NSF Controls to Mitigate IPA Conflicts of Interest

AT A GLANCE

NSF Controls to Mitigate IPA Conflicts of Interest

Report No. OIG 17-2-008
June 8, 2017

WHY WE DID THIS AUDIT

NSF draws scientists, engineers, and educators from academia, industry, or other eligible organizations on rotational assignment to supplement its workforce. These temporary staff members, many of whom NSF appoints under the Intergovernmental Personnel Act (IPA), can have a heightened risk of conflicts of interest while they are working at NSF. Given the significant involvement IPAs have in NSF's award and oversight processes, it is critical that NSF develop and implement strong controls throughout the agency to identify and mitigate conflicts of interest.

In June 2015, we issued a report documenting problems with NSF's controls to identity and mitigate conflicts of interest in the context of one IPA's tenure at NSF. We conducted this audit to assess the effectiveness of NSF's controls for identifying and mitigating conflicts of interest for IPAs agency wide.

WHAT WE FOUND

NSF has implemented internal controls to identify and mitigate IPA conflicts of interest. However, some of the controls could be strengthened, and additional controls may improve NSF's ability to identify or mitigate IPA conflicts of interest. Specifically, NSF's information system does not restrict conflicted parties from accessing proposal and award information, and rules on submitting proposals while at NSF are not clear or consistently enforced. In addition, NSF did not always ensure a substitute negotiator was named when negotiating awards with former IPAs or fully track completion of exit briefings for departing IPAs. NSF has also not completed agreed-upon corrective actions to strengthen controls over IPA conflicts of interest.

Given the significant involvement of IPAs in NSF's award and oversight processes, it is critical that NSF develop and implement strong controls to identify and mitigate conflicts of interest. If NSF's decision-making processes are compromised — or appear to be compromised — by conflicts of interest, NSF risks losing the confidence of the scientific, engineering, and educational communities; of Congress; and of the general public in the fairness of its selection process for funding projects.

WHAT WE RECOMMEND

We recommend NSF take corrective actions to strengthen controls over IPA conflicts of interests, including reassess controls to ensure staff do not have access to awards and proposals for which they are conflicted; ensure that staff obtain exit interviews; and clarify and enforce its rules on the submission of preliminary proposals by current employees and IPAs.

AGENCY RESPONSE

NSF generally agreed with our recommendations and proposed corrective actions. Regarding recommendation 1, NSF responded that it reassessed its controls for access to proposals and determined that the risk of IPAs accessing their own proposals is so low that no changes to controls are warranted. As part of its response, NSF also provided feedback in the form of clarifications on a number of sections of the report along with supporting attachments.

FOR FURTHER INFORMATION, CONTACT US AT (703) 292-7100 OR OIG@NSF.GOV.

MEMORANDUM

DATE:	June 8, 2017
TO:	Joanne S. Tornow Office Head, Office of Information & Resource Management and Chief Human Capital Officer
	Lawrence Rudolph General Counsel
FROM:	Mark Bell Assistant Inspector General Office of Audits
SUBJECT:	Final Report No. 17-2-008, *NSF Controls to Mitigate IPA Conflicts of Interest*

Attached is the final report on the subject audit. We have included NSF's response to the draft report as an appendix.

This report contains four overarching recommendations to strengthen controls over *Intergovernmental Personnel Act* assignee conflicts of interests. NSF generally agreed with our recommendations. In accordance with OMB Circular A-50, *Audit Followup*, please provide our office with a written corrective action plan to address the report's recommendations. In addressing the report's recommendations, this corrective action plan should detail specific actions and associated milestone dates. Please provide the action plan within 60 calendar days of the date of this report.

We appreciate the courtesies and assistance NSF staff provided during the audit. If you have questions, please contact Elizabeth Goebels, Director, Performance Audits, (703) 292-7100.

cc:
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ABBREVIATIONS

CY	calendar year
eJacket	electronic award jacket
HRM	Division of Human Resource Management
ID	PI identification number
IPA	Intergovernmental Personnel Act
MIR	Management Implication Report
OGC	Office of General Counsel
PARS	Proposal, PI Meeting, Budget, and Reviewer System
PI	Principal Investigator

Background

The National Science Foundation is an independent Federal agency created by Congress in 1950 to promote the progress of science; to advance the national health, prosperity, and welfare; and to secure the national defense. NSF is vital because it supports basic research and people to create knowledge that transforms the future.

Appointees under the Intergovernmental Personnel Act (IPAs)

NSF draws scientists, engineers, and educators from academia, industry, or other eligible organizations on rotational assignment to supplement its workforce. All non-permanent appointments are Federal employees, except for individuals under the *Intergovernmental Personnel Act* (IPA), who are paid through grants and remain employees of their home institutions.

NSF's reliance on individuals appointed under the IPA — hereafter referred to as IPAs — is significant. As of December 2016, NSF's science directorates had 171 IPAs in both executive (28) and non-executive (143) positions. IPAs headed five of the seven NSF research directorates (one was vacant) and 20 of those directorates' 29 divisions (two were vacant). Only 52 percent of NSF's program officers who run the merit review system and make funding recommendations were permanent employees.[1]

Because rotating staff generally are active researchers with a portfolio of NSF awards and are employed by institutions that receive NSF awards, an IPA's interests, affiliations, and relationships could create, or appear to create, bias in his or her work at NSF.

Conflicts of Interest

According to NSF Manual 15 *Conflicts of Interest and Standards of Ethical Conduct*, "A conflict of interest is a clash between an official's concern for the public interest and his or her private interests or allegiances." NSF employees, including IPAs,[2] must not be involved in handling any proposal, award, or other matter in which they, a member of their immediate family, a business partner, or an organization of which they are or may become a part has a financial interest. For example, a proposal from an IPA's home institution coming into his or her division for funding constitutes a conflict of interest for the IPA, and the IPA must excuse him or herself from handling it.

Internal Control

Internal control is a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity — in this case, compliance with applicable laws and regulations — will be achieved. According to GAO's *Standards for Internal Control in the Federal Government*, an internal control system is a continuous built-in component of

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[1] In addition to IPAs, other non-permanent program officers were temporary employees or appointments under the Visiting Scientist, Engineer, and Educator program.

[2] Because the conflict of interest rules are the same for NSF employees as IPAs, throughout this report, we refer to both collectively as "NSF staff."

operations, effected by people, that provides reasonable assurance that an entity's objectives will be achieved. However, no matter how well designed, implemented, or operated, an internal control system cannot provide absolute assurance that all of an organization's objectives will be met. Factors outside the control or influence of management can affect the entity's ability to achieve all of its objectives.

NSF Process for Addressing Conflicts of Interest

NSF has a process for addressing conflicts of interest when an IPA is selected and is brought on board. These controls[3] are designed to identify and mitigate conflicts before, during, and after the IPA's tenure at NSF.

- NSF requires that all IPAs are removed from being the principal or co-principal investigator on all active awards and proposals prior to their arrival. In addition, the IPA must identify potential conflicts and notify the designated conflict official — who guides staff in resolving conflict of interest issues — in his or her directorate, division, office, or the Office of General Counsel (OGC) when they arise. The conflicts official examines the matter, decides what special arrangements are required, and makes a written record that explains actions taken to remedy the conflict. In some cases, a conflict of interest rule automatically disqualifies an IPA from handling an NSF proposal or award.

- During an IPA's tenure at NSF, he or she must also obtain permission from the conflicts official before participating in any matter in which a reasonable person would question the employee's impartiality in the matter. Conflicts officials determine how to handle a proposal when the Program Officer or Division Director who would normally handle the matter is involved with the proposal or award or if the official has an affiliation that may create, or appear to create, a bias.

- Within 90 days from the time an employee — including an IPA — begins work for an agency, according to the Code of Federal Regulations, the agency must give the employee the *Standards of Ethical Conduct for Employees of the Executive Branch* and one hour of official duty for the employee to review it. Additionally, all program officers and officials and executive level IPAs are also required to file an initial and ongoing annual financial disclosure statement.

- While at NSF, staff members use NSF's internal proposal processing/grants management system, eJacket, to process NSF proposals and manage post award activities. An award's eJacket file includes internal documents such as the merit reviews of the proposal, the principal investigator history, and the review record. Conflicts officials set a warning flag that appears in eJacket for each incoming IPA to notify the IPA as well as the IPA's colleagues when accessing an award or proposal with which the IPA was once affiliated as a principal or co-principal investigator.

