

Investigations

The Office of Investigations handles allegations of fraud, waste, abuse, and mismanagement in NSF programs and operations, as well as allegations of research misconduct associated with NSF programs and operations. We work in partnership with NSF, other Federal agencies, and awardee institutions to resolve issues whenever possible. As appropriate, we either refer our investigations to the Department of Justice or other prosecutorial authorities for criminal prosecution or civil litigation, or recommend to NSF administrative action such as debarment. The following is an overview of investigative activities, including civil and criminal investigations and significant administrative cases.

Civil & Criminal Investigations

NSF Manager Convicted and Sentenced for Destruction of Government Records

An OIG investigation revealed that NSF's Travel Card Program Manager misused her own travel card and then altered official records to hide the evidence. The manager pled guilty to a felony and was sentenced to 20 weekends in jail, 2 years supervised probation, fined \$1,000, and permanently barred from government service. The Manager was responsible for the daily administration of the Travel Card program, including oversight of misuse and recommending salary offset for delinquent accounts.

Following a 2002 audit and subsequent investigative review of NSF travel records, we received an anonymous tip alleging that the travel card program manager (a GS-15 Supervisory Accountant) was misusing her own travel card by making unauthorized ATM cash withdrawals. ATM cash withdrawals are only authorized when made in connection with official government travel. Otherwise, such withdrawals amount to personal, interest-free loans.

Our review of NSF and Bank of America records confirmed that the manager frequently used the travel card to make purchases from local retailers and ATM withdrawals, unrelated to official travel. Significantly, these unauthorized transactions appeared in the original Bank of America records but not in any of the electronic agency records that the manager maintained as a part of her official duties.

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These altered government agency electronic records had previously been provided to OIG Audit as part of the September 2002 audit, and provided separately to OIG Investigations as part of our proactive review of travel records.

When interviewed, the manager revealed that she made frequent use of the travel card for personal, non-official transactions on dozens of occasions over 3 years, and even allowed her children to make withdrawals with her card. She also admitted to altering NSF's electronic records every month to conceal her misuse from both the agency and OIG. Although the manager's supervisor was informed on 2 occasions that she was misusing the travel card, her supervisor failed to take any corrective or disciplinary action, and thereby enabled the misuse to continue.

Based on our referral, the U.S. Attorney for the Eastern District of Virginia (USA/EDVa) accepted this case for prosecution. In accordance with the manager's plea agreement, she resigned from NSF on December 15, 2003, and the next day pled guilty to violation of 18 U.S.C. § 2071(b), the willful and unlawful destruction of an official record, a felony. On March 26, 2004, the former manager was sentenced to 2 years of supervised probation and required to pay a \$1,000 fine and \$100 Special Assessment Fee-she was also sentenced to 20 weekends in jail to serve as a deterrent to others.

As part of the plea agreement, as required by § 2071(b), the former manager is permanently barred from holding Federal office. OIG recommended that NSF debar the former manager government wide for 3 years to ensure that she does not work in the private sector under a Federal grant or contract.

Eight Travel Card Cases to Be Submitted to NSF for Administrative Action

In addition to the preceding case, OIG's review of travel records identified 11 other cases involving suspected misuse of travel cards by NSF employees. These cases largely involved ATM cash withdrawals and purchases from local merchants that appeared to be unrelated to official travel. OIG investigators reviewed Bank of America electronic records and conducted interviews to determine what charges, if any, were authorized.

Eight cases were referred to the USA/EDVa for possible criminal prosecution under 18 U.S.C. § 1029(a)(2), fraudulent unauthorized use of an access device. USA/EDVa declined to prosecute these matters in lieu of administrative action, and we are therefore referring them to NSF management for appropriate action.

In the remaining 3 cases, we determined that the employees had used the travel card for purchases that were authorized but unrelated to official travel. We advised the employees that use of the travel card for purchases unrelated to official travel was inappropriate, and these cases were closed without further action.

Changes to Travel Card Policies Recommended

Based on the experience gained from recent investigations involving travel card use, we provided NSF with specific recommendations for tightening internal

controls and improving the monitoring of travel card misuse and delinquency. NSF responded by revising certain policies, including requiring additional training of all travel card users and suspending the cards of users who have not traveled recently.

