

# OIG Management

## Legal 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 Office of Inspector General (OIG) and the National Science Foundation's (NSF) 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 42 bills that either 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 agencies that are currently excluded from participation under the Act's enforcement provisions. The amendment would enable NSF and the other agencies to fully perform their statutory mission to prevent fraud, waste and abuse by availing themselves of the enforcement capabilities contained within the Act. We have raised the issue of NSF's inclusion under the PFCRA legislation in several prior Semianual Reports.

PFCRA sets forth administrative procedures that address allegations of program fraud when the claims are less than \$150,000.00. 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 proceed under PFCRA. NSF and the other agencies with Inspectors General appointed by agency heads are not included.

We believe that using the enforcement provisions of PFCRA will enhance NSF and other agency recoveries in instances of fraud that fall below PFCRA's jurisdictional threshold of \$150,000.00. In short, including NSF and the other agencies under PFCRA will further the OIG community's statutory mission to deter fraud, waste and abuse. In a March

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2006 letter to Congress, the National Science Board made a formal request “that Congress amend the PFCRA to include NSF” and afford the agency the investigative resolution authorities provided other federal agencies.

## Outreach

NSF OIG continues to reach out to the national and international research communities, other federal agencies and OIGs, and NSF staff in an effort to provide information and raise awareness regarding our mission and the need for effective collaboration. During this semiannual period, NSF OIG worked to communicate to each audience how our mission contributes to the overall success of the research community. Our message remains clear: research requires *money*, and those who spend the taxpayers’ money must be *accountable*. Compliance systems are a practical way to ensure accountability and must be created and nurtured in institutions throughout the research community, not just to achieve technical compliance but also as a way to enhance the research enterprise through better management and administration.

During this semiannual period, our message was strengthened by the participation of Assistant United States Attorney, Paula Newett, during our presentation at NSF’s Regional Grants Conference in Boulder, Colorado, in March. Ms. Newett is the Deputy Chief (Acting), Civil Division, United States Attorney’s Office, Eastern District of Virginia (EDVA). She is the Head of the Affirmative Civil Enforcement (ACE) Unit, which prosecutes a broad array of civil frauds in health care, grants, and procurement. She explained that ACE had recovered over \$200,000,000 from federal contractors and grantees between 2003 and 2005. Her comments addressed the importance of including integrity agreements<sup>1</sup> as part of settlement agreements. She explained that integrity agreements are drafted by an OIG in conjunction with the United States Attorney’s Office, but once approved by all parties, are monitored by the affected agencies. Ms. Newett explained that because of NSF’s location within EDVA’s jurisdiction, her office had jurisdiction over NSF grant recipients and that she therefore worked closely with NSF OIG investigators. Her presentation made clear the accountability requirements for organizations and individuals receiving federal grants.

## *Working with the Research Community*

**IG Delivers Keynote Address at Symposia Held in China.** Professor Zhang Cunhao, Chairman of the National Natural Science Foundation of China (NSFC) invited the Inspector General to deliver keynote presentations about the importance of compliance plans in strengthening internal controls on research and business functions, at three symposia held in China during October 2005. At the same sessions Dr. Ken Busch, Investigative Scientist presented five case

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<sup>1</sup> An integrity agreement includes a set of compliance measures committed to by a grant recipient organization to ensure the integrity of all claims for reimbursement made to the federal government.

studies involving misconduct in research investigations for his audience to consider. The purpose of the symposia was to educate university-based research faculty and discuss best practices for handling issues of research misconduct. Professor Zhang noted China's appreciation for the excellent collaboration between NSF OIG and the NSFC over the past five years and expressed his desire that the partnership continue.

**OIG Staff Participate in Conferences.** Members of the OIG staff were invited to attend and present at a wide range of workshops, conferences, meetings, and other events conducted by institutions and associations of research professionals. At each event, OIG staff not only presented detailed, practical information about our work, but also framed the subject matter in the context of the larger goal of ensuring the integrity of the research endeavor. We fielded questions from our audiences on a wide range of topics and followed up with individuals to ensure complete and accurate information was provided. It remains the goal of our outreach presentations to assist individuals and organizations within the national and international research communities in their efforts both to create systems to identify, resolve, and prevent recurrence of misconduct or mismanagement, and to foster an environment of ethical conduct in research, education and grant administration.

During this semiannual period, OIG staff participated in events with the Society for Research Administrators International; the National Council of University Research Administrators; the Federal Audit Executive Council; the Science Foundation of Ireland; the American Chemical Society; the Washington Academy of Sciences; the University Corporation for Atmospheric Research; the Federal Law Enforcement Training Center / Department of Homeland Security; and the Inspector General Academy. In each of these forums, our staff engaged a broad spectrum of the community involved with provision, use, administration, and oversight of federal grant funds.

**OIG Staff Speak at Universities.** Members of the NSF OIG have received numerous invitations to provide training to, and answer questions from, university personnel. University officers and individuals involved in applying for and administering NSF awards, individuals involved in performing supported research, and individuals involved in conducting university-level inquiries into allegations of research misconduct, are among those who have received presentations from OIG personnel. During this semiannual period, we visited seven universities or university systems for such presentations. At each, the participants demonstrated great interest in the presentations and engaged OIG staff in constructive questions and answers to refine their understanding of the subjects being discussed.

**International Auditor Exchange.** An OIG audit manager spent three months working in the United Kingdom (UK) for the Research Council's Internal Audit Service (RCIAS). The office is responsible for auditing the operations of the seven UK Research Councils that fund approximately \$4 billion annually in

government research grants to educational institutions. The purpose of the exchange was to compare the respective approaches to auditing employed by the two countries, and learn the techniques and methodologies used by the other to audit grant funds and ensure proper management and accountability. Both the OIG and RCIAS found the exchange enlightening and beneficial.

