



National Science Foundation • Office of Inspector General
2415 Eisenhower Avenue, Alexandria, VA 22314

MEMORANDUM

DATE: April 30, 2019

TO: Arthur Lupia
Assistant Director
Directorate for Social, Behavioral, and Economic Sciences

Karen Marrongelle
Assistant Director
Directorate for Education and Human Resources

Dawn Tilbury
Assistant Director
Directorate for Engineering
[REDACTED]

FROM: Mark Bell
Assistant Inspector General
Office of Audits

SUBJECT: NSF's Controls over Advocacy

On October 15, 2018, we sent you a memo advising that we were gathering background information for a potential audit on the National Science Foundation's controls over advocacy in response to a June 18, 2018 letter from Senators Rand Paul, Ted Cruz, James Lankford, and James Inhofe. According to the letter, the Senators were concerned that NSF "...has issued several grants which seek to influence political and social debate rather than conduct scientific research," and requested that we investigate specific concerns relating to five NSF awards (see attachment 1). Our research and analysis included a review to determine if NSF followed its merit review process for the five identified awards, as well as a preliminary inquiry to assess whether limitations on political activity were violated. After the completion of our assessments, we concluded that the evidence we reviewed did not warrant the initiation of an audit. The results of our analysis are detailed below.

The *National Science Foundation Act of 1950* (Pub. L. No. 81-507), established NSF as an independent Federal agency "To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and for other purposes." NSF is authorized and directed, among other things, "to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, social, and other sciences, and to initiate and support research fundamental to the engineering process and programs to strengthen engineering

research potential and engineering education programs at all levels in the various fields of engineering, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific, engineering, and educational activities and to appraise the impact of research upon industrial development and upon the general welfare.”¹

The Foundation requires proposals for funding to be evaluated by a merit review process focused on two criteria: intellectual merit (meaning the potential to advance knowledge) and broader impacts (encompassing the potential to benefit society and contribute to achieving specific, desired societal outcomes). In 2017, Congress reaffirmed NSF’s merit-based peer review process through the *American Innovation and Competitiveness Act*, now codified at 42 U.S.C. § 1862s. Specifically, according to the Act, “It is the sense of Congress that...[NSF’s] intellectual merit and broader impacts criteria are appropriate for evaluating grant proposals...[and] evaluating proposals on the basis of [NSF’s] intellectual merit and broader impacts criteria should be used to assure that [NSF’s] activities are in the national interest...”²

NSF’s merit review process comprises four steps: selection of proposal reviewers, peer review, program officer recommendation, and division director review (see attachment 2 for details).

NSF’s *Proposal and Award Manual*³ details the actions to be taken as part of the merit review process:

Proposals are evaluated by independent reviewers consisting of scientists, engineers and educators, who do not work at NSF or for the organization that employs the proposing researchers. NSF selects the reviewers from among a pool of experts in each field and their evaluations are anonymous. The reviewer’s job is to provide advice on which projects are the very highest priorities. This competitive process, called ‘merit review,’ ensures that many voices are heard and that only the best projects make it to the funding stage.

After scientific, technical and programmatic review, the NSF’s program officers recommend to the cognizant division director whether the proposals should be recommended for an award or declined for funding.

As part of our review, we sought to determine whether NSF followed its merit review process for each of the five awards identified in the June 18, 2018 letter. For these awards, we examined:

- NSF’s funding opportunity announcements;
- The award proposals, including the budget requests;
- Merit review panelists’ comments;
- The program officers’ panel review summaries;
- Grant award letters; and

¹ 42 U.S. Code § 1862(a)(1).

² *American Innovation and Competitiveness Act*, Pub. L. No 114-329, section 101, January 6, 2017.

³ *Proposal and Award Manual*, effective January 5, 2009 through January 29, 2018. (NSF’s internal guidance for proposal and award process)

- The awardees’ annual and final reports, as applicable.

We also interviewed program officers and division directors to determine if they followed NSF’s review process.

