

NATIONAL SCIENCE FOUNDATION
 OFFICE OF INSPECTOR GENERAL
 OFFICE OF INVESTIGATIONS

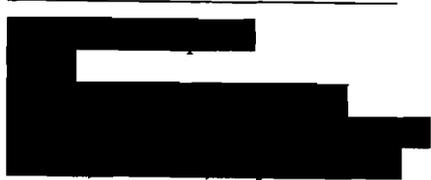
CLOSEOUT MEMORANDUM

TO: AIGI	File Number: I96110056	Date: 28 March 2002
Subject: Closeout Memo		Page 1 of 1

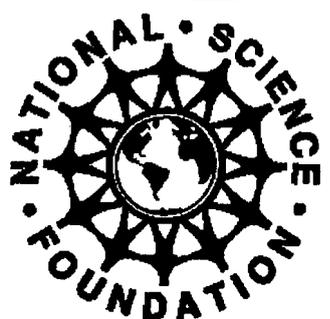
There was no closeout written at the time this case was closed. The following information was extracted from the file in conformance with standard closeout documents.

Our office was informed that the subject¹ was alleged to have been involved with non-financial Conflict of Interests issues. Our investigation found that the subject violated numerous COI statutes. The AUSA declined the case for prosecution. Our further investigation found that an NSF directorate² used a cooperative agreement³ to improperly hire 4 people to work directly for them. The misuse of the cooperative agreement would have cost NSF \$234,233. The Deputy Director issued letters of reprimand to three directorate employees,⁴ and letters of censure to four directorate employees.⁵

Accordingly this case is closed.



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



NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

J96110056



OFFICE OF THE
DEPUTY DIRECTOR

August 28, 1997

MEMORANDUM TO:

Inspector General

FROM:

Acting Deputy Director

SUBJECT:

Office of Inspector General Report No. [REDACTED] Hiring
Practices in the Directorate for [REDACTED] Result in
Conflict of Interests Violations and Increased Costs"

In your April 7, 1997 Investigation Report, you discuss questionable practices within the Directorate for [REDACTED] and raise issues of conflict-of-interest violations and issues concerning the appropriateness of certain hiring mechanisms used by [REDACTED] and their related costs to the [REDACTED]. Because you concluded that certain individuals and their supervisors engaged in conduct that violated federal conflict of interests rules, the matter was referred to the [REDACTED]. d, we understand, it declined prosecution. Consequently, you referred all of the issues raised in your Investigation Report to the [REDACTED] Director and Deputy Director for appropriate administrative action. A subsequent addendum to your Report addressed a third instance of questionable practices.

Subsequent to the submission of the Investigation Report by the Office of Inspector General (OIG), we received additional comments from several individuals who stated that they previously did not have sufficient time in which to respond to portions of the draft report that you had provided to them earlier for comment. I have reviewed your Report, those additional comments, and received advice from my staff and the Office of the General Counsel (OGC) on all of the issues raised in your Report. Based on that review, I have decided to take the following actions in response to the OIG recommendations.

Recommendation 1: Determine whether [REDACTED] allocation of FTE and IPA positions is sufficient for it to conduct its operations, and, if not, make appropriate adjustments. Implementation of this recommendation should include an assessment of whether the additional costs associated with the hiring practices described in this report (totaling more than \$150,000 annually) are acceptable consequences of a reduction in the Foundation's FTE and IPA usage.



The allocation of FTE and IPA positions to [REDACTED] must be addressed in the context of the overall constraints under which [REDACTED] operates. FTE constraints result both from federally mandated streamlining targets and from limitations contained in appropriations for Salaries and Expenses Account. It is not and has never been [REDACTED] attention to simply balance FTE reductions with IPA increases.

The situation is complicated by commitments made by [REDACTED] y [REDACTED], on behalf of [REDACTED] for staffing of interagency activities related to [REDACTED] research, an important Administration priority. We agree with you that greater attention must be paid by not just to [REDACTED] allocation of FTE and IPA positions, but on staffing allocations among all directorates.