- During their tenure at the Foundation, current NSF employees or IPAs may not submit new proposals to NSF. According to NSF Manual 15 and the Code of Federal Regulations, NSF will

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[3] See Appendix C on page 30 for more information on the internal controls that we reviewed.

entertain no proposal in which staff would be a senior investigator or equivalent, unless it is a proposal for continuation or extension of support for work that pre-dated service at NSF.

- NSF requires all departing IPAs to have a conflict of interest exit interview with OGC to inform the staff of post-employment restrictions. OGC generally schedules one session of "Exit Interviews for Employees Leaving NSF" per month but allows those unable to attend to meet the requirement in other ways, such as scheduling a one-on-one meeting with an OGC ethics counselor or independently reviewing written exit materials.

- As soon as his or her NSF tenure ceases, a former NSF staff member (including an IPA) may be a principal investigator (PI) on an NSF award, according to *NSF Rules of Practice*. However, the former staff member cannot directly deal with NSF officials on any proposal or project for a period of 1 year after leaving NSF and must designate a "substitute negotiator" to represent him or herself and his or her institution in dealings with NSF during this time.

Some conflicts officials take additional actions that, if required by policy, could provide NSF additional control to identify and mitigate IPA conflicts of interest. These actions include holding pre-employment discussions with prospective IPAs to identify their potential conflicts and forewarn them of how conflicts will restrict their work at NSF prior to their acceptance of appointments; holding a conflict of interest brainstorming discussion with each new IPA at the start of his or her tenure to help the IPA identify potential conflicts; and sending a memo annually asking staff to document their conflicts and compiling them into a list.

Audit Purpose

In June 2015, the Office of Inspector General issued a report[4] documenting problems with NSF's controls to identity and mitigate conflicts of interest in the context of one IPA's tenure at NSF. That same month, the House Committee on Science, Space, and Technology held a hearing entitled "Is NSF Properly Managing its Rotating Staff?" As a result of the report, NSF agreed to take actions to strengthen its controls.

We conducted this audit to assess the effectiveness of NSF's controls for identifying and mitigating conflicts of interest for IPAs agency wide. In conducting this audit, we reviewed NSF's control activities, which are the actions management has established through policies and procedures to respond to risks and achieve compliance with applicable conflict of interest laws and regulations.

Results of Audit

NSF has implemented internal controls to identify and mitigate IPA conflicts of interest. However, some of the controls could be strengthened, and additional controls may improve NSF's ability to identify or mitigate conflicts of interest. Specifically, NSF's information system does not restrict conflicted parties from accessing proposal and award information, and rules on submitting proposals while at NSF are not

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[4] *Opportunities to Strengthen Controls over Rotator Conflicts of Interest*, June 19, 2015

clear or consistently enforced. In addition, NSF did not always ensure a substitute negotiator was named when negotiating awards with former IPAs or fully track completion of exit briefings for departing IPAs. NSF has also not completed agreed-upon corrective actions to strengthen controls over IPA conflicts of interest.

Given the significant involvement of IPAs in NSF's award and oversight processes, it is critical that NSF develop and implement strong controls throughout the agency to identify and mitigate conflicts of interest. If NSF's decision-making processes are compromised — or appear to be compromised — by conflicts of interest, NSF risks losing the confidence of the scientific, engineering, and educational communities; of Congress; and of the general public in the fairness of its selection process for funding projects.

NSF Controls for Addressing Conflicts of Interest

We tested the following NSF-wide controls and found that NSF has implemented controls to identify, mitigate, and address IPA conflicts of interest. However, NSF could strengthen or add to existing controls to improve its ability to address and mitigate conflicts.

Access to Proposal and Award Information

Because the flag that appears in eJacket when accessing an award or proposal with which an IPA was once affiliated is only a warning that can be clicked past, all IPAs have access to certain information in eJacket, such as award, proposal, amendments, and budgets, even if they have a conflict with the award. According to a Division of Information Systems (DIS) official, if a proposal or award is assigned to a conflicted Program Officer or within the division of a conflicted Division Director, the flag that appears in eJacket does not prevent that conflicted Program Officer or Division Director from accessing sensitive merit review data or providing a funding recommendation for that proposal or award.

NSF's internal proposal processing/grants management system, eJacket, is used by NSF staff members to process NSF proposals and manage post award activities. An award's eJacket file includes internal documents such as the merit reviews of the proposal, the principal investigator history, and the review record. Conflicts officials set a warning flag that appears in eJacket for each incoming IPA to notify the IPA as well as the IPA's colleagues when accessing an award or proposal with which the IPA was once affiliated as a principal or co-principal investigator. We tested the existence of flags set for all current IPAs and found only one that did not have a flag set. However, staff can click through the warning banner and access certain information, such as awards, proposals, amendments, and budgets.

As shown in Figure 1, the warning banner names the person with a known conflict and states review data is disabled for everyone but the managing Program Officer, Division Director, Division of Grants and Agreements personnel, and other authorized personnel and that "it can only be accessed by the managing Program Officer of the managing Organization."

Figure 1: eJacket Conflict of Interest Warning Banner
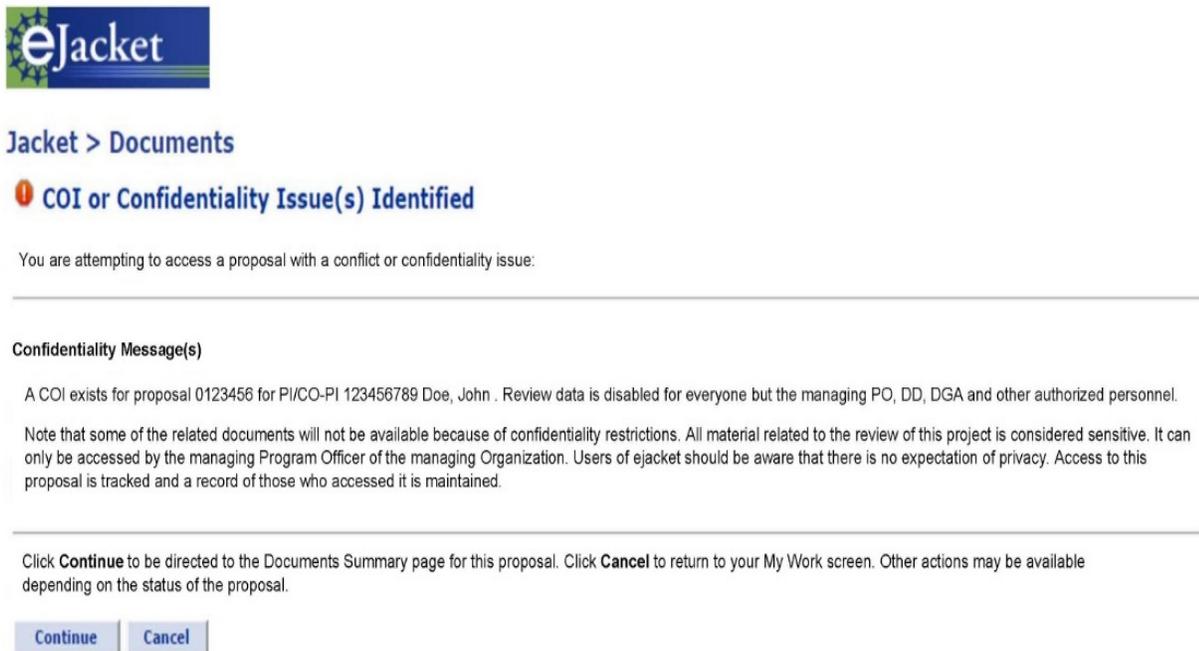
Source: eJacket

As part of our audit, we judgmentally selected three IPAs (one Program Officer and two Division Directors) and requested that they access within eJacket both an award in which they had been a principal investigator and an award from their home institution. All three of the IPAs were visibly uncomfortable clicking through the warning banners, each telling us it was something they normally would not do because they understood the sensitive nature of the merit review information it contained. In each case, even though the warning banner appeared, the IPA was able to access the jacket. In one case, the IPA was a Division Director in the same division that awarded a proposal for which she had been the Principal Investigator, so she was able to access the merit reviews for her proposal. We interviewed DIS staff and reviewed NSF's information systems access controls, which confirmed that Division Directors have access to all proposals and awards assigned to their division, even those for which the Division Director has a conflict.

