are actually being implemented by awardees.

We seek ways to amplify the impact of our audits

In any given year, we can only audit a tiny fraction of NSF's programs and its over 2,000 recipients. To push the impact of our work further, we are constantly seeking new and creative ways to share our work with the broader recipient community.

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including site visits and other post-award monitoring. Overall, single audits are a useful tool in assisting federal funding agencies, pass-through entities, and the recipients themselves with deterrence and detection of fraud.

[2] An incurred cost audit is focused on evaluating the costs that an award recipient spent on the awards they received from NSF. We evaluate the costs against federal regulations (such as the Uniform Guidance), NSF requirements (such as award terms and conditions), and the recipient's own policies. Typically, the evaluation centers around four key questions: was it allowable, was it allocable, was it reasonable, and was it necessary?

Our recent report on promising practices identified in our external audit work is an example of how we strive to extend the impact of our audits. The recommendations in our audits of award recipients only apply to the institution being audited. To provide value beyond those individual organizations and increase the level of financial stewardship across NSF's recipient community, we developed a Promising Practices Report focused on identifying sharing such practices for NSF award management. Based on prior results of our audits of NSF's award recipients, we published a capstone report communicating the most common audit findings, suggestions for how to improve compliance in those areas, and promising award management practices implemented by audited institutions. This report helps members of the recipient community identify means to strengthen their award management practices and improve their overall stewardship of federal funds across the NSF award recipient population.

Our efforts to expand the impact of our work are enhanced by our robust outreach to the NSF recipient community, which are detailed later in this testimony.

Recent examples of how our work strengthens the integrity of NSF programs and operations

Capstone report offers suggestions to improve oversight of high-risk program

Our office of audits recently completed the OIG community's most extensive audit work on the Established Program to Stimulate Competitive Research (EPSCoR), which — through programs at five agencies, including NSF — seeks to enhance research competitiveness in states and territories that have historically received a small share of federal grant dollars by strengthening science, technology, engineering, and math capability and capacity. After conducting audit work at 10 awardees, resulting in 7 reports and a total of more than $2.7 million in questioned costs, we issued a capstone report summarizing 3 key issues identified at multiple EPSCoR recipients, with suggestions to help recipients address them. Specifically, we found that EPSCoR recipients need to strengthen internal controls and oversight related to assessing and monitoring subrecipient risk, charging costs to support summer research programs, and implementing new accounting systems.

In particular, regarding prime award recipients' use of subrecipients, we found a need for additional oversight for subrecipients who spent less than $750,000 annually in federal award funds as they may not have the accounting systems, policies, and procedures needed for adequate award administration. EPSCoR projects are expected to be inclusive and to broaden participation, so it is common — and encouraged — for awardees to include such subrecipients. These subrecipients may need training, on-site reviews, and other technical assistance to understand and follow the unique requirements of federal awards. As a result of our audit work, NSF is building the award management capacity and capability of institutions that have historically received less federal funding, an example

from which other agencies with active EPSCoR programs can draw. The audit work will continue to have an impact as the program grows: for FY 2022, Congress directed NSF to increase funding for its EPSCoR program by at least 8 percent — to $215 million — and the Administration requested a further 15 percent increase for FY 2023.

Proactive oversight during program development

The *CHIPS and Science Act of 2022* significantly impacted NSF. For example, the Act formally established NSF's Technology, Innovation, and Partnerships (TIP) directorate, and added several new requirements related to research security, broadening participation in the research enterprise, and strengthening STEM education. This has provided us with the opportunity to engage in preventative oversight, where we can provide appropriate feedback or input on a program while it's being developed. As part of our efforts in this area, we recently issued a report titled Summary of Federal OIG Findings and Recommendations Related to Other Transaction Agreements.

As described in the report, the Act provided NSF with the authority to use other transaction agreements (OTAs) to carry out the activities of the TIP directorate. OTAs are often used to advance new technologies and for research, development, and demonstration projects. Although OTAs are subject to federal fiscal law, they are not subject to the Uniform Guidance and the Federal Acquisition Regulation, which govern grants, cooperative agreements, and contracts. As such, agencies must develop a rigorous control environment with comprehensive policies, processes, and procedures to ensure proper oversight and accountability over the use of OTAs.

To inform NSF of potential risks inherent to OTAs as it develops its own OTA policies and procedures, we identified and summarized relevant information from 8 reports published by 4 federal OIGs over the past 5 years. These reports identified 19 findings concerning the management of OTAs, which resulted from agencies not having proper guidance or policies for overseeing OTA recipients, sufficient training for staff, or adequate systems to retain documents or track data.