Actions:

- As Chief Operating Officer (COO) I am initiating a study of FTE and IPA allocations and needs across [REDACTED]. The study will include all [REDACTED] commitments for participation in interagency activities that require dedicated staff.
- Once the study is complete, I will revisit FTE and IPA allocations and will ask all organizations to address how they will meet their operating needs, including [REDACTED] commitments for interagency activities, within the revised FTE and IPA allocations. Their reports should include consideration of changes in how staff conduct their business in order to make most effective use of available FTEs and IPAs.
- As you correctly note, the additional costs associated with the practices described in your Report are largely due to overhead costs at [REDACTED] and at institutions with subawards. In general, the significant additional costs incurred by using these nonstandard practices are not acceptable and, in the future, such hiring practices should only be used in temporary emergencies with the explicit concurrence of the COO. [REDACTED] approval of any such hiring mechanism will be based on an explicit justification that weighs the increased costs with the benefits to be accrued.
- All the instances identified in the Report where these practices were used are temporary arrangements. Our assessment of those arrangements is that any remedial action taken at this point in time would be disruptive and at least equally costly to the agency. They will be allowed to expire as currently planned (one of the individuals has already left the Foundation), and under no circumstances will the remaining arrangements be renewed.
- The arrangement described in the Report's addendum has not yet been fully consummated. I have asked that the arrangement be re-established under [REDACTED] regular hiring practices by October 1, with the individual involved moved to an FTE or IPA position, or the individual's employment terminated.

Recommendation 2: Ensure that all staffing arrangements are fully disclosed to and approved in writing by the appropriate administrative offices.

Because the practices described in the report did not directly involve NSF employees (FTEs) or IPAs once the arrangements with [REDACTED] were made, they appear not to have been regarded as "NSF staffing arrangements." I also agree with you, however, that insufficient attention was paid to the specific arrangements described in your Report, and that the appropriate administrative offices should have been consulted or made more fully aware of the proposed staffing arrangements.

Actions:

- The staff memorandum initiating the FTE/IPA allocation study will also make clear that all "NSF staffing arrangements," i.e., all arrangements for supporting NSF activities (including NSF participation in interagency efforts), must be carried out by FTEs, IPAs, or contractor personnel, except under very unusual circumstances. Any other mechanism requires the express concurrence of the COO.
- I have asked BFA to ensure that there are no other instances of practices such as those described in the Report. If there are, we will make arrangements to either terminate them or, if appropriate, let them expire and not be renewed.

Recommendation 3: Examine the [REDACTED] awards to [REDACTED] in which the individuals having conflicts (as identified by this report) participated, and terminate any awards NSF considers to have been adversely affected by their participation. As part of the implementation of this recommendation, NSF should consider whether to immediately suspend any or all of these awards pending completion of the evaluation.

Shortly after receipt of the OIG report, [REDACTED] – in consultation with OGC – determined that there was no reason to immediately suspend any of the relevant awards. [REDACTED] subsequently conducted the recommended examination and concluded that no awards had been adversely affected by the participation of individuals having conflicts (as identified in the Report).

The size and scope of the [REDACTED] award for the [REDACTED] ([REDACTED]) office was determined through interagency processes prior to the proposed change of its Director's funding from an NSF IPA to a [REDACTED] subaward to his home institution. Thus, we are persuaded that there was no substantial involvement in decisionmaking on this award by the [REDACTED] [REDACTED] once a potential conflict of interests situation had arisen, and the record is not clear whether that individual's participation on other [REDACTED] awards took place either before or after he was aware of the potential change of funding.

The OIG Report also raised questions with respect to some other [redacted] awards based on the status of the individual's wife, who is employed by a [redacted] subcontractor. Again, the size and scope of these awards were determined by an interagency team, with the office [redacted] carrying out their direction. The individual did not handle any [redacted] awards that might have resulted in funding for his wife through the subcontract. There is no apparent adverse impact from the individual's involvement.

The awards to [redacted] in NSF's [redacted] Division – handled by a [redacted] IPA – were reviewed within the [redacted] Division, rather than by individuals completely external to the decision process. Because those in the [redacted] chain of command had signed off on the original awards process, I have determined that some additional review outside [redacted] is warranted here.

Action:

- I have asked that the [redacted] awards to [redacted] in which the [redacted] IPA participated be re-reviewed by appropriate NSF staff external to the [redacted] Directorate in order to independently establish whether or not the funding decisions were appropriately supported by the reviews and not adversely affected by the IPA's participation. This examination should be completed no later than September 5, 1997.

Recommendation 4: Determine whether the individuals described in the attached reports can continue in their current positions; take corrective action with respect to their status; and render appropriate and specific written guidance that addresses whether they can render advice or take any action on any matter regarding [redacted]

We have determined that all the individuals described in your Report whose status is questioned will be permitted to continue in their current positions. Premature termination of their assignments would cause unnecessary disruption to NSF or interagency programs, and appears unwarranted by the circumstances. The three individuals on [redacted] appointments, however, will not be renewed using that mechanism; the [redacted] of the [redacted] will neither be re-appointed to that position nor re-hired by NSF; and careful consideration will be given to any plan for continuation of the [redacted] IPA at the next appointment expiration date.