Based on those efforts, we determined that the five awards were vetted through the merit review process. Each proposal aligned with the purpose of the funding opportunity and was assigned to the appropriate NSF program office. The program officers selected the panel reviewers as required and scheduled and held the panels to review the proposals. We reviewed the panelists’ comments and determined they reviewed the proposals according to the merit review criteria and scored the proposals based on their intellectual merit and potential broader impacts. We found that the program officers recommended the proposals for funding and the division directors reviewed and approved their recommendations accordingly. Finally, we reviewed the award letters and determined that the awards were processed properly.

After examining the merit review process, we assessed whether the decisions to fund these awards were inconsistent with existing limitations on political advocacy that would extend to NSF grants. The most relevant such restriction is a rider in the Commerce, Justice, Science and Related Agencies Appropriations Act⁴ which states that “No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.”⁵

The phrase “publicity or propaganda” is not defined by statute; however, the Government Accountability Office (GAO) has opined that among other things, such a prohibition covers “purely partisan materials . . . ‘designed to aid a political party or candidate.’”⁶ According to GAO, although “the lines separating nonpolitical from political cannot be precisely drawn . . . [a] standard GAO applies is that the use of appropriated funds is improper only if the activity is ‘completely devoid of any connection with official functions or so political in nature that it is not in furtherance of the purpose for which the funds were appropriated.’”⁷

Our assessment of the process by which the five awards were made did not reveal any evidence to support a conclusion that the awards in question violated this limitation. Instead, as noted previously, the proposals which led to the subject awards were vetted pursuant to the agency’s merit review process, which works to ensure that awards are consistent with the statutorily-mandated intellectual merit and broader impacts criteria. The operation of that process – and its governing criteria – safeguards against the making of awards that do not advance NSF’s mission, such as activities designed to aid a specific political party or candidate or those that are “devoid

⁴ This prohibition was included in the appropriations for all fiscal years in which the awards were approved for funding.

⁵ Consolidated Appropriations Act, 2018, Pub. Law No. 115-141, Div. B, Title V “General Provision,” section 501.

⁶ GAO Red Book, Fourth Ed., 2017 rev., pg. 3-293 to 3-294.

⁷ *Id.* pg. 3-294. We note that this GAO Red Book discussion centers on Comptroller General opinions involving federal agency materials that defend or explain policies. While such materials are not at issue in the present matter, GAO’s discussion provides insight into what is prohibited as “purely partisan materials” under the “publicity or propaganda” prohibition.

of any connection with official functions or so political in nature”⁸ that they would fail to further the agency’s mission.

In addition to the appropriations rider, the *Hatch Act Reform Amendments of 1993* (Hatch Act) prohibits federal employees from engaging in “political activity,”⁹ which is defined as “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”¹⁰ Our limited review of the steps NSF staff took with respect to the five awards identified in the letter did not reveal any evidence that NSF staff had violated the Hatch Act during the merit review process.

Because our preliminary review found that NSF followed its merit review process for the five awards and did not reveal any evidence that limitations on political activity imposed by the appropriations rider or the Hatch Act were violated, we decided not to proceed with an audit. NSF reviewed the draft memorandum and provided no comments. Should you have questions, please contact Elizabeth Kearns, Director of Audit Execution, at 703.292.7100 or ekearns@nsf.gov.

cc:

Christina Sarris
Fleming Crim
Fae Korsmo
Lawrence Rudolph
Teresa Grancorvitz

Jean Feldman
Anneila Sargent
Diane Souvaine
John Veysey
Ann Bushmiller

Allison Lerner
Elizabeth Kearns
Vashti Young

Attachment

⁸ *Id.* pg. 3-294.

⁹ 5 U.S.C. § 7323, 7324.

¹⁰ 5 C.F.R. § 734.101.