In our September 2003 Semiannual Report to Congress (page 42), we discussed our recent implementation of regular proactive reviews of use of travel cards. These reviews were initiated in response to heightened public and Congressional interest, as well as an increase in fraud allegations pertaining to use of the travel card. Our review of recent travel card transactions found that employee credit card fraud and abuse, while never widespread, has significantly decreased in recent months. Our office will continue to conduct proactive reviews to identify common problems, and work with Bank of America and NSF to develop new approaches to prevent and detect credit card fraud and abuse.

University Employee Sentenced to 4 Years Incarceration for Embezzling NSF Funds

A northern California university grants and contracts administrator was convicted of embezzling \$487,425, including \$415,500 in NSF grant funds, over a period of five years. The administrator was responsible for reviewing and authorizing disbursements on NSF and other grants. He abused his position by requesting monthly disbursements (stipend payments) for his wife, who he falsely claimed was a program participant. He then forged the signature of the project director, approved the request as the grants and contracts administrator, and submitted the request to the accounts payable department. On each request he indicated that he would pick up the check once it was ready, and then deposited the checks, which ranged from \$1,200 to \$6,500, in his university credit union account.

We worked with the San Francisco District Attorney's (DA's) office to assist in the prosecution of the grants administrator. The DA indicted the administrator for multiple counts of fraud, forgery, and revenue and tax code violations. On March 12, 2004, the administrator pled guilty to four state fraud and tax code violations. As part of the plea agreement, he was sentenced to four years in prison and ordered to pay \$480,383 in restitution. We recommended that NSF debar the former administrator to ensure that the institutions receiving public funds will only employ responsible individuals.

The university reviewed the fraudulent expenditures from the NSF grants, as well as its cost sharing contributions and other charges, and determined that a total of \$1,206,314 should be returned to NSF or credited to the open grant accounts. To date, the university has returned or restored \$867,681 to NSF or NSF grant accounts. The university is cooperating with NSF/OIG to ensure that all NSF funds are returned and that adequate internal controls are implemented to prevent future occurrences.

University Employee Gambles with Stolen Federal Funds

An employee of a west coast university was convicted of stealing \$40,899 in grant money from an NSF sponsored research facility. The subject was responsible for the facility's petty cash fund account, and had access to an ATM card. The university discovered the theft when the subject was on vacation, and another employee discovered 2 checks attached to copies of the same invoice, making it appear that it had been paid twice. The facility director received copies of the cashed checks from the bank and learned that one of the checks had been altered to make it payable to the subject. The endorsement signature on the back of the check indicated that she had cashed the check herself.

The university immediately suspended the subject pending an investigation. After the university found five suspicious checks totaling \$6,000, a university official interviewed the subject. The subject admitted to her fraud, blaming her actions on a gambling problem and depression, and explained that she wrote checks to herself



Darrell Drake and Crystal Blackshear receive the ECIE Award for Excellence from Federal Reserve IG Barry Snyder

on the account and forged her supervisor's signature on the checks. She concealed her crime by preparing copies of blank checks payable to legitimate vendors, and then submitting them to her supervisor to confirm payment of the invoices.

The subject had unlimited signature authority on the petty cash checking accounts, and admitted to altering five to ten checks totaling an unknown amount of money. The records

ultimately revealed that the subject cashed \$23,992 in checks, charged \$3,139 to her ATM card for AT&T wireless charges, charged \$2,922 to her ATM card in other unauthorized purchases, and withdrew \$2,399 in cash, for a subtotal of \$32,452 in fraudulent expenditures. Moreover, when the indirect costs charged to the award as a result of her theft are included, the total loss of Federal funds amounted to \$40,889.

After the university notified OIG of the theft, we interviewed the subject and obtained a written statement admitting to the theft of the funds. We referred the case to the U.S. Attorney's Office, and on March 19, 2004, the subject pled guilty to one count of violating 18 U.S.C. § 666, "theft or bribery concerning programs receiving federal funds." The subject is scheduled to be sentenced in June 2004. The university restored \$40,889 to the account for the NSF award. As part of the plea agreement, the subject agreed to pay full restitution to the university.