NSF said it plans to use our report to help identify and mitigate potential risks related to the use of OTAs. To maintain our independence, we did not perform any management functions or make any management decisions while conducting this review.

II. Our efforts to hold people accountable for wrongdoing and to use insights from such cases to strengthen internal controls

We use our in-depth experience in fighting grant fraud to protect NSF funds

As the vast majority of NSF's funds are used to make grants to the research community, our office's primary investigative focus is on identifying and addressing grant fraud and

working to prevent its recurrence. We also investigate allegations of research misconduct,[3] whistleblower retaliation, and other administrative violations. We respond to allegations received from many sources and conduct proactive activities to identify wrongdoing and systemic weaknesses. We use multi-disciplinary teams consisting of criminal investigators, investigative attorneys, investigative scientists, and analysts to enhance the thoroughness and success of our cases and take them to logical and defensible conclusions.

The tools we use to fight grant fraud may include criminal or civil statues. Our criminal cases often involve violations of 18 USC 1001, False Statements, and 18 USC 1343, Wire Fraud. We may also charge violations of 18 USC 371, Conspiracy to Defraud the Government, or 18 USC 666, Theft of Program Funds. Our civil cases usually involve violations of 31 USC 3729, the False Claims Act. Some cases settle, while others go to trial. In some of our criminal cases subjects have been sentenced to jail time and restitution. Civil cases have resulted in subjects being required to pay treble damages, along with substantial fines and penalties.

We also use administrative remedies to protect NSF funds while criminal and civil investigations are ongoing. As soon as we have sufficient evidence, we make recommendations to NSF about actions it can take to protect its investment in research. For example, when appropriate, we can provide the Foundation with information that supports the suspension or termination of NSF awards involved in our investigations. We can also recommend to NSF that it suspend a researcher government-wide when evidence we gather raises questions about the present responsibility of the researcher. And at the end of a case, when appropriate, we provide NSF with evidence sufficient to support debarring a researcher for a set period. The latter two actions are extremely serious, as they prevent the researcher from receiving not just NSF funds but funds from any federal government agency during the period of suspension or debarment.

We spearhead cross-government efforts to hold individuals misusing federal research funds accountable

Experience has taught us that awardees who misuse NSF funding are often receiving and misusing research funding from other federal agencies. To ensure the strongest possible response to such wrongdoing, we created and continue to lead two cross-government investigative working groups.

OIG's investigative approach to cases involving foreign talent recruitment plans

Safeguarding the U.S. research enterprise from threats of inappropriate foreign influence is of critical importance. NSF, and other agencies that fund research, continue to face challenges from foreign government talent recruitment programs. Although membership

[3] Defined as fabrication, falsification or plagiarism in NSF-funded research.

in such programs is not illegal, it is important for NSF to know if a researcher is a member because some programs elicit unethical and possibly criminal behaviors. Members of these plans are often required to enter into contractual relationships with a foreign government, which strongly favor the foreign government's interests. The foreign government can also exert control over the researchers' intellectual property, the types of research they conduct and, in some cases, where the research is conducted and who works in the lab.

We have used our in-depth expertise in combating grant fraud to contribute to the government-wide response to research security issues. Grant fraud comes wrapped around all sorts of different bad acts, but, when stripped to its core, it is about false statements and false claims. We discovered that many talent plan members failed to disclose their affiliations with such plans when applying for NSF funding, as required by NSF's Proposal & Award Policies & Procedures Guide (PAPPG). Because the university certifies to the accuracy of those disclosures, the failure to disclose such membership is a potential false statement. NSF must understand potential conflicts of interest and commitment that can result from such membership to make informed decisions about which awards to fund. The failure to disclose is not simply a paperwork error — it can undermine the integrity of NSF's competitive award process, put limited grant funds at risk, and prevent deserving recipients from being funded.

We have encountered situations where researchers are meeting the requirements of their foreign talent contracts by using U.S. government funds to bring foreign students to this country; using federal funds to travel abroad to do work required by the foreign government; or receiving salary from federal awards while concurrently working and being paid a salary by their talent plan. Our investigations have also highlighted duplication of funding issues and time commitment concerns based on a talent recruit's failure to disclose. Situations like these can result in criminal, civil, and/or administrative action. An example of our response to such misconduct is found in our investigation of an NSF Small Business Innovation Research (SBIR) recipient. In that case. our investigative team (consisting of a criminal Investigator and an investigative attorney) identified an email from the subject in which he brazenly wrote to a fellow scientist, "If we get this FREE money from NSF we will use for a different project because the proposed work was already done in our lab in China." This case resulted in a criminal conviction for obstruction of justice.

