

NATIONAL SCIENCE FOUNDATION  
OFFICE OF INSPECTOR GENERAL  
OFFICE OF INVESTIGATIONS

**CLOSEOUT MEMORANDUM**

**TO:** AIGI

**File Number:** I91120030

**Date:** 04 March 2002

**Subject:** Closeout Memo

Page 1 of 1

There was no closeout written at the time this case was closed. The following information was extracted from the file in conformance with standard closeout documents.

Our office was informed that the subject<sup>1</sup> was alleged to have violated conflict of interests rules for federal employees. The subject, who is also an adjunct professor at the awardee institution<sup>2</sup>, participated in a funding decision to that institution. The subject was reprimanded by NSF.

Accordingly this case is closed.

[REDACTED]

Name:	Prepared by:	Cleared by:		
	Agent:	Attorney:	Supervisor:	AIGI
Signature & date:				



NATIONAL SCIENCE FOUNDATION  
1800 G STREET, N.W.  
WASHINGTON, D.C. 20550



# REPORT OF INVESTIGATION

OIG Case Number I91120030

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NATIONAL SCIENCE FOUNDATION

1800 G STREET, N.W.  
WASHINGTON, D.C. 20550



**CONFLICT-OF-INTEREST VIOLATIONS INVOLVING  
AN EMPLOYEE OF THE**

**(Investigation Report-Case No. I91120030)**

**BASIS FOR INVESTIGATION**

In December 1991, \_\_\_\_\_ a Program Director for the \_\_\_\_\_ informed the Acting Division Director of that he was an adjunct professor at \_\_\_\_\_. Earlier that month, \_\_\_\_\_ had recommended that NSF amend a continuing grant to \_\_\_\_\_ to award the 2nd year incremental funding for the project. The Acting Division Director identified the conflict of interest between \_\_\_\_\_ and \_\_\_\_\_ transferred responsibility for the \_\_\_\_\_ grant to another Program Director. The Acting Division Director then notified the Agency Ethics Official of the conflict. The Agency Ethics Official referred the matter to this office for investigation.

Under authority of the Inspector General Act of 1978, as amended, we investigated possible violations of federal statutes and NSF regulations regarding Conflict-of-Interest.

**BACKGROUND**

**NSF Appointment.** In January 1989, \_\_\_\_\_ received a temporary appointment to NSF to participate as a Program Director in the \_\_\_\_\_ rotator program. On January 14, 1989, \_\_\_\_\_ signed a personnel processing form stating, "I have read NSF Conflict-of-Interests Rules and Standards of Conduct (NSF Manual No. 15). I fully understand and agree to comply with all provisions therein."

In August 1991, \_\_\_\_\_ appointment was changed to an Excepted Appointment, and \_\_\_\_\_ became a permanent NSF employee.

Affiliation with [redacted] ng applied to become an adjunct professor of Engineering at [redacted] in February 1990. In June 1990, [redacted] received notification that his appointment to the position of Adjunct Professor ad interim in the Department of Civil Engineering was effective September 1, 1990. [redacted] Chairman of the Civil Engineering Department, [redacted] discussed the application process and appointment with [redacted] [redacted] has not received any compensation from [redacted] for this appointment.

According to [redacted], he understood that his appointment as an Adjunct Professor for [redacted] was effective in September 1990. This was also reflected in [redacted] 1991 performance appraisal. In April 1992, [redacted] notified [redacted] of his intent to resign from the appointment. In a letter dated April 13, 1992, [redacted] notified [redacted] that the appointment had never been formally approved because it was inadvertently not forwarded to the Appointments and Promotions Committee. Whether or not [redacted] appointment was formally approved by [redacted] is not important because, since February 1990, either [redacted] was negotiating an appointment or he was under the perception that he was serving as an adjunct professor for [redacted].

Involvement in a NSF Grant to [redacted] In November 1990, [redacted] recommended the award of NSF Grant No. [redacted] a \$68,238 continuing grant to the Civil Engineering Department at [redacted] [redacted] signed the proposal cover sheet endorsing the proposal as Chairman of the Civil Engineering Department for [redacted].

In March 1991, [redacted] recommended the award of a \$10,000 amendment to the [redacted] grant for "Support for Women, Minority and Disabled Engineering Research Assistants." [redacted] signed the proposal cover sheet for this amendment endorsing the proposal as Chairman of the Civil Engineering Department for [redacted].

On December 11, 1991, [redacted] recommended the award of a \$42,000 amendment to the [redacted] grant for 2nd year continuation of funding for the project. On December 18, 1991, [redacted] informed the Acting Division Director of [redacted] of his affiliation with [redacted] and [redacted] was relieved of his responsibilities as Program Director for the [redacted] grant.

The award and amendments were reviewed by the new Program Director, who determined that the awards were based on scientific merit, and it did not appear that [redacted] had improperly influenced the award process.

18 U.S.C. § 208

Section 208 of title 18 of the United States Code, entitled "Acts Affecting a Personal Financial Interest," states:

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or any independent agency of the United States . . . participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, in a . . . application . . . or other particular matter which to his knowledge, he . . . or an organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest--  
Shall be subject to the penalties set forth section 216 of this title.

When [redacted] as an employee of NSF, recommended the grant award and amendments to [redacted] he was either in an arrangement concerning a prospective appointment or under the perception that he had an appointment as an adjunct professor with [redacted] - personal and substantial participation in the grant award and amendments to [redacted] were apparent violations of 18 U.S.C. § 208.