Two Employee Investigations Result in Separation from Service

The September 2003 Semiannual Report (page 31), contains a summary of the case of an NSF employee who advertised stolen property using the agency's electronic bulletin board. Although the employee was repeatedly counseled by OIG and her supervisor about her obligation to cooperate with our investigation, the employee continually refused. Following the completion of OIG's investigation, we referred the matter to NSF for administrative action. NSF management issued a proposed termination notice to the employee for failure to cooperate with an OIG investigation, and the employee resigned prior to the agency's final decision.

In another case, reported in our September 2003 Semiannual Report (page 35), an NSF program assistant intentionally fabricated and submitted a jury duty notice to justify her absence from work. We reported our findings to management for appropriate action, and on December 16, 2003, the program assistant was terminated for cause.

Company Official Returns Funds Obtained by False Certification

A company official for a first-time recipient of a Small Business Innovation Research (SBIR) award falsely certified that the primary employment of the Principal Investigator (PI) was with the firm. Based on the certification, NSF made an initial payment of \$33,000 to the company. When NSF found that the PI was not employed at the company, NSF terminated the grant and referred the matter to OIG. After the grant was terminated, the company ceased operations and went out of business.

During our investigation, the company official admitted that he signed the "Request for Initial Payment" form despite knowing that the company did not primarily employ the PI. However, the official said that he did not understand the NSF grant requirements, and claimed that other officers of the company were responsible for preparing and submitting the documents to NSF. Following our consultation with the U.S. Attorney's Office, the company official agreed to refund a portion of the award to NSF, and the U.S. Attorney declined to prosecute. In addition, the company official stated in writing his intention to comply with all rules and regulations when applying for future Federal awards.

University's Computer Purchase Fulfills Cost-Sharing Requirements

In our September 2003 Semiannual Report (page 32), we summarized the case of a university that failed to fulfill its cost-sharing requirement. The university had agreed to purchase the computer equipment initially identified as their cost-sharing obligation. In December 2003, the university submitted documentation verifying the purchase of the computer system at a cost of \$58,229. This amount exceeded their cost-sharing requirement and fulfilled their obligation.

Administrative Investigations

Reports Forwarded to the Deputy Director

PI Recommended for Reprimand for Plagiarism.

OIG recommended that NSF reprimand a PI for plagiarizing parts of a research proposal. We received an allegation that an NSF proposal, submitted by a PI and four co-PIs, contained material copied from a confidential proposal submitted to NSF. Our examination of NSF's database indicated that the source proposal was reviewed by one of the co-PIs, leading to the suspicion that the co-PI also violated the confidentiality of NSF's merit review process. During our inquiry, we identified additional text copied verbatim from a separately published paper.

Our inquiry determined that the PI had received a copy of the proposal from the co-PI, who received it from NSF to review, and the PI (the subject) alone was responsible for the inclusion of the copied text into the proposal. We referred the allegations of plagiarism and violation of the confidentiality of NSF's merit review process to the subject's university for investigation. The university found the subject copied a moderate amount of material, including text, a figure, and references, from the source proposal, and several lines of text from the paper. The university concluded that the subject's plagiarism and violation of the confidentiality of NSF's merit review process constituted research misconduct under its policy. The university reprimanded the subject and required him to attend a research ethics conference and participate in the university's research ethics course for its graduate students. We agreed with the university's conclusions and recommended that NSF send a letter of reprimand to the subject and require him to provide certifications for 2 years.

Action by the Deputy Director

NSF took action against a PI who inserted 2 pages of plagiarized material into 2 NSF proposals, as first reported in our September 2003 Semiannual Report (pages 36-37). On the basis of our investigation and recommendations, NSF sent a letter of reprimand to the PI and directed him to provide NSF written certifications for a period of 2 years that any newly submitted proposals comply with NSF's research misconduct regulation.

Significant Administrative Cases

Human Subjects Protection Issues Uncovered by Contradictions in Awardee's Annual Report

Allegations concerning a first-time grantee's compliance with the Common Rule for the Protection of Human Subjects resulted in corrections by the grantee

and improved compliance oversight by the NSF programs. Under the Common Rule, an awardee must certify to NSF that an approved Institutional Review Board (IRB) has reviewed and approved the use of human subjects before any such research is funded. While reviewing an awardee's annual report, we identified contradictory information about whether the awardee had secured IRB approval for its project involving children.