Also, according to a DIS official, eJacket does not prevent an IPA who is a Program Officer or a Division Director assigned to a proposal for which he or she has a conflict from providing a funding recommendation for the conflicted proposal. An individual who accidentally or intentionally accesses an award with which he or she is conflicted can compromise the credibility of the merit review process. An IPA's assignment to an award or proposal allows him or her access to sensitive information and the ability to make a funding recommendation; accordingly, it is imperative that Division Directors and Program Officers are not assigned to awards and proposals for which they have a conflict.

According to OGC, the flagging module in eJacket has limited utility because it was designed for Committee of Visitors[5] members, not for program officers' conflicts, which are more complex. The warning system cannot always be relied upon because it does not allow for all pertinent conflict information, and institutions can have multiple and changing codes. Rather than seek a fix to this technology, OGC emphasized that it is the personal responsibility of each staff member to remember and adhere to their ethical obligations, including recusing themselves from matters involving institutions and individuals that create a conflict of interest.

Submission of Proposals while at NSF

We found instances where NSF did not enforce its rules governing an IPA's ability to submit new proposals while at NSF. In addition, NSF's guidance does not address whether IPAs or NSF staff can submit preproposals while at NSF.

NSF's *Proposal and Award Manual* states, "Current NSF employees or IPAs may not submit new proposals to NSF during their tenure at the Foundation." Both NSF Manual 15, *Conflicts of Interest and Standards of Ethical Conduct*, and 45 Code of Federal Regulations part 680, *NSF Rules of Practice*, state that NSF will entertain no proposal in which staff would be a senior investigator or equivalent, unless it is a proposal for continuation or extension of support for work that pre-dated service at NSF.

We found three IPAs who in 2014 submitted a total of three full proposals for new work to NSF as PI during their tenures at NSF. NSF awarded two of the three full proposals: one for $329,667 after the IPA's tenure at NSF ended, and the other for $783,506 on the day the IPA's tenure ended.

All three full proposals were coded as a "new project" in the NSF awards system. However, despite the proposals' lack of references to prior work, OGC said that it viewed two of these proposals as continuation of existing work. The third proposal was a full proposal NSF invited as a result of a successful preproposal. Because IPAs are able to submit proposals and claim them as a continuation of existing work — which is allowed, versus new work, which is not — NSF's ability to consistently enforce its rules regarding IPA submission of proposals while at NSF is weakened. Further, NSF staff may misunderstand the prohibition against submitting proposals for new work as being dependent on when the NSF-funded work would start. For example, one IPA who submitted a full proposal had documented her intention to submit a proposal as PI for work that would start after she completed her IPA tenure.

We also found two IPAs who in 2014 submitted a total of three preliminary proposals (preproposals) as PI during their tenures at NSF. As previously noted, NSF invited one IPA to submit a full proposal but did not solicit the other two preproposals. According to the NSF *Grant Proposal Guide*, some NSF program solicitations require submission of a preliminary proposal. NSF guidance does not address whether IPAs or NSF staff can submit preproposals while at NSF. OGC told us that the NSF General

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[5] Committee of Visitors are reviews conducted by external experts at regular intervals of approximately 3 years for programs and offices that recommend or award grants, cooperative agreements, and/or contracts and whose main focus is the conduct or support of NSF research and education in science and engineering.

Counsel decided in 2002 that the rules do not prohibit submission of preproposals by current employees and IPAs; however, NSF did not incorporate this exception into guidance.

Because NSF's guidance does not address preproposals, all employees and IPAs may not be aware that they can submit preliminary proposals during their tenure at NSF. Additionally, NSF may not provide equal access to funding consideration for employees and IPAs if some are allowed to submit proposals for new projects while at NSF and others wait to do so until after they complete their time at NSF.

Ethics Training

Ensuring IPAs attend an ethics course promptly after their start dates is critical. IPAs typically have not worked in a Federal agency before and may be unfamiliar with government and NSF ethics regulations. OGC stated that they discuss situations that are conflicts; provide a copy of the NSF Manual 15, *Conflicts of Interest and Standards of Ethical Conduct*; and give attendees an hour of time to review the manual at each new employee orientation for all staff, including IPAs, on their first day.

In addition, staff at the Program Officer level or above are required to attend at least one *Employee Conflict of Interest* training session given by the Office of the General Counsel each calendar year (CY). We found that all IPAs identified as being required to complete annual ethics training met the requirement in CY 2015.

In 2012, we recommended that NSF ensure employees complete the agency's annual conflict of interest training requirement within 3 months of their start date.[6] In 2013, NSF established that all new Program Officers meet the requirement by taking session I of its Merit Review Basics course, which includes the required conflicts of interest training, within 90 days of starting at NSF. The NSF Academy is responsible for the course, including documenting that program officers have completed the course through its learning management system, LearnNSF.

Of 113 IPA program officers who have worked at NSF more than 90 days as of the time of our test, 105 IPAs (93 percent) have completed the Merit Review Basics session I course and 8 IPAs (7 percent) have not completed the course. Of the eight IPAs who did not complete the course, one was assigned to NSF in November 2014, two in September and November 2015, and the remaining five between August and October 2016. Of the 105 IPA program officers who have taken Merit Review Basics session I, we could not determine the timeliness of 29 (28 percent) due to their assignment date being overwritten in LearnNSF. According to NSF Academy's Education Services Specialist, the Division of Human Resource Management (HRM) implemented a solution so staff can track timeliness of course completion more consistently moving forward.

Although not all, most IPA program officers are completing the course on time. For the 76 IPA program officers for whom we could determine the timeliness of taking the course, 59 IPAs (78 percent) completed the course within the required 90 days of starting at NSF, 6 IPAs (8 percent) completed it

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[6] Report of Investigation (OIG Case No. 11060042)

from 91 to 120 days of starting at NSF, and 11 (14 percent) completed it from 120 to 240 days of starting at NSF.

Financial Disclosure

All program officers and officials at or above a comparable level are required to file an initial and ongoing annual financial disclosure statement. OGC can grant extensions to file of up to 90 days. At the time of our testing for CY 2016, we found that all but two IPAs — who were erroneously not identified as needing to file — filed the required financial disclosure statement for CY 2016. Of the 194 IPAs who filed the statement, 41 (21 percent) received extensions of 2 to 90 days to file. Of the 194 IPAs, 183 filed within the original or extended due date, with 2 of the 11 late disclosure statements filed beyond the 30-day "grace period" that OGC provides filers. For CY 2015, of 233 IPA financial disclosure statements filed, 102 (44 percent) received extensions to file of 11 to 92 days. Of the 233 IPA statements filed, 176 were filed (75 percent) within the original or extended due date, with 6 of the 57 late disclosure statements filed beyond the 30-day "grace period" that OGC provides filers.

Because IPAs can have a higher risk of conflicts, it is critical for OGC to receive IPAs' financial disclosure statements timely so it can identify and prevent potential conflicts.

Conflict of Interest Exit Interviews

NSF requires all departing IPAs to have a conflict of interest exit interview with OGC to inform the staff of post-employment restrictions. These interviews are important because former NSF staff, including IPAs, are subject to several Federal statutes, including criminal conflict laws, which stipulate three post-employment restrictions.[7]

OGC indicated that all but two IPAs who left NSF since the start of CY 2015 met the exit interview requirement. Because OGC does not have a clear record of departing staff members' compliance with the exit interview requirement, it searched records such as electronic files, exit briefing rosters, and meeting calendars to produce this information, which we did not attempt to verify.

To meet the requirement, IPAs attend one of OGC's group exit interview briefings, generally held once per month, or if unable to attend, can meet the requirement in other ways, such as through a one-on-one meeting with an OGC ethics counselor or independent review of written exit materials. OGC records attendance from group exit briefings in its Financial Disclosure eFiling system (eFile), but only if that person has not yet met the annual ethics requirement because there is only one field in the system to

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[7] Specifically, "for one year after you leave NSF employment, you must not represent private parties (including yourself) in dealings with any NSF official on any proposal, award, or other matter. For two years after you leave NSF employment, you must not represent private parties in dealings with any Federal official on any proposal, project, or other matter involving specific parties if the same matter was actually pending under your official responsibility during your last year at the NSF." Additionally, "you must never represent private parties in dealings with any Federal official on any proposal, project, or other matter involving specific parties if you were personally involved with the same matter as an NSF employee."

track the annual requirement's completion. OGC does not always record ways in which NSF staff meet the exit interview requirement outside of group exit briefings.