In addition to trials, settlements, convictions, and recoveries, our research security work includes robust outreach efforts. Our investigators have been leaders of the IG community's response to this threat and have contributed to the development of practices and policies to prevent recurrence, as discussed later in this testimony.

OIG's investigative approach to cases involving the SBIR/STTR program

The mission of the SBIR and Small Business Technology Transfer (STTR) programs is to engage small business concerns to support scientific excellence and technological

innovation through investment of federal research and research and development (R/R&D) funding to build a strong national economy.

Because small businesses often do not have experience managing federal funds, oversight of NSF's more than $500 million portfolio of active SBIR/STTR awards has been a significant investigative priority of our office for decades. In 2009, NSF OIG and the U.S. Department of Energy OIG established an interagency working group focused on fraud in the SBIR/STTR programs. The SBIR Investigations Working Group currently consists of representatives from 25 investigative agencies, including OIGs for all 11 SBIR award issuing agencies, and is co-chaired by our office and the U.S. Department of Commerce OIG. The latest working group meeting in March 2023 had more than 50 participants. Recent Working Group meetings have focused on best practices in identifying fraud through proactive reviews.

We have recently taken a stronger proactive approach to identifying SBIR/STTR fraud by targeting violations of specific SBIR/STTR program requirements that are indicators of larger fraudulent schemes. Proactive reviews leveraging state wage payment records to identify principal investigators violating the primary employment requirement and IP address activity to identify companies performing work outside of the United States have resulted in several cases being accepted by Assistant United States Attorneys in various districts for civil or criminal investigation or prosecution.

An example of the positive results of our proactive work in this field is found in an investigation that began with a plagiarism allegation being handled by an investigative scientist. That matter subsequently intersected with a proactive review we were conducting to examine expenses charged to awards for facilities at which SBIR/STTR awardees claimed to be conducting research. Our investigative team found that the principal investigators (a husband and wife) were charging the award for leased facilities while actually conducting research in the master bathroom of their primary residence. A criminal trial resulted in jail sentences of 15 and 13 years for the principal investigators and a $10.6 million judgment.

Our investigators have worked closely with SBIR/STTR program officials for many years, sharing insights from our investigative efforts to support our suggestions for tighter controls, stronger certifications, and numerous improvements in policies and procedures to reduce the opportunity for fraud to occur. We have spoken at every SBIR/STTR Phase I grantees workshop for the past 20 years, providing guidance to awardees on how to follow the rules — and the consequences for mishandling their awards. If awardees are subsequently found to have misused NSF funds, their attendance at this training shows that they understood their obligations, enabling us to prove that their actions were intentional.

Since the SBIR/STTR program became part of the newly established NSF's Division of Translational Impacts in the newly formed Directorate of Technology, Innovation, and Partnerships (TIP/TI), we have maintained close contact with that office. We are currently

working with TIP/TI to translate the content of the SBIR/STTR Phase I grantee presentations into a video training presentation that all SBIR/STTR awardees will be required to view and certify to having seen before receiving an SBIR/STTR award from NSF. Our office has also provided written recommendations to TIP/TI on ways to improve program forms and processes, and TIP/TI has consistently worked with us when implementing changes. We are currently working closely with TIP/TI on how NSF can best implement the increased research security protections required of it in the *SBIR and STTR Extension Act*.

Our work in this area has resulted in programmatic improvements that tightened controls over this funding and in enhanced understanding by awardees of their obligations if they accept NSF funding. Our oversight has enabled us not only to hold wrongdoers accountable, but also to identify and remedy systemic weaknesses to protect taxpayer dollars into the future.

III. Our collaborative approaches to ensure effective stewardship of NSF funds and prevent and address wrongdoing

Our office excels in working with NSF, its awardees, and other federal partners to improve stewardship of federal funds and hold recipients who misuse such funds accountable. This portion of my testimony will focus on those efforts and will conclude with an example of a case reflecting our collaborative approach to fighting fraud.