Our investigation revealed that the awardee had no prior experience with human subjects research and had not received adequate IRB approval before starting the NSF project. We also found identifying personal information about children participating in the program publicly available on the awardee's web site, which also cited NSF as a funding source. The Common Rule specifically requires an IRB to determine that additional safeguards are in place to protect special groups, including children and others who may be vulnerable. On our recommendation, NSF suspended the award pending IRB approval of the project, and the awardee removed the website.

We worked with the awardee, its IRB, and NSF to achieve compliance, in part, by ensuring the IRB received all relevant information. Meanwhile, we learned the posting of the children's personal information on the web site was part of the awardee's non-NSF-supported activities.² After reviewing the materials, the IRB determined that the NSF project requires IRB oversight but involves not-greater-than-minimal risk to the participants. Following our recommendations, NSF urged the awardee to attend professional grants management training, required the awardee to submit the results of subsequent IRB reviews to NSF, has treated the award as an at-risk award, and lifted the suspension.



OIG attorneys Fara Damelin and Ginna Ingram confer about a case.

We found other awards in this NSF program that raised compliance issues under the Common Rule. Out of 17 awards, only 7 had been submitted designating human subjects involvement on the proposal cover page as required by NSF policy. NSF also explicitly requires awardees to certify IRB approval of human subjects work before an award is made. In this case, NSF had received only 3 IRB

² The awardee had established a connection between the NSF project and these activities by erroneously using NSF funds in these activities. To correct the accounting error the awardee credited the NSF grant account for the erroneous payments, thus severing the connection between the website and NSF and eliminating the need to have the IRB approve the children's web pages as part of the NSF award.

certifications before the awards were approved and funds expended. Furthermore, the program officer had failed to designate all 17 awards as involving human subjects on NSF's internal processing form.

In response to our recommendations, the affected NSF directorate corrected the 17 award files and provided awareness training for division directors and staff. It is working to sample active awards for compliance, and to institute a directorate-wide automatic hold in electronic proposal processing that requires program officers to actively confirm their review of human subjects issues. In the majority of directorates, all proposals are coded by default in the electronic proposal processing system as not having a human subjects component. At the agency level, NSF implemented and publicized web-based training to relevant program staff, and intends to modify the policy manuals to clarify program officers' responsibilities. NSF agreed to look into additional outreach methods and to make an informal assessment of program areas involving large-scale human subjects research, which may require refresher training for NSF personnel.

Conflicts Arise in Merit Review of Proposals

During this semiannual period, several matters arose that highlight how conflict-of-interests (COI) issues can arise in the process of NSF's merit review process. We received information that a program officer participated in the award of a proposal for which his fiancée was listed as a co-PI. When we interviewed him, the program officer denied having anything other than a collegial professional relationship with the co-PI, until he was confronted with the evidence. However, since he did not share financial interests or a household with the co-PI, there was neither a statutory COI violation, nor a violation of NSF's own COI rules. We pointed out to NSF that its rules for panelists and advisory committee members identified close personal relationships as raising COI concerns, and in response to our recommendation NSF added a parallel provision to the COI rules for NSF employees.

In addition, we investigated several other allegations of violations of the terms of the "Conflict-of-Interests and Confidentiality Statement for NSF Panelists" (the Confidentiality Statement) which is signed by NSF panelists prior to reviewing proposals:

- A panelist admitted lobbying and voting for a proposal from his university, even though the Confidentiality Statement clearly prohibits panelists from participating in the evaluation of proposals from their home institutions. Although the panelist believed his COI was irrelevant because the panel ultimately did not recommend the proposal, this did not mitigate his responsibility and we reiterated the importance of this rule to him.
- A panelist reviewed a proposal from an institution for which the panelist is a subcontractor. Although this would be a COI under NSF's rules, this proposal was reviewed as part of an interagency program, in a process initially governed by another agency's rules. This proposal was unsuccessful in the first stage, and the program has changed its review

procedures for the upcoming year in a manner that will prevent a recurrence of this issue.

- Review panelists discussed alleged prior unethical behavior of a PI whose proposal was being considered. The program officer overseeing the panel appropriately halted the discussion, and reminded the panelists to disregard the allegation in evaluating the merit of the proposal. Believing that the accused PI had the right to know of and defend against the allegation, one reviewer emailed the PI and others about the discussion. We emphasized to the reviewer that NSF policy is to bring allegations of unethical behavior to us, and that discussion held by panelists should not otherwise be shared with individuals outside the review process.