We referred these apparent violations to the U. S. Attorney's Office in the District of Columbia. The U. S. Attorney's Office advised us that it had declined to prosecute because, even though there appeared to be technical violations of the statute, there was no loss to the government, and [redacted] did not benefit financially from his affiliation with [redacted]

**NSF CONFLICT-OF-INTEREST RULES, NSF MANUAL NO. 15**

According to NSF Manual No. 15, § 681.21, a current appointment at an institution as an adjunct professor or being under consideration for employment at an institution is designated as an automatically disqualifying interest, affiliation, or relationship. Section 681.21 also advises that such a relationship must be brought to the attention of a Division Conflicts Official. Section 681.22 states:

If you have an interest, affiliation, or relationship that § 681.21 designates "automatically disqualifying", you should disqualify yourself from handling the affected proposal or other application. You must not participate in handling it under any circumstances. BE CAREFUL: in most cases a violation of this rule would be a Federal crime.

In addition, Section 683.20 states:

(a) You must not be personally involved as a Federal employee in the handling of any proposal, award, or other matter in which you, . . . or an organization of which you are or may become a part has a financial interest. BE CAREFUL: Violation of this rule may also result in a violation of a criminal statute for which the penalties are a fine of up to \$10,000, imprisonment for up to two years, or both.

(g) You are a part of an organization if you are an officer, director, trustee, partner, or employee. You "may become" part of an organization if you are negotiating with it or have an arrangement with it concerning such a position.

actions violated the NSF Conflict-of-Interest Rules. When interviewed for this investigation, stated that he did not identify his affiliation with as a conflict and did not seek conflicts advice. admitted that in January 1989, he did sign the form stating that he read NSF Manual No. 15, but he actually did not carefully read the Manual until December 1991. When asked if he had been to a conflict-of-interest briefing, replied that he had been to briefings in November 1991 and May 1992.

In 1990, did notify the Division Director for of his affiliation with , and this is reflected in s 1991 performance appraisal. That Division Director, who was a rotator and left NSF in August 1991, was also the Division Conflicts Official at that time. However, did not know that the Division Director was the Division Conflicts Official and did not request conflicts advice. In addition, a thorough search of the Division's conflicts records failed to produce any written ruling regarding possible appointment as an adjunct professor at from the former Division Director.

#### FINDINGS

We found that personally and substantially participated in the grant award and its amendments to file being involved in an arrangement concerning a prospective appointment as an adjunct professor at . These actions violated the NSF Conflict-of-Interest Rules and 18 U.S.C. § 208.

actions are troubling to us because discussed the appointment with the Chairman of the Civil Engineering Department, the same individual who signed the proposal cover sheets for endorsing the proposals that reviewed. In addition, signed that he had read and

understood NSF Manual No. 15 and now he admits that he did not carefully read it until December 1991.

It is the responsibility of federal employees to be aware of the regulations and laws that could affect their official duties. NSF has attempted to stress the importance of the conflict-of-interest rules and statutes by having new employees sign that they have read and understand NSF Manual No. 15 and by providing regular conflict-of-interest briefings for employees. However, did not attend a conflict-of-interest briefing or carefully read NSF Manual No. 15 until almost 3 years after receiving his initial appointment and after he had violated criminal statutes and NSF regulations.

We found that the former Division Director, who was also acting as the Division Conflicts Official, was deficient in his duties by failing to identify and provide a written ruling on the conflict. However, in our view, the former Division Director's deficiencies did not relieve of his responsibilities, as stated in the NSF Conflict-of-Interest Rules.

#### MITIGATING FACTORS

has cooperated fully with our investigation and has taken action to completely familiarize himself with NSF's Conflict-of-Interest Rules. In addition, has admitted that his actions were improper and that he regrets them.

It does not appear that took any action to disrupt, or improperly influence, NSF's normal proposal evaluation and award administration. did not conceal his affiliation with and did inform his supervisors of that affiliation. Finally, did not receive any financial benefit from his affiliation with and has stated that he had no intention to benefit financially from that affiliation.

stated that his intention for obtaining a position as an adjunct professor at was to work with graduate students. While intention was admirable, his actions demonstrated an insensitivity to conflicts that we believe to be unacceptable for an NSF employee.

#### CONCLUSION

Based on our investigation, we concluded that engaged in conduct that constituted violations of 18 U.S.C. § 208 and NSF's Conflict-of-Interest Rules. In addition, we concluded that this was an individual incident where both the employee and the employee's first supervisor failed to identify the conflict. Because it is now mandatory that all NSF employees attend a conflict-of-interest briefing annually and because Division Conflicts Officials now attend special training, we believe that

there are no systematic changes that need to be implemented to the current NSF Conflict-of-Interest program.

#### RECOMMENDATION

Based on the above findings and conclusion, and the fact that the U.S. Attorney's office has declined prosecution, we recommend that \_\_\_\_\_ receive a personal conflict-of-interest briefing by the Agency Ethics Official. In addition, we recommend that the Assistant Director for the Directorate for Engineering, or his designated representative, issue an appropriate reprimand to

#### RESPONSE

\_\_\_\_\_ agreed to the completeness and accuracy of this report but did not agree that he should receive a reprimand. \_\_\_\_\_ has responded that he had already received a verbal reprimand for being insensitive to the NSF Conflict-of-Interest Rules.

We believe, however, that this matter is sufficiently serious that an appropriate reprimand should be issued in writing. The Assistant Director for the Directorate for Engineering, should notify us of the disciplinary action, if any, he takes in this matter.

Dated: September 15, 1992