Before the IPA departs, OGC documents completion of an exit interview by signing the IPA's separation clearance form generated by the IPA's administrative manager. The form includes a checklist of steps required prior to leaving NSF, such as completing a conflict of interest exit interview. We looked for the form for 25 non-executive IPAs who had departed NSF in 2015 and 2016 and found a form for 19 of those IPAs (76 percent).

HRM specialists responsible for signing the form in various places and filing the form acknowledged that IPAs often leave early without completing the formal exit process. However, HRM is not always the last office to sign the form, so departing staff do not always return the form to HRM.

Without fully tracking IPAs' attendance at OGC exit briefings, NSF cannot be sure that all IPAs receive the required training — increasing the risk that IPAs, many of whom are new to Federal employment and unfamiliar with post-employment restrictions, could violate such restrictions. Also, since IPAs can apply for NSF funding after they leave NSF, it is especially important for them to understand the impact of their tenure on such proposals.

Substitute Negotiators for Former IPAs

According to *NSF Rules of Practice*, as soon as his or her NSF tenure ceases, a former NSF staff member, including an IPA, may be a PI on an NSF award. However, the former staff member cannot directly deal with NSF officials on any proposal or project for a period of 1 year after leaving NSF and must designate a "substitute negotiator" to represent him or herself and his or her institution in dealings with NSF during this cooling off period. A former staff member without a substitute negotiator can create a bias, or the appearance of bias, in negotiating with NSF on his or her personal awards and proposals.

Because the appointment of a substitute negotiator is generally documented in a memo and not a field that could be electronically searched, we reviewed a judgmental sample of 11 awards made to former IPAs within 12 months of leaving NSF to determine if a substitute negotiator had been named. We found that NSF made two awards in 2015 to former IPAs who had not named substitute negotiators within 1 year of leaving NSF as required. After informing NSF of this, NSF immediately provided documentation naming a substitute negotiator for the one IPA who was still within 1 year of leaving NSF.

The *NSF Rules of Practice* does not specify when the designation of a substitute negotiator must occur and does not state whether a co-principal investigator is expected to fill that role, absent formal designation. Therefore, NSF should clarify in its guidance when substitute negotiators should be named.

NSF Has Not Completed Agreed-Upon Corrective Actions to Strengthen Controls over IPA Conflicts of Interest

NSF has not completed corrective actions it agreed to take in response to recommendations in a 2015 Management Implication Report (MIR) from the NSF Office of Investigations. These actions, if completed, would strengthen NSF's controls over IPA conflicts.

- **Develop enforcement tools to enforce the timeframes associated with ethics and financial disclosure requirements** (MIR recommendation 3) – NSF is required to give an initial agency ethics orientation to all staff. Certain staff, including IPAs, are also required to file an initial and ongoing annual financial disclosure statement and to attend annual ethics training. The MIR recommended using enforcement tools to ensure NSF staff, including IPAs, complete the ethics training and financial disclosures in a timely manner.

  In response to this recommendation, the OGC ethics team consulted with NSF conflicts officials in January 2016 regarding what enforcement tools might be appropriate and effective. Conflicts officials favored blocking access to eJacket for a delinquent filer of a required financial disclosure report. We could find no further action taken beyond this meeting involving the development of enforcement tools for the timeframes associated with ethics and financial disclosure requirements.

- **Ensure that all staff understand the negative impact of unaddressed conflicts on the integrity of the merit review process** (MIR recommendation 6) – In response to this recommendation, NSF stated that the OGC ethics team would prepare a Staff Memorandum from the Office of the Director to all employees and IPAs emphasizing the importance of upholding the highest ethical standards. In March 2017, after receiving our discussion draft report, NSF issued a staff memorandum stressing the importance for all Federal employees and rotators at NSF to uphold the highest ethical standards.

- **Ensure FastLane and the Proposal PI Meeting Budget & Reviewer System (PARS) do not allow the creation of multiple PI IDs** (MIR recommendation 10) – All individuals who receive NSF funding have a PI identification number (PI ID) that tracks their award history at NSF. An institution's Sponsored Program Officer can create a PI ID through FastLane, NSF's website for researchers and research organizations to conduct award related transactions with NSF, and NSF staff can create a PI ID through PARS, an internal proposal management system. At the time of the MIR, more than 1,600 NSF staff had the ability to create a PI ID in PARS. In its response to the MIR, NSF stated that it would restrict access to the PI maintenance module in PARS to a limited number of NSF staff. During the audit, NSF provided a list of 119 administrative managers, HRM staff, and DIS staff who can edit and create PI IDs.

  FastLane and PARS appears to still allow the creation of more than one ID for a PI. According to NSF, a person only needs a different email address to obtain a new PI ID. However, we found

186 records (93 matches) involving an identical combination of last name, first name, and email address having more than one PI ID.

We are concerned a PI could be issued more than one PI ID to circumvent restrictions and requirements. If the former IPA applies for funding within 1 year of his or her NSF tenure, the PI ID should signal a conflict of interest to alert NSF personnel not to communicate directly with that former IPA about funding. Another NSF control dependent on one PI ID is the withholding of funding when a PI has a delinquent project report. By using another PI ID, NSF could fund a PI with a delinquent project report. Finally, NSF may fund a suspended or debarred PI under a new PI ID.

A 2013 OIG audit on project reporting found "[t]here is currently no automated control to prevent assigning a second NSF identification number to PIs with an NSF identification number who then transfer to another institution." In response, NSF modified FastLane in August 2014 to include a header on the page where organizations register new users stating, "Please do not request a new NSF ID for any user who has previously applied to NSF or received funding from NSF."

We found 321 PI IDs created since NSF put the prompt in place that involved the same first name, last name, and middle initial combination. Although it is possible that some of these IDs could involve two different people with the same last name, first name, and middle initial, it is unlikely that this is the case for all 321 instances given the uniqueness of the names listed. Notwithstanding the warning, NSF does not have a way to prevent a PI from obtaining multiple PI ID numbers.

When NSF learns that a PI has more than one ID number, it can perform a merge to combine the two histories of the existing IDs and delete the other. However, NSF does not have a policy documenting or communicating this ability to NSF staff or Sponsored Project Offices, nor does it routinely or proactively search for PIs with more than one ID.

Recommendations

1. We recommend that NSF reassess its controls to ensure that Division Directors and Program Officers do not have access to awards and proposals for which they have a conflict.

2. We recommend that NSF:

   - clarify in written guidance its rules on the submission of preliminary proposals by current employees and IPAs;
   - enforce its existing guidance prohibiting employees and IPAs during their tenures at NSF from submitting new proposals to NSF; and
   - enforce the requirement to designate a substitute negotiator for a period of 1 year after leaving NSF.

3. We recommend that NSF assign responsibility for ensuring that staff, especially IPAs, obtain an exit interview as required or otherwise acknowledge their responsibility for being familiar with post-employment restrictions prior to leaving NSF. We also recommend that NSF develop a process for documenting and tracking compliance with the requirement.

4. We recommend that NSF follow through in its commitment to take corrective actions to strengthen controls over IPA conflicts by:

   - developing tools to enforce compliance with the timeframes associated with ethics and financial disclosure requirements; and
   - making further system enhancements to prevent the creation of a PI ID for an existing, identical combination of first name, last name, and email and to document and communicate its process for merging multiple IDs for PIs with more than one PI ID.

OIG Evaluation of Agency Response

NSF agreed with recommendations 2, 3, and 4 and proposed corrective actions. Regarding recommendation 1, NSF responded that it reassessed its system controls for access to proposals and concluded that the risk of IPAs accessing their own proposals is so low that no system change is warranted. NSF estimated that the costs to develop a system control would be greater than any potential benefit. However, system controls are only one part of the internal control structure. Another control is needed to ensure that Division Directors and Program Officers are not assigned any award or proposal for which they have a conflict of interest. Such a control would not require costly changes to an information system.

As part of its response, NSF also provided feedback in the form of clarifications on a number of sections of the report, along with supporting attachments. We have included NSF's response to this report in its entirety as Appendix A.