Attachment 1: Awards Identified in the June 18, 2018 Letter

Award Title and Award Number	NSF Program	Award Effective Date	Award Expiration Date	Award Amount
Enabling TV Meteorologists to Provide Viewers with Climate Change-related Science Education Based on ISE ‘Best Practices’ (#0917566)	Climate Change Education	9/1/2009	8/31/2012	\$1,060,432
Understanding the Mechanisms for Disengagement from Contentious Political Interaction (#1423788)	Political Science	9/1/2014	8/31/2017	\$149,975
TV Weathercasters and Climate Education: Expanding the Reach of Climate Matters (#1422431)	Advancing Informal STEM Learning	9/1/2014	8/31/2019	\$2,998,178
Collaborative Research: A New Design for Identifying Persuasion Effects and Selection in Media Exposure Experiments via Patient Preference Trials (#1528487)	Political Science	8/15/2015	7/31/2019	\$588,225
Engineering Dissent: Moving Political Engagement for Social Justice from the Vanguard into the Mainstream of the Engineering Profession (#1664260)	Engineering Education: Research in the Formation of Engineers	6/1/2017	5/31/2020	\$369,480
Total:				\$5,166,290

Source: NSF OIG generated based on award information.

Attachment 2: NSF Proposal and Award Process

PHASE I – PROPOSAL PREPARATION AND SUBMISSION – 90 DAYS

- 1 - Opportunity Announced.** All funding opportunities are announced on the NSF website and Grants.gov. Program Descriptions, Program Announcements and Program Solicitations are mechanisms used by NSF to generate proposals. Unsolicited proposals to specific NSF programs may be submitted at any time.
- 2 - Proposal Submitted.** The Grant Proposal Guide (GPG) is the source for guidance on preparing and submitting a proposal to NSF. The GPG details formatting and submission requirements. The proposing organization submits the proposal to NSF via the NSF FastLane System.
- 3 - Proposal Received.** Proposals are received by the NSF Proposal Processing Unit and are assigned to the appropriate program for acknowledgement and, if they meet NSF requirements, for review. A proposal may be returned without review if it does not meet NSF proposal preparation requirements, such as page limitations, formatting instructions, and electronic submission, as specified in the GPG or program solicitation. The GPG identifies all of the reasons for which a proposal may be returned without review.

PHASE II – PROPOSAL REVIEW AND PROCESSING – 6 MONTHS

- 4 - Reviewers Selected.** Reviewers are selected based on their specific and/or broad knowledge of the science and engineering fields; their broad knowledge of the infrastructure of the science and engineering enterprise, and its educational activities; and to the extent possible, diverse representation within the review group. Sources of reviewers can come from the program officer's knowledge of the research area; references listed in the proposal; recent professional society programs; computer searches of science and engineering journal articles related to the proposal; reviewer recommendations included in proposal or sent by email. Proposers are invited to suggest persons they believe are especially well qualified to review the proposal, as well as identify persons they would prefer not review the proposal.
- 5 - Peer Review.** All NSF proposals are reviewed through use of the two NSB-approved merit review criteria: Intellectual Merit and Broader Impacts. Some solicitations may have additional review criteria. External reviewers' analyses and evaluation of the proposal provide information to the NSF Program Officer in making a recommendation regarding the proposal.
- 6 - Program Officer Recommendation.** After scientific, technical and programmatic review, the NSF Program Officer recommends to the cognizant Division Director whether the proposal should be recommended for an award or declined for funding. Due to the large number of proposals received, the review and consideration process can take up to six months. Large or particularly complex proposals may require additional review and processing time.
- 7 - Division Director Review.** If the decision is made to decline the award, the organization is notified and review information is available in the FastLane System. If the decision is to award, the recommendation is submitted to a Grants & Agreements Officer in the Division of Grants and Agreements (DGA).

PHASE III – AWARD PROCESSING – 30 DAYS

- 8 - Business Review.** The Grants and Agreements Officer in the Division of Grants and Agreements (DGA) conducts a review of business, financial, and policy implications. Generally, DGA makes awards within 30 days after the program office makes its recommendation. Additional processing time may be required if: the organization has not received prior funding; if the award is a cooperative agreement; or it involves special situations (such as coordination with another Federal agency or a private funding source).
- 9 - Award Finalized.** The award itself is comprised of an award notice, budget, proposal, applicable NSF conditions, and any other documents or requirements incorporated by reference into the agreement. Each NSF award notice specifically identifies certain conditions that are applicable to, and become part of, that award.

Source: https://www.nsf.gov/bfa/dias/policy/merit_review/illustration.pdf