### ***Working with the Federal Community***

NSF OIG investigators reach out to their counterparts in the IG community on a regular basis. During this semiannual period, we frequently worked with other federal agencies and Offices of Inspector General on a host of professional matters. These agencies include the Departments of Agriculture, Energy, Justice, Office of Management and Budget, Government Accountability Office, and Social Security Administration. These professional interactions were conducted both on an office-to-office level to address requests for particular assistance, and also within the context of the Council of Counsels to Inspectors General (CCIG) and committees of the President's Council on Integrity and Efficiency /Executive Council on Integrity and Efficiency (PCIE/ECIE). NSF OIG continues to actively participate in the PCIE/ECIE Investigations Committee, the ECIE Investigative peer review effort, the Misconduct in Research Working Group (chaired by the NSF IG), the PCIE/ECIE Inspections and Evaluation Committee, and the PCIE GPRA Roundtable and the PCIE/ECIE Information Technology Roundtable.

**Deputy U.S. Attorney General Nominee Addresses the 2005 OIG Grant Fraud Training.** Deputy U.S. Attorney General Nominee Paul J. McNulty was the keynote speaker during this year's Grant Fraud Workshop organized by our office. Subsequent to the workshop, he was confirmed as Deputy U.S. Attorney General. Mr. McNulty acknowledged the significant challenges facing federal agencies having responsibility for ensuring that the \$400+ billion of taxpayers' money, awarded in the form of grants, is expended in accordance with the law.

Paul McNulty (right) with Matt Quinn, Investigations and Dr. Boesz at OIG's Grant Fraud Workshop.



He discussed his efforts to address the growing problem of procurement fraud. In his former capacity as the U.S. Attorney for the Eastern District of Virginia, Mr. McNulty spearheaded the Procurement Fraud Working Group, which consists of representatives from OIGs and others in the federal law enforcement community. The investigators meet quarterly to share investigative information and discuss their common objective: identifying those who intentionally misuse government funds and violate the trust placed in them.

Mr. McNulty emphasized his commitment and active partnership with the OIG community in pursuing and bringing to justice those individuals and organizations that deliberately violate the public's trust and the criminal and civil laws of the United States. He specifically

acknowledged NSF-OIG's efforts in bringing the OIG community together to provide relevant training and to discuss best practices and lessons learned pertaining to grant fraud. This year's Grant Fraud Workshop resulted in the largest turnout to date, with a total of 125 attendees, representing 31 different offices. Among those attending were 75 investigators, 20 auditors, 20 attorneys, and 10 other professionals.

## ***Working with NSF***

**OIG/NSF Liaison Program.** NSF OIG has built on its previous success in establishing and maintaining effective communication and professional relationships with the individual directorates and offices within NSF. During this semiannual period, our liaison teams (generally one investigator and one auditor) have served as a valuable conduit of information between our offices in the course of approximately 50 liaison events.

This year, we again conducted a survey of Assistant Directors, Division Directors, and other staff principals, to assess the efficacy of the OIG Liaison Program and the quality of communications between the agency and OIG. We received replies from approximately 75% of those offered the survey. We are pleased to report that all of the NSF respondents indicated they were comfortable communicating with their OIG liaisons and understood the OIG role and how it supports the NSF mission. OIG remains committed to building and maintaining strong and open lines of communication with the agency. We will use the results of this year's survey to identify opportunities to further improve those communications.

**Program Managers' Seminar Briefings.** OIG staff continue to participate as Resource Personnel in the NSF Program Managers' Seminar, which provides new NSF staff with detailed information about the Foundation and its activities. During each seminar, the OIG Resource Person makes a presentation about our office to the new Program Managers. These sessions have been successful in fostering personal and professional relationships between OIG and agency staff, as well as in educating NSF personnel on the mission and responsibilities of NSF OIG.

**Conflict-of-Interests Briefings.** The NSF Designated Agency Ethics Official continues to offer OIG staff an opportunity to address NSF staff at mandatory conflict-of-interest briefings which are conducted approximately twice per month. This generous offer provides OIG with a forum in which we can communicate our mission and responsibilities, our ongoing liaison program with NSF, and the manner by which employees can bring matters to our attention.

## Certifications

**Office of Audit Receives A Clean External Peer Review Report.** In accordance with Government Auditing Standards, we are required to have an external quality control review conducted of our audit operations and quality control system at least once every three years. The purpose of the peer review is to determine whether the audit organization has a quality control system in place to provide reasonable assurance that it is following all applicable auditing standards. During this reporting period, the Board of Governors of the Federal Reserve System (FRS) OIG conducted an external quality control review of our audit operations. We are pleased to report that FRS-OIG found that our audit quality control system provides reasonable assurance of conforming to professional auditing standards in the conduct of our audits. In the report, FRS-OIG made four suggestions regarding our internal quality assurance program and enhancing our internal audit policies and procedures.

**NSF OIG Recertifies Its Compliance with Whistleblower Act.** The NSF OIG has been recertified by the Office of Special Counsel as meeting its statutory obligation to inform its workforce about the rights and remedies available under the Whistleblower Protection Act (WPA) and related civil service laws. In 1994, Congress enacted 5 U.S.C. §2302(c) to address concerns about ignorance among federal workers of their right to be free from prohibited personnel practices, especially retaliation for whistleblowing. That provision charges “the head of each agency” with responsibility for “ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them” under the prohibited personnel practice and whistleblower retaliation protection provisions of Title 5.