Appendix A: Agency Response

MEMORANDUM

DATE: May 18, 2017

TO: Mark Bell
Assistant Inspector General
Office of Audits

FROM: Lawrence Rudolph
General Counsel

Joanne S. Tornow
Office Head, Office of Information & Resource Management and
Chief Human Capital Officer

SUBJECT: Response to Official Draft Report, *NSF Controls to Mitigate IPA Conflicts of Interest*

The NSF appreciates the opportunity to respond to the Office of Inspector General (OIG) Official Draft Report, *NSF Controls to Mitigate IPA Conflicts of Interest* ("OIG Report"), dated April 17, 2017. We are pleased that OIG found no instances of fraud, illegal acts, violations, or abuse. NSF has an effective ethics program which implements internal controls to identify and mitigate conflicts of interest (COIs) of NSF staff as well as Intergovernmental Personnel Act (IPA) detailees. NSF generally agreed with many of the OIG recommendations for improvement.

Our response is in two parts. Part I addresses NSF's responses to the OIG's four recommendations, and Part II clarifies information in the OIG Report.

PART I: NSF Responses to OIG's Recommendations

OIG Recommendation 1: We recommend that NSF reassess its controls to ensure that division directors and program officers do not have access to awards and proposals for which they have a conflict.

NSF Response: NSF responded to the intent of this recommendation to the extent that, after the OIG's exit briefing, NSF reassessed the flagging controls for access to proposals. NSF concluded the risk of IPAs accessing their own proposals is so low that no system change is warranted. As OIG acknowledges, an internal control system cannot provide absolute assurance that no IPA will ever access a proposal for which the IPA is conflicted. The cost to develop just the requirements to create such a control, which was estimated to be about $1.25-1.5M (by the Division of Information Systems (DIS) for the Capital Planning Investment Committee (CPIC)), would outweigh any potential benefit, particularly when we are only aware of a single instance in

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which an IPA accessed conflicting proposals. And in fact, that instance, which related to a conflict arising from a letter attached to the proposal, not the identity of the proposed awardee or PI, would not have been addressed by the OIG's recommended actions.

Likewise, consistent with the intent of this recommendation, NSF has a robust COI training program and COI officials in place in each Division and Office to address IPA COIs. Both the training and the on-site officials emphasize the legal requirement for IPAs to recuse themselves from proposals and awards for which one has a COI. Our IPAs take those responsibilities seriously. For example, even the OIG noted the negative reaction of the IPAs that occurred when they were "forced' to open conflicted proposals while helping the OIG conduct compliance testing. The resistance of IPAs to even conduct such a test demonstrates the restriction on their access is practically ingrained and confirms that these IPAs would not normally have done so but for the insistence of the OIG. In addition, the eJacket system automatically logs when someone accesses a proposal and who that someone is. This is another control that can be used to both deter and monitor improper access.

To be sure, the current controls are sufficient to provide reasonable assurance that IPAs are not accessing their own proposals.

OIG Recommendation 2: We recommend that NSF:
- clarify in written guidance its rules on the submission of preliminary proposals by current employees and IPAs;
- enforce its existing guidance prohibiting employees and IPAs during their tenures at NSF from submitting new proposals to NSF; and
- enforce the requirement to designate a substitute negotiator for a period of 1 year after leaving NSF.

NSF Response: NSF agrees that it should clarify written guidance on rules of submission of preliminary proposals by current employees and IPAs and that further clarification is needed regarding whether employees or IPA can submit proposals during their tenure at NSF. To that end, proposed clarifications to the Proposal and Award Manual (see attachment A) have already been prepared for publication.

Given that OIG found only one instance of a missing substitute negotiator document (from the sample of departing IPAs in 2015 and 2016), NSF believes that existing practices are appropriate to mitigate a very limited risk. Therefore, OGC will continue to (a) remind departing employees and IPAs of the requirement in all exit briefings; (b) remind NSF staff of the requirement in its 2017 annual COI training; and (c) ask COI officials to do the same for departing staff, including IPAs. These existing controls reflect an appropriate, efficient approach to managing costs vs. benefits of internal controls.

OIG Recommendation 3: We recommend that NSF assign responsibility for ensuring that staff, especially IPAs, obtain an exit interview as required or otherwise acknowledge their responsibility for being familiar with post-employment restrictions prior to leaving NSF. We also recommend that NSF develop a process for documenting and tracking compliance with the requirement.

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NSF Response: NSF agrees with the recommendation, as applied to departing GS-12 and above or equivalent employees. NSF's Division of Human Resource Management in the Office of Information and Resource Management (HRM) has the responsibility to identify departing employees and IPAs to OGC.   HRM recently added OGC to the e-mail alias for departing employees and IPAs ("NSF Clearance"). OGC is following up with individuals on that list as necessary regarding an exit briefing or the availability of written post-employment materials.

We further agree with the recommendation to develop a process for documenting and tracking compliance with the requirement. Employees and IPAs are responsible for properly completing the required actions in the separation clearance form and returning completed forms to HRM. HRM then reviews the forms for completeness, scans a copy of the employee separation clearance form to a SharePoint site, and files the original forms. HRM is currently developing requirements for a solution to automate the workflow and track completion of the separation clearance form.

OIG Recommendation 4:   We recommend that NSF follow through in its commitment to take corrective actions to strengthen controls over IPA conflicts by:

- developing tools to enforce compliance with the timeframes associated with ethics and financial disclosure requirements; and
- making further system enhancements to prevent the creation of a PI ID for an existing, identical combination of first name, last name, and email and to document and communicate its process for merging multiple IDs for PIs with more than one PI ID.

NSF Response: We generally agree with the OIG's recommendation to follow through on corrective actions related to controls for IPA COI. We note that the U.S. Office of Government Ethics (OGE) recently issued a new regulation that codifies the ethics responsibilities of supervisors. More specifically, it states:
(a) Supervisors have a personal responsibility for advancing government ethics;
(b) Supervisors serve as models of ethical behavior for subordinates;
(c) Supervisors have the responsibility to help ensure that subordinates are aware of their ethical obligations;
(d) Supervisors have the responsibility to work with COI officials and the OGC/Ethics Team to ensure compliance with ethics laws, including financial disclosure report filings, ethics training, and identifying COIs.

5 C.F.R § 2638.103.

In view of this regulation, OGC will work with HRM on written notification to supervisors regarding these responsibilities. OGC will continue to notify supervisors about subordinates who have not completed their financial disclosure report forms, their COI/ethics training, or other ethics responsibilities.

Supervisors are expected to act because of these notifications. Such action may include reminders and/or direct orders to comply. If continued non-compliance occurs on the part of a

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subordinate, supervisors will be expected to take appropriate administrative action. Supervisors should consult with the Employee Relations Branch regarding these actions.

DIS is continuing to implement a new, modernized account management functionality which began in January 2016. The project is addressing the issue of duplicate Principal Investigators IDs (PI IDs) and will improve the accuracy of NSF records. A prototype of the revised account registration process was completed. The implementation plan will follow with a phased rollout starting in the first half of FY18 for institution roles, including PIs. This plan will use a phased rollout to manage risk. The software will be initially launched only to a subset of users (i.e., a pilot). This pilot will consist of a small set of institutions and more institutions will be added in subsequent releases increasing the number of participants until all are included.

PART II: NSF's Clarifications to OIG Report

OIG Heading: "NSF Process for Addressing COI"

OIG summarizes seven NSF COI processes in this section of the OIG Report. One of these processes is the initial ethics training requirement. The OIG's description of the initial ethics training requirement for new NSF employees and IPAs when they come onboard is no longer accurate. NSF has changed this process to conform with new Government-wide ethics training regulations. The U.S. Office of Government Ethics' ethics training rule, amending 5 C.F.R. Part 2638, requires that all new Federal employees and IPAs complete an interactive ethics training presentation within 90 days of their appointment. At NSF, all new NSF employees and IPAs are now required to take an online computer based ethics training module ("NEO CBT") that is presently available on LearnNSF (see attachment B). Names of new employees and IPAs are automatically entered into the LearnNSF system and the course is listed as a course requirement in their account with a 90-day completion date. NSF employees and IPAs still attend new employee orientation, are introduced in person to an ethics counselor in the Office of the General Counsel, and receive an in-person ethics introduction as well as an ethics resource information booklet that contains a prominent notice on the cover indicating that the employee is required to take the online course. If the new employee or IPA has not taken the course after 60 days, system notices are sent to the employee's supervisor. (see OIG Report pp. 3 & 8)

Another NSF COI process summarized in this section is the eJacket warning flag. The OIG's description of the eJacket warning flags should have indicated that the warning appears to **all** NSF employees and IPAs who attempt to access the conflicted proposal, not just the IPA in conflict. Consequently, any NSF employee or IPA who accesses a proposal in eJacket will see a warning identifying the name of the NSF IPA who is in conflict. (see OIG Report p. 4)

OIG Heading: "Access to Proposal and Award Information"

Although the OIG Report adequately describes the IT systems at NSF that provide access to proposal and award information, there are instances in the OIG Report where the information is incomplete, thus the OIG Report may not provide an accurate assessment of those systems. For example, the OIG noted that for only one current IPA had no flag been set in the system.