We have a robust outreach program through which we share our work with recipient community

For decades, our office has had a robust outreach program intended to help us share the results of our work to the recipient community. This program acts as a force multiplier for our office and provides us with a platform to amplify our message about who we are, what we do, and what we commonly identify in audits of NSF's recipients. Our presentations to the research community at conferences, workshops, and webinars include ways to combat grant fraud, case studies, common audit findings, and emerging issues. These presentations help research administrators and principal investigators learn about problem areas they might not have known existed so they can take proactive steps to review and improve their own award management environments. Given the mission of the agency and our role in investigating allegations of research misconduct, we also promote research integrity and share with the community ways to prevent research misconduct.

Another pillar of our outreach program is developing relationships with award recipients and their representative organizations. For example, we developed a collaborative relationship with a professional society of research administration professionals. As part of our outreach efforts, we contribute articles for their bi-monthly trade magazine that is distributed to the organization's 7,500 members. Over the past several years we have published dozens of articles on topics such as *Detecting and Preventing Grant Fraud*,

Frequent Audit Findings, and *Why Investing in Research Compliance is a Good Bet: An Overview of Investigative Outcomes*.

We work closely with our NSF and law enforcement colleagues to respond to challenges and improve controls and audit outcomes

Research Security Collaboration

Our office's collaborative, well-established relationship with the Foundation has been an important aspect of our response to threats to NSF-funded research from foreign interference. We meet regularly with NSF principals to share issues we have identified in our work, and they have been very receptive to our concerns and recommendations. Most importantly, we have developed a deeply collaborative working relationship with NSF's Chief of Research Security Strategy and Policy, which has strengthened the efforts of both our offices in this area. As I noted earlier, our office does not only pursue criminal and civil actions in cases of grant fraud; when we have sufficient evidence, we also make recommendations for administrative action by NSF, as appropriate, over the lifecycle of our investigations, including for cases related to foreign funding. Based on recommendations by our office, NSF has taken a range of actions, including award suspensions and terminations and governmentwide suspensions and debarments, against individuals and entities associated with foreign talent programs or organizations receiving foreign funding.

We have also actively collaborated with other federal law enforcement agencies and served as a coordinating focal point within the OIG community to ensure this threat is addressed on a governmentwide basis. For example, in 2018 we stood up two substantive working groups: an effort led by my office and the U.S. Department of Health and Human Services OIG to educate and coordinate outreach to executives within the OIG community and an agent-level working group, which today has more than 200 members representing more than 30 investigative agencies.

The agent-level working group includes members from major funding agencies, such as the U.S. Departments of Health and Human Services, Energy, and Defense, and the National Aeronautics and Space Administration (NASA). Other members represent United States Attorney's Offices and the U.S. Department of Justice's National Security Division. This group, led by my office and NASA OIG, educates the investigative and grantee communities; identifies and shares best practices with investigative partners; serves as a hub for subject matter experts to navigate the varied proposal documents specific to different funding agencies and help with identifying material issues; and works to deconflict current investigations and leverage resources for existing cases. The latter actions are especially important, as foreign influence cases often involve researchers who are funded by multiple federal agencies.

NSF OIG and NSF Stewardship Collaborative

Our office also works to address and prevent wrongdoing through the Stewardship Collaborative, a group NSF and NSF OIG jointly established in 2010 to achieve our shared goal of ensuring proper stewardship of the taxpayer's investment in science, engineering, and education. The Collaborative includes members from various divisions within NSF and staff from our investigative and audit divisions and is chaired by Senior Executive leaders from NSF's Office of Budget, Finance and Award Management and NSF OIG's Office of Audits. This group meets monthly to discuss current issues and identify possible barriers to audit resolution — as well as potential solutions. For example, it recently developed a joint training effort to improve understanding of the audit resolution process, including members' responsibilities in the process.

Along with increasing positive communication between NSF and OIG staff, the Collaborative has been instrumental in resolving a number of critical audit recommendations. Most importantly, it has helped ensure that NSF addresses recommendations without impinging on NSF OIG's independence — and that management decisions are made by the right people within the Foundation.

A case illustrating the impact of our collaborative approach to protecting NSF funds

A prime example of the outcome of our collaborative approach to address wrongdoing is the multi-agency investigation and civil settlement involving the Center for Severe Weather Research, Inc. (CSWR).

CSWR, a nonprofit based in Boulder, Colorado, conducted scientific weather research popularly known as "storm chasing" with its "Doppler on Wheels" fleet. During a site visit to CSWR in March 2019, NSF's Advanced Monitoring team identified concerns regarding the company's financial management system and federal award management practices, and referred these concerns to our office.

