

OIG Management Activities

2005 Management Challenges

In October 2004, the Office of Inspector General (OIG) submitted to agency management its list of what it considers to be the most serious management and performance challenges facing the National Science Foundation (NSF). The list was compiled based on our audit work, general knowledge of the agency's operations, and the evaluative reports of others, such as GAO and NSF's various advisory committees, contractors, and staff. The items on the list are unchanged from last year, mainly because they reflect areas of fundamental program risk that continue to pose obstacles to NSF's accomplishment of its mission. They will therefore require ongoing attention from NSF management over the long term. The OIG's management challenges letter appears in its entirety in the Appendix on page 49. Additional information about the status of some challenges appears elsewhere in this report and is referenced in parentheses. The 11 specific challenges include:

1. Workforce Planning and Training (p. 14)
2. Administrative Infrastructure
3. Management of Large Infrastructure Projects
4. Post-Award Administration
5. Cost Sharing
6. Information Security
7. GPRA Reporting
8. Cost Accounting
9. Management of U. S. Antarctic Program (p. 15, 20)
10. Broadening Participation in the Merit Review Process
11. Math and Science Partnership (p. 13)

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Legal Review

Statutory and Regulatory Review

The Inspector General Act of 1978, as amended, mandates that our office monitor and review legislative and regulatory proposals for their impact on the OIG and NSF's programs and operations. We perform these tasks for the purpose of providing leadership in activities that are designed to promote economy, effectiveness, efficiency, and the prevention of fraud, waste, abuse and mismanagement. We also keep Congress and NSF management informed of problems and monitor legal issues that have a broad effect on the Inspector General community. During this reporting period, we reviewed seven bills that affected NSF, OIG, or both. The following legislation merits discussion in this section.

Program Fraud Civil Remedies Act of 1986 (PFCRA) (31 U.S.C. §§ 3801-3812)

A legislative priority that we support is amending PFCRA to include NSF and the 26 other Designated Federal Entity (DFE) agencies that are currently excluded from participation under the Act's enforcement provisions. The Office of Inspector General's concern related to PFCRA involves the ability of DFE agencies to fully implement their statutory mission to prevent fraud, waste and abuse by availing themselves of the enforcement capabilities contained within the Act. In fact, we have raised the issue of NSF's inclusion under the PFCRA legislation in several prior semi-annual reports.

PFCRA sets forth administrative procedures that address allegations of program fraud when the claims are less than \$150,000. Currently, the executive departments, military departments, establishments, as defined under the Inspector General Act of 1978, and the United States Postal Service, are the only agencies permitted to act under PFCRA. NSF and other DFE agencies with Inspectors Generals appointed by agency heads are not included.

We believe that using the enforcement provisions of PFCRA will enhance NSF and other DFE agency recoveries in instances of fraud that fall below PFCRA's dollar threshold. In short, including NSF and other DFE agencies under PFCRA will further the OIG community's statutory mission to deter fraud, waste and abuse.

Earlier this year, the joint legislative committee of the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE) agreed to recommend to the entire OIG community that PFCRA be amended, as described above, and adopted as a OIG legislative priority. The NSF OIG has had a leading role in this effort.

Outreach

As part of our ongoing efforts to prevent and detect fraud, waste, and abuse, we reach out to the communities we serve to inform them about our work. Our customers include the national and international research communities, other Federal agencies and OIGs, and NSF.

Working with the Research Community

IG Co-hosts International Accountability Forum. The Inspector General co-hosted a workshop, *Accountability in Science Research Funding*, with Dr. William Harris, Director General of the Science Foundation Ireland, in Dublin Ireland on June 9 and 10, 2004. The purpose of the meetings was to present and discuss models of monitoring and auditing science and engineering projects and to share best practices among the participating organizations. Fourteen countries were represented at the workshop including officials from Austria, Belgium, China, Bulgaria, France, Germany, Switzerland, and United Kingdom. Presenters at the workshop included Dr. Boesz the Inspector General, Deborah Cureton the Associate Inspector General for Audit, and NSF's Chief Financial Officer Thomas Cooley.

Presenters offered case studies to explore factors that make accountability programs effective. Participants agreed that while international collaborations make complex and expensive projects more feasible, the accountability challenges are enormous both in terms of scope and resources required. Strong global communication and cooperation among accountability professionals are necessary to gain efficiency and to produce timely and effective reporting systems. The workshop participants expressed interest in continuing the dialogue and developing an auditor exchange program among countries to facilitate better understanding of each other's audit environment.

AIIGI Delivers Keynote Speech. OIG was invited to the Australian Research Management Society (ARMS) in Fremantle, Western Australia, where Peggy Fischer, Associate IG for Investigations, was a keynote speaker discussing compliance programs. The session revealed both the differences

Effective compliance programs, as described by the Federal Sentencing Guidelines for Organizations, have seven characteristics:

- 1) Establish compliance standards and procedures to prevent and detect violations of law.
- 2) Have leadership and governing authority that is knowledgeable about the content and operation of the compliance program. Specific high-level individuals (with adequate resources and authority) should be assigned overall responsibility to ensure implementation and effectiveness of the program and should report directly to the governing body.
- 3) Use reasonable efforts not to include in its organization individuals with substantial authority whose conduct is inconsistent with an effective compliance program.
- 4) Communicate its compliance program to its employees, agents, leaders, and board.
- 5) Take steps to monitor and audit its systems to prevent and detect violations of law, evaluate its compliance program, and implement a whistleblower system that is free of retaliation.
- 6) Provide incentive to ensure conformance with the program and disciplinary steps for engaging in violations of law or for failing to take steps to prevent or detect those violations
- 7) Take steps to respond to violations of law and prevent future violations.