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However, we note that, when notified of this omission, the COI official took the appropriate action and set the flag. (see OIG Report p. 6). As with any IT system, the information or controls in the system are only as good as the human input of the information into that system. No IT system will correct human errors or omissions.

OIG notes that an IPA who is a managing program officer or a Division Director ("DD") can access proposals in which they are conflicted; however, we believe that this statement should be considered in parallel with an acknowledgement that COI Officials or the administrative managers routinely re-assign proposals from conflicted program officers or DDs to non-conflicted individuals. Thus, it is highly unlikely that an IPA would be managing/reviewing a proposal for which he/she has a COI. (see OIG Report p. 7).

The OIG Report states that OGC did not seek a technology fix regarding restricting access to proposal and award information. (see OIG Report p. 7) We respectfully state that this statement is not accurate. OGC sought an IT solution for handling employee/IPA COI. NSF's Deputy Agency Ethics Official and the Deputy Assistant Director of the Social, Behavioral & Economic Sciences Directorate (now Head, Office of Information & Resource Management) presented a business case to the CPIC in December 2012 for FY2015 funding for an IT solution which would involve changes to many legacy systems. However, the substantial cost for those changes was not supported by any potential return on investment (a rough estimate for building the IT solution for COI management is approximately $5-6M). Instead of funding this effort separately, CPIC decided to combine this scope into our overall merit review systems modernization investment, Proposal Modernization Efficiencies. Proposal Management Efficiencies is an overarching initiative under which continuous modernization of our Merit Review Systems takes place. It is an ongoing effort to keep our systems up-to-date from both a technology and business rules perspective. Projects undertaken as part of this initiative do have planned implementation dates. The project to implement modernized account management functionality has a target timeline for implementation in the first half of FY18.

Finally, it is difficult to envision an IT solution that could absolutely guarantee no IPA access to a proposal with which that IPA has a COI. There are COIs that simply cannot be captured through a technological solution. For example, if an IPA has a conflict with an individual who was not an NSF PI, that individual would not be in the NSF system and the IPA could not even enter the individual's name to effectuate a block. Further, COIs are subject to varying time limits and changes -- some expire after one year, 24 months, 48 months, or a new project could be undertaken resulting in new collaborators. We believe that the OIG Report and related recommendations do not fully recognize these critical limitations.

OIG Heading: "Submission of Proposals while at NSF"

Individuals currently working at NSF may submit proposals for NSF funding if the proposals are a continuation of prior NSF-funded work. The OIG Report noted that three submissions by IPAs at NSF were coded "new" while OGC viewed two of them as continuations of previous work (see OIG Report p. 8). However, this coding is not dispositive in the determination of whether a submission is considered a continuation. Rather, OGC and the Division to which the submission

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will be made evaluate the submission using the factors in the NSF regulation, 45 C.F.R. § 680.11(b)(1), to determine whether the submission qualifies as a continuation.

The third submission OIG raised was the result of a successful preproposal. As we understand the OIG's Report, it assumes that preproposals may be submitted during an IPA's NSF tenure. NSF notes that this statement is not entirely correct. Not all preproposals are "created equal." Certain solicitations require "bare bones" preproposals, that is, documents with a four-page limit on the project description and no budget information, while other solicitations require a more extensive project description (7-10) pages, bio-sketches of senior personnel, results of prior NSF funding, and estimated costs. For the "bare bones" preproposals, there are no factors to analyze. For the more extensive preproposals, OGC and the local COI official would conduct the continuation analysis. Consequently, preproposals must be reviewed on a case-by-case basis.

We note that OIG reviewed submissions from current IPAs in 2014 and made a recommendation based on five of those submissions. In 2014, a total of 48,797 submissions (including those from IPAs) were received by NSF (see attachment C). Most simply, this recommendation is based on an extremely small sample.

OIG Heading: "Ethics Training"

The OIG Report focused on the Merit Review Basics ("MRB") course and the eight Program Officers who did not complete it to reach conclusions regarding ethics training. This course is a HRM/NSF Academy requirement. (see OIG Report p. 9) It is **not** a requirement found in the Ethics in Government Act nor the Government-wide Standards of Ethical Conduct for Employees of the Executive Branch. Although OGC presents a COI briefing on the first day of the MRB two-day course, the fact that some IPAs did not complete the MRB course does not indicate that they did not receive required COI training. Required COI ethics training conducted by OGC can be accomplished in a variety of ways: NEO CBT, live or computer-based general training, the COI presentation at MRB, or the postemployment exit interview. The NEO CBT, as previously noted, is required within the first 90 days of employment or detail. To accurately assess compliance with the 90-day COI training requirement, the completion of the NEO CBT by new IPAs is what should be tracked, not participation in MRB.

OGC is responsible for tracking compliance with the COI training requirement and reporting that to the Office of Government Ethics every year. In both 2015 and 2016, there was 100% compliance with this requirement, which included IPAs along with other required NSF staff. In 2015, NSF provided ethics training to a total of 984 NSF staff and in 2016 NSF provided ethics training to 962 NSF staff. These figures represent 100% of NSF personnel who are required to attend COI ethics training, not just IPAs. MRB attendance, which is tracked in LearnNSF by the Division of Human Resource Management (HRM), is not the authoritative record of COI training completion. Thus, the OIG Report misstates the percentage of IPA program officers who did complete COI training within 90 days of starting at NSF. There is no issue with COI ethics training at NSF; there is 100% compliance.

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OIG Heading: "Financial Disclosure"

We agree with the OIG about the importance of timely financial disclosure statements. However, the OIG Report does not note there is a difference between a new entrant report filed by a new NSF employee or IPA and an annual report file by current NSF employees or IPAs on the same date each year. Employee and IPA annual reports generally do not change from year to year. Conflicts arising from any new outside activities are addressed on an on-going basis before the annual financial disclosure report is even filed. At NSF, an outside activity typically requires supervisory approval and OGC consultations prior to engaging in the activity and before the due date of any financial disclosure report. For CY 2015, OIG found 4 new entrant reports filed within the 30-day "grace period."[1] Those four IPAs had pre-employment interviews with OGC arranged by their Division. Consequently, both OGC and the Division were aware of their potential COIs before they filed. For CY 2016, none of the reports filed within the grace period or late were new entrant reports—in other words, the COIs were already known and were already being managed, if any.

OIG Heading: "COI Exit Interviews"

We believe that the OIG Report mischaracterizes the conflict of interest exit interview. (see OIG Report p. 10). The exit interview is an HRM requirement, but is **not** a requirement found in the Ethics in Government Act nor the Government-wide Standards of Ethical Conduct for Employees of the Executive Branch. The official record of an employee's or IPA's compliance with the exit interview requirement is found on the Employee & IPA Separation Clearance Form, NSF 362, maintained by HRM, not by OGC.

In contrast, OGC does indeed have a clear record of COI training compliance. As previously mentioned, the COI ethics training requirement can be fulfilled in a variety of ways including the post-employment exit interview. The OGC eFile system tracks compliance with this requirement, regardless of the manner utilized. For example, if an IPA attended the MRB COI presentation, that IPA's compliance with the COI training requirement would be noted in eFile. Subsequently, if the same IPA left NSF later that year and attended an exit interview, OGC would not note that second COI ethics training in eFile because the IPA had already satisfied his or her COI training requirement.

OIG Heading: "Substitute Negotiators for Former IPAs"

The OIG Report noted that the substitute negotiator was not a searchable field in eJacket. We recognize that the substitute negotiator designation may appear in various places in eJacket.