Our Office of Investigations identified other agencies that funded the company and assembled a multi-agency investigative team. The team determined that from 2004 to 2020, CSWR improperly requested payments from federal grants from three federal agencies, including NSF, for expenses that CSWR had not incurred. In addition, CSWR had inadequate internal controls for the federal funds it received, including inadequate documentation and controls over large cash transactions. Ultimately, CSWR paid more than $2.4 million to resolve allegations that it engaged in fraud related to grants it received from three federal agencies, and its two founders paid more than $200,000 to the United States to resolve allegations of improperly obtaining payments to which they were not entitled.

In parallel to the investigation, our Office of Audits initiated a Quality Control Review (QCR) of the independent auditor who performed CSWR's FY 2017 single audit. The OIG auditors

determined that the audit report was not reliable for use by federal funding agencies to monitor CSWR's compliance with applicable federal requirements; the results of the review also called into question the reliability of three other single audits of CSWR that had been conducted by the same independent auditor. Our auditors referred their findings to the Colorado Board of Accountancy and the American Institute of Certified Public Accountants (AICPA).

The successful investigation and supplemental audit efforts illustrate how an initial referral from NSF to NSF OIG — and subsequent collaboration both among federal partner agencies and within NSF OIG — can produce meaningful results that serve to protect federal funds from fraud, waste, and abuse.

IV. Legislation to Strengthen Oversight

At the beginning of each new Congress, the Council of the Inspectors General on Integrity and Efficiency (CIGIE) proposes legislative initiatives to enhance government oversight and address legal challenges faced by the Inspector General community. There are two such initiatives related to grant fraud oversight that, if enacted, could strengthen our ability to hold individuals who misuse NSF funds accountable:

- Reforming the Program Fraud Civil Remedies Act (PFCRA). Often referred to as the "mini-*False Claims Act*," PFCRA is an underutilized tool to provide administrative civil remedies for false claims of $150,000 or less and for false statements. According to a 2012 U.S. Government Accountability Office report, many agencies were not using the PFCRA for reasons including: a lack of familiarity with the statute, insufficient resources, cumbersome and time-consuming procedures, availability of alternate remedies, and, in many agencies, the absence of administrative law judges to adjudicate PFCRA cases.

  Following that study, CIGIE recommended statutory changes to improve PFCRA usage and to enhance its effectiveness. The recommendations include updating the decades-old dollar threshold for claims subject to PFCRA, allowing PFCRA decisions to be delegated within the U.S. Department of Justice, allowing agencies to be made whole from PFCRA recoveries, better aligning PFCRA with the *False Claims Act*, and expanding who can serve as a hearing official. When taken together, these reforms could make PFCRA a significant tool to recover fraudulent expenditures for the benefit of taxpayers and deter individuals from committing small-dollar fraud.

- Statutory Exclusion for Felony Fraud Convicts to Protect Federal Funds. Many felony fraud convictions involving federal program funds do not result in government-wide suspension or debarment action against the felon. An analysis of 250 felony fraud convictions involving federal program funds over a 4-year period found that more than 70 percent of those convicted were not suspended or debarred from doing

business with the government, thus allowing them to remain eligible for more federal funding.

This initiative would enhance existing law by making exclusion actions automatic for those convicted of violating certain felony fraud statutes involving any agency contract, grant, cooperative agreement, loan, or other financial assistance. Under current law, no *mandatory* exclusion exists for individuals convicted of, or who plead guilty to, felony fraud against the government. Instead, both the Federal Acquisition Regulation (FAR) and the Non-Procurement Common Rule allow agencies to take *discretionary*, time-limited actions to exclude felony fraud convicts from receiving Federal grants and contracts through government-wide suspensions or debarments.

Conclusion

Scientific research and discovery are the building blocks of the technological advances that are essential for our nation's economy to grow and meet the challenges of the future, and NSF has an essential role to play in promoting scientific discovery. For the agency to achieve its mission, it must spend its research funds in the most effective and efficient manner while maintaining the highest level of accountability over taxpayer dollars.

My office will continue to use the full range of our audit and investigative resources to protect taxpayer funds and safeguard the integrity of the Foundation's operations and investments in science. We look forward to working with NSF management, the National Science Board, and Congress to achieve this goal.

This concludes my statement. I would be happy to answer any questions.