These seven factors have provided the framework for compliance programs effected as part of settlement agreements negotiated by the Department of Justice and other Federal agencies.

and similarities between the Australian and American approaches to funding research. The ARMS participants have a strong interest in developing commercial funding for academic research and were concerned about conflict-of-interests issues. ARMS members, as well as representatives from Denmark, Scotland and Great Britain, also expressed concerns about the tension between securing research funds and ensuring compliance. The conference again illustrated that scientific and research communities around the world face many of the same administrative problems and can greatly benefit from sharing their experiences and ideas.

OIG Staff Present at Conferences. OIG staff members were also invited to speak at a wide range of conferences held by institutions and associations, as their members explore ethical dilemmas that arise in conducting research and discuss ways to avoid research misconduct and the consequences of committing research misconduct. Presentations were given at the annual meeting of Federal Research Demonstration Partners; Murray State University in Murray, KY as part of Scholars Week; the National Center for Atmospheric Research in Bolder, CO; and Emory University's Values in Science course. The Society for Research Administrators International requested that we hold workshops at their meetings in Baton Rouge, LA and Portland, ME. Workshop attendees were interested in a number of subjects including conflicts of interests, the obligations and commitments of principal investigators, implementing compliance programs, cost-sharing documentation, and human subjects research.

A member of our staff participated in a panel discussion at the National Council of University Research Administrators (NCURA) 2004 Summer Conference in Providence, RI. The panel addressed issues related to developing effective compliance plans such as designating decision makers and providing proper training, and emphasized how a good compliance plan can provide mitigating factors in administrative, civil, and criminal proceedings. We also participated in NCURA's San Francisco meeting.

Working with the Federal Community

Workgroup Advises on Erroneous/Improper Payments. The Improper Payments Improvement Act of 2002 (P.L. 107-300) requires agencies to review all programs and activities annually and identify those that are susceptible to significant improper payments. Under the direction of the Office of Management and Budget (OMB), the Federal Workgroup on Erroneous/Improper Payments is examining ways to address issues faced by grant-making agencies in implementing this Act. In particular, collecting data on improper payments from the awardee and subawardee has proven to be a challenge.

The workgroup is developing cost-effective approaches for identifying and reporting improper payments. For example, it is drafting a sampling methodology for grant programs. It is also examining Single Audit reports maintained by the Department of Commerce to evaluate how the reports could be used to identify and/or reduce improper payments. As the primary attendee from the OIG community, the NSF OIG representative provided a perspective on what actions the OIG community is planning to take on evaluating agency actions to comply with this Act.

Research Business Models Workgroup. During this reporting period, we attended the first meeting of the Research Business Models Working Group on Subrecipient Monitoring, sponsored by the National Science and Technology Council's Committee on Science. The group plans to evaluate current Federal guidance on subrecipient monitoring contained in OMB Circular A-133 and attempt to simplify or eliminate procedures for overseeing grant funds passed-through to other organizations that may be redundant. The meeting included representatives from OMB and from other research agencies such as the Office of Naval Research, the Department of Health and Human Services, and the Environmental Protection Agency. Because NSF relies on the A-133 audits to help monitor awardees' compliance with Federal requirements for subrecipient monitoring, we will participate in future meetings of the working group to keep abreast of proposed revisions to OMB guidance and to offer input from the audit perspective.

ECIE Prepares for Investigative Peer Reviews. NSF OIG has played a leading role in an ECIE working



Dr. Boesz discusses peer reviews for investigative organizations with Don Hickman of the Tennessee Valley Authority.

group that is preparing for upcoming investigative peer reviews. The working group hosted a training session developed by the Inspector General Academy to assist the ECIE OIGs in developing effective policies and procedures for these voluntary reviews. Our Office of Investigations will undergo peer review early in the upcoming semiannual period.

IG Counsels Discuss Electronic Signatures. As electronic submissions from applicants, grantees, and contractors become more commonplace, the matter of verifying who is actually submitting the electronic information to the agency has become an issue in some investigations and litigation. The Council of Counsels to Inspectors General has appointed a group to evaluate the issues associated with electronic signatures, and we participated in the opening meeting.

Misconduct in Research Working Group. In response to the Office of Science and Technology Policy's issuance four years ago of a common Federal definition and procedure for investigation of allegations of research misconduct, we continue to work with other Federal agencies and OIGs as they implement appropriate policies and procedures. Over half of the 23 agencies that conduct or fund research have drafted or established a policy on handling research misconduct allegations. Most of those policies articulate a role for IG offices ranging from providing assistance, to handling any civil or criminal matters related to the allegations, to the responsibility for investigation of the research misconduct allegations.

PCIE/ECIE Committees. NSF OIG continues to play an active role on the PCIE/ECIE Investigations Committee, which is overseeing the development of a peer review process, and on the Inspection and Evaluation Committee, which is revising its standards for inspections and developing a peer review process for inspection units. OIG staff also participated in updating the PCIE/ECIE Strategic Framework, which sets out the mission and goals of PCIE/ECIE over the next five years.

Working with NSF

Conflict-of-Interest Briefings. NSF's Designated Agency Ethics Official continues to offer OIG staff an opportunity to discuss the roles and responsibilities of our office at the conflict-of-interests briefings that occur approximately twice a month. We also continue to participate in the agency's Program Management Seminar, which provides new NSF staff with detailed information about the Foundation and its activities. Experienced OIG staff serve as resource personnel at this three-day training.