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[1] The OIG report implies that the 30-day "grace period" following the filing deadline period is an OGC practice. (see Report p. 9) In fact, the 30-day grace period is set out in the regulation under 5 C.F.R. § 2634.704(a). A late filing fee for public report filers and other remedies for confidential filers cannot be imposed until after the expiration of those 30 days. See 5 CFR §2634.704(f). The Report should acknowledge those reports that were filed after the due date but within a time specifically authorized by regulation.

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Therefore, we have submitted a request to NSF Policy to add the substitute negotiator requirement as a single copy document in the Proposal and Award Policies and Procedures Guide (PAPPG). See PAPPG NSF 17-1, Part I, Chpt. 2, C,1. A single copy document is a separate field in eJacket.

OIG Heading: "NSF Has Not Completed Agreed-Upon Corrective Actions to Strengthen Controls over IPA COI "

There are two actions OIG includes in this section which were, in fact, completed:

1. The Staff Memo from OD was issued March 3, 2017, before the OIG's exit conference. NSF informed OIG of the memo at the exit conference which took place on March 16, 2017. (attachment D)

2. NSF Division of Information Systems made changes to FastLane and the Panel and Reviewer System (PARS) to address the issue of duplicative PI IDs. In the FastLane account management and PI modules, the combination of last name, first name, and email must be unique for each PI record thus reducing the likelihood of FastLane creating a duplicate PI record. If a PI with a last name, first name, and email exists at one institution then registers at another institution, an additional user record is created but not a duplicate PI record. Only the institution's Sponsored Program Officer can create PI records in FastLane. In addition, NSF restricted access to the PI maintenance module in PARS to a limited number of NSF staff for administrative purposes. These actions were completed at the end of the calendar year 2015 and were timely reported to the OIG. (see attachment E).[2]

The OIG Report notes the NSF has not developed enforcement tools regarding the time frames for ethics and financial disclosure requirements. Although we address this in detail in the recommendations, we note that OGC has adopted two practices because of the 2015 "OIG Management Implication Report Pertaining to Opportunities to Strengthen Controls over Rotator COI." If a report is late beyond the regulatory grace period, the Deputy Agency Ethics Official ("DAEO") contacts the filer and notifies the conflicts official. If the report is still not filed, the DAEO contacts the Deputy Assistant Director or Assistant Director and recommends administrative sanctions if the report is not filed.

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[2] We note that the OIG report indicates that it found 186 duplicate PI records in FastLane/PARS. What the report fails to acknowledge is that there are over 597,829 active PI records in FastLane/PARS. The OIG report therefore suggests the expenditure of agency resources to create an enforcement tool to track or prevent a duplication rate of .031113%.

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NSF appreciates the OIG's feedback to the Agency and its identification of opportunities to improve controls for IPA COIs. If you have any questions, please contact Ms. Karen Santoro, NSF's Designated Agency Ethics Official, at 703-292-8060 (for COIs and legal issues); Ms. Erika Rissi, Human Capital Management Analyst, at 703-292-4816 (for HRM-related issues); and Ms. Heather Ireland, IT Specialist, at 703-292-8150 (for DIS-related issues).

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PAM Chapter IV.D.2.
Requested changes in red below:

Current NSF Employees - Current NSF employees [3] or IPAs may not submit new proposals to NSF during their tenure at the Foundation*.As such, any proposal must be a continuation or extension of support for work on which the employee or IPA played a role prior to his/her arrival at NSF. Any proposal for continuation of NSF support at essentially the same level (with reasonable allowance for inflation) will normally be considered a proposal for continuation or extension if it would support the work and the laboratory or group (if any) in the same general field of science, engineering or education, notwithstanding that the focus of the work may change in response to research opportunities or educational needs. Examples of proposals that will not be considered continuations of prior work include: a new EAGER proposal; a new CAREER proposal; a resubmission of a declined proposal; a proposal based on a grant that expired years ago; or a proposal based on an existing grant that has more than one year remaining until its end date. Advance approval prior to submission of a continuation proposal must be obtained from OGC and the cognizant COI Official. Such approval must be uploaded as a single copy document.

* Preliminary proposals may be subject to similar limitations. Consult the COI Official or OGC

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LearnNSF

Home   **My Employees**

Welcome **KAREN SANTORO**
Check System   Sign Out

New Employee Ethics Briefing

New Employee Ethics Briefing
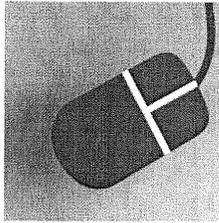
COURSE NSF_Ethics_NEO
(rev.1 1/12/2017)

Online Course

View 4 subject areas, more ∨

Assign to Me >

You may also:
Start Course >   Recommend >

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OFFICE OF INSPECTOR GENERAL

Business Intelligence — ORACLE

Program Portfolio | Program Success Rate | Program Overview | Portfolio by State / Territory | Panel Recommendation | Reviewer Demographics (Breakdown) | Reviewer Demographics (Overall)

QUICK LINKS
- MyNSF Home Page
- Enterprise Reporting Home
- Award Lookup
- Reviewer Lookup
- PI Lookup

Program Portfolio
- Standard Reports
- EIS (supported for IE only)
- iTRAK Reports
- COV Dashboard

HELP LINKS
- Enterprise Reporting Reference Guide
- Data Dictionary
- Release Notes Summary

Filters

Directorate(s): --Select Value--
Division(s): --Select Value--
Program Element(s): --Select Value--
Nature of Request(s): --Select Value--
Competitive/Non-Competitive Proposals(s): Competit
Fiscal Year(s): 2016;2015;2014
☑ Exclude Returned w/o Review

[Apply] [Reset]

Program Portfolio

Select a Report by: PROPOSAL

Data as of: 4/18/2017
Date run: 4/19/2017

Competitive/Non-Competitive Proposal	Nature Request	2014				2015				2016			
		Total # of Proposals	Total Awards	Total Declines	Success Rate	Total # of Proposals	Total Awards	Total Declines	Success Rate	Total # of Proposals	Total Awards	Total Declines	Success Rate
Competit	Accmpl Bsd Renewal	53	18	35		78	30	48		56	18	38	
	New Project	47,401	10,608	36,793		48,845	11,458	37,387		48,966	11,459	37,507	
	Renewal	1,343	649	694		1,336	669	667		1,169	610	559	
Competit Total		**48,797**	**11,275**	**37,522**		**50,259**	**12,157**	**38,102**		**50,191**	**12,087**	**38,104**	

Selected Filters: Competitive/Non-Competitive Proposal: Competit | Fiscal Year: 2016,2015,2014 | Exclude Returned w/o Review: Yes

* Note: Total # Proposals (by default) is the count of proposals that were Awarded, Declined, and DD Recommended.

Print - Export

Enterprise Reporting: Dashboard > Reports: Dashboard > Program Portfolio > Program Portfolio: Program Success Rate

Subject: RE: Follow -Up to the NSF Response to Management Implication Report Pertaining to Opportunities to Strengthen Controls over Rotator Conflicts of Interest

Date: Friday, October 23, 2015 at 10:55:50 AM Eastern Daylight Time

From: Miller, Maureen B.

To: Tillotson, Mary Lou

CC: Santoro, Karen T., Boyd, Stacie M

Mary Lou,

There is only one activity below that we are actively working on. The first 3 items are currently operational and the last is strategic. Item 4 will be in place December 4.

Maureen

From: Tillotson, Mary Lou
Sent: Friday, October 23, 2015 10:18 AM
To: Miller, Maureen B. <mmiller@nsf.gov>
Cc: Santoro, Karen T. <ksantoro@nsf.gov>; Boyd, Stacie M <sboyd@nsf.gov>
Subject: FW: Follow -Up to the NSF Response to Management Implication Report Pertaining to Opportunities to Strengthen Controls over Rotator Conflicts of Interest

Hi Maureen
Would you know the dates of completion for the activities below?
Thanks so much,
Mary Lou

From: Santoro, Karen T.
Sent: Friday, October 23, 2015 10:15 AM
To: Tillotson, Mary Lou <mtillots@nsf.gov>
Cc: Miller, Maureen B. <mmiller@nsf.gov>; Boyd, Stacie M <sboyd@nsf.gov>; Aronson, Dorothy <daronson@nsf.gov>; Ruben, Francisco J. <FRUBEN@nsf.gov>
Subject: Follow -Up to the NSF Response to Management Implication Report Pertaining to Opportunities to Strengthen Controls over Rotator Conflicts of Interest

In anticipation of the need to report what steps NSF has taken to strengthen controls, can you please advise whether the following items have been completed (with date of completion), are currently operational, or provide the date when they will be completed and/or operational?

· In the FastLane account management and PI modules, the combination of last name, first name, and email must be unique for each PI record. This control reduces the likelihood of FastLane creating a duplicate PI record.

· If a PI with a last name, first name, and email exists at one institution then registers at another institution, an additional user record is created but not a duplicate PI record.

- Only the institution's Sponsored Program Officer can create PI records in FastLane.

- NSF will restrict access to the PI maintenance module in PARS to a limited number of NSF staff for administrative purposes by the end of calendar year 2015.

- In the long term, the PI maintenance module will be available only to institutions and PIs in order to maintain their individual profile through Research.gov.

Thank you
Karen Santoro
Assistant General Counsel (Ethics)
ksantoro@nsf.gov
PH 703-292-8060
FAX 703-292-9041

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NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL

Monday, March 6, 2017 at 8:55:58 AM Eastern Standard Time

Subject: Staff Memorandum O/D 17-03: Ethical Conduct
Date: Monday, March 6, 2017 at 8:02:18 AM Eastern Standard Time
From: NSF Official Issuance
To: NSF Employees

Staff Memorandum O/D 17-03: Ethical Conduct
Organization: OD/OGC
Subject: Administration and Management

The following document is now available on the Official Issuances web page located Inside NSF
(https://inside.nsf.gov/tools/toolsdocuments/Pages/Official-Issuances.aspx). You can also access the document now
and in the future on Inside NSF directly at:
https://inside.nsf.gov/tools/toolsdocuments/Inside%20NSF%20Documents/OD%2017-
03,%20Ethical%20Conduct.pdf.

NATIONAL SCIENCE FOUNDATION
OFFICE OF THE DIRECTOR
ARLINGTON, VA 22230

STAFF MEMORANDUM

O/D 17-03
March 3, 2017

ADMINISTRATION AND MANAGEMENT

SUBJECT: Ethical Conduct
I want to take this opportunity to stress how important it is for all Federal employees and rotators at NSF to uphold
the highest ethical standards. It is an honor and privilege for each of us to serve the American people. With that
privilege comes the obligation to treat public service as a public trust. Each of us has a duty of proper stewardship
over the taxpayer resources entrusted to NSF. We need to instill public confidence in our integrity and impartiality
as public servants if we are to fulfill the Foundation's mission.

The Foundation must take great care in identifying and raising ethics issues and in adhering to ethics
requirements. More than that, we must be prepared to be held to public account for the propriety of our conduct in
both fact and appearance. The taxpayers expect no less of all officials and employees of the Foundation.

Supervisors and employees should take seriously their respective obligations to attend ethics training sessions, as
well as file timely financial disclosure reports and other forms that are used to prevent potential conflicts of interest.
The Foundation has experienced ethics counselors within the Office of the General Counsel who are available to
every employee to advise on many ethics matters, including gifts, conflicts of interest, misuse of position, outside
activities, political activities, lobbying, and impartiality. You should seek their advice and guidance whenever you
have a question about the ethics rules and how they might apply to you. Karen Santoro, our Designated Agency
Ethics Official, and Francisco Ruben, our Alternate Designated Agency Ethics Official, can be reached at x8060.

Thank you for your commitment to conducting NSF work in the highest ethical manner.

France A. Córdova
Director

Distribution: All Employees
Originating Unit: OD/OGC
Replaces OD 07-12

Page 1 of 1

Appendix B: Objective, Scope, and Methodology

This is one of a series of audit, inspections, and special reports prepared as part of our oversight responsibilities to promote efficiency and effectiveness in agency programs, specifically involving IPAs. A previous investigation identified problems with NSF's controls to identity and mitigate conflicts of interests in the context of one IPA's tenure at NSF. We conducted this audit to assess the effectiveness of NSF's controls for identifying and mitigating conflicts of interest for IPAs agency wide.

We conducted this performance audit between July 2016 and March 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit reviewed IPA actions recorded in NSF's awards databases, such as IPAs' proposals submitted, awards, and PI identification numbers, with a focus on IPAs at NSF from 2015 through the time of our audit. We researched Federal laws and NSF guidance. We reviewed prior OIG reports for findings and recommendations related to our audit. We conducted interviews with both program officers and executive level staff in NSF's science directorates serving as conflicts officials and officials in OGC, HRM, and the DIS in Arlington, Virginia.

To identify any unmanaged IPA conflicts of interest we spoke with NSF's Designated Agency Ethics Official, interviewed eight conflicts officials from six of NSF's seven science directorates, sent a call for input to NSF's conflicts officials, and inquired with our Office of Investigations.

To test the effectiveness of NSF's controls, we reviewed the completeness and timeliness of CY 2015 and CY 2016 IPA financial disclosure filings and attendance at conflict of interest training using OGC-provided eFile system reports. Because these records are entered, maintained, and reported by OGC, we were not able to verify their accuracy independently and, therefore, did not rely on them.

We conducted queries of NSF's award databases of:

- IPAs who are not transferred off awards while at NSF
- IPAs submitting proposals while at NSF
- PIs with multiple PI identification numbers
- IPAs who do not have conflict flags set on their PI ID
- Deputy Directors who concur on awards from their home organization
- Program officers who make a recommendation on a proposal or an award from their home institution

For these queries, we looked at the entire universe and did not sample. We did select a judgmental sample for two tests that support our findings. To test whether departing IPAs had a conflict of interest exit interview with OGC, our sample of 25 was an estimated 40 percent of the IPAs who left in a given year. In testing for substitute negotiators, we reviewed proposals awarded to former IPAs within a year

of leaving NSF in CY 2016 or CY 2017, which was 26 percent of the universe of those awarded since Fiscal Year 2011. We did not project our sample to the population.

We verified the accuracy of the exceptions using corroborating information from other systems and by sending our exceptions to NSF for confirmation and explanation.

To determine if conflicted party access to proposal and award information is restricted by the conflict flag, we asked three current IPAs, selected judgmentally, to access awards in eJacket with which they are conflicted and to click through the warning banner.

We reviewed NSF's compliance with applicable provisions of pertinent laws and guidance, including:

- NSF Manual 15, *Conflicts of Interest and Standards of Ethical Conduct*
- 45 Code of Federal Regulations part 680, *NSF Rules of Practice*
- NSF Policy *Merit Review Training Requirements for New Program Officers*

We identified instances of noncompliance with these laws and regulations as discussed in our audit findings.

We did not identify any instances of fraud, illegal acts, violations, or abuse.

We held an exit conference with NSF management on March 16, 2017.

Appendix C: NSF Controls over IPA Conflicts of Interest

Controls to Identify, Manage, and Communicate
IPA Conflicts of Interest at NSF

Prior to IPA's arrival

In some cases, NSF conflicts official holds pre-employment discussion with prospective IPA regarding potential conflicts.

IPA is removed as principal or co-principal investigators on awards and proposals.

While at NSF

IPA receives training on conflict of interest and ethics rules.

Conflicts official, as a best practice, may:

Meet with each new IPA to brainstorm potential conflicts.

Have staff document their conflicts and compile them into a list.

Conflicts official sets warning flags that notify of an IPA's affiliation with an award or proposal.

⚠ NSF does not prevent conflicted individuals from continuing past the warning.

IPAs are prohibited from submitting proposals.

⚠ NSF guidance does not address whether IPAs or NSF staff can submit preproposals while at NSF.

When Leaving NSF

IPA attends a conflict of interest exit interview.

⚠ NSF cannot be sure that all IPAs receive the required training.

Former IPA within 12 months of leaving NSF requires a substitute negotiator in dealing with NSF officials on any proposal or project.

⚠ NSF guidance is not clear on when substitute negotiators should be named.

Appendix D: OIG Staff Acknowledgments

Kelly Stefanko, Audit Manager; Jayne Hornstein, Senior Program Manager; Elizabeth Goebels, Director, Performance Audits; Marie Maguire, Deputy Assistant Inspector General for Audits; Elizabeth Argeris, Communications Analyst; and Ruth Gonzalez, Independent Report Referencer, made key contributions to this report.