Actions:

- I have requested that OGC develop written guidance that addresses whether the affected individuals can render advice to staff at NSF or at other agencies or take any action on any matter regarding [redacted]. Such guidance has already been provided to the [redacted] of [redacted].

- I am requesting that [REDACTED] make an early decision on any possible renewal of the [REDACTED] IPA and provide justification for and obtain explicit concurrence of the COO for any renewal.

Recommendation 5: Undertake a thorough review of the ethics training provided to [REDACTED] employees to determine why existing training programs were inadequate to alert them to these conflicts. Make certain that any ethics training deficiencies are corrected and that [REDACTED] employees can demonstrate that they have an adequate understanding of the conflicts restrictions to which they are subject.

Based on your report, it appears that the [REDACTED] employees involved in any of the conflicts mistakes or errors in judgment all received the standard ethics training provided to NSF staff. I agree with your recommendation that the unique circumstances of this particular situation likely contributed to a lack of appropriate attention and sensitivities by the individuals involved (both those immediately involved and their supervisors) to conflicts of interest rules and procedures.

Action:

- I have requested that OGC review the ethics training provided to [REDACTED] employees, and undertake a [REDACTED]-specific training session in order to address the conflicts issues raised in your report. That review should also include the training already provided to [REDACTED] directorate and divisional ethics officers, and pay particular attention to (1) whether more intense training of directorate and divisional ethics officers is needed, and (2) whether interactions with major facilities ([REDACTED], [REDACTED], [REDACTED], etc.) create the need for more focused training for potential conflicts of interests in these areas.

Recommendation 6: Determine whether disciplinary actions are appropriate and, if so, initiate those actions.

A number of disciplinary actions are merited, and appropriate letters of censure were issued that take into account the mitigation factors set forth in your report. Copies of those memoranda are attached to this response. Where there is no letter, we found it appropriate to take no disciplinary action either because the individuals are no longer employed by NSF or, in the case of the [REDACTED] of the [REDACTED], his appointment will not be renewed and he has already consulted with and received appropriate guidance from NSF's Designated Agency Ethics Official.

Other Items.

The IG Report raised a number of issues that were not directly addressed in the recommendations. Two merit some explicit attention: the relationship between [REDACTED] and [REDACTED]

the organization () that manages its single largest activity (); and the increased potential for conflicts of interests in managing interagency programs.

Actions:

- I have asked that () address carefully its working relationship with (). In particular, I want them to make sure that they have procedures in place to use the () cooperative agreement efficiently and effectively for the purposes intended when it was established. Funding arrangements for activities outside of () support should be handled through other vehicles.
- I have also requested that OGC review the possible need to enhance the ethics training provided to NSF staff in all Directorates that are involved in review processes for (or detailed to) offices coordinating interagency programs.

**NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230**

August 28, 1997

nsf

OFFICE OF THE
DEPUTY DIRECTOR

MEMORANDUM

TO: [REDACTED]

FROM: Acting Deputy Director

RE: Inspector General Investigation Report No. I96110056, "Hiring Practices in the Directorate for [REDACTED]"

This memorandum expresses my disappointment in your failure to identify and address potential conflict-of-interest issues during the process of making awards to the [REDACTED] to provide NSF support for the interagency [REDACTED]

I have reviewed the findings of the Inspector General's report on Investigation No. I96110056, dated April 7, 1997. I also reviewed your June 6th comments on the Inspector General's Report.

The Report indicates that you failed to identify and address conflicts vulnerabilities. I consider this to constitute inexcusable misconduct. Since the Department of Justice has declined to pursue civil or criminal action against you in this matter, the Inspector General has referred your case to me for appropriate administrative action.

I fully recognize that you have done much good work during your tenure at NSF. While not excusing your ethical insensitivity in this case, your past good work led me to impose less severe discipline than I might otherwise have done under these circumstances. I trust that such misconduct will not be repeated.

If you have any questions about this memorandum, please contact the General Counsel.

cc: OGC

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



August 28, 1997

MEMORANDUM

OFFICE OF THE
DEPUTY DIRECTOR

TO: [REDACTED]

FROM: Acting Deputy Director

SUBJECT: Inspector General Investigation Report No. I96110056. "Hiring Practices in the Directorate for [REDACTED]"

This memorandum expresses my significant concern and disappointment with your actions and the actions of several of your employees in the matters described by the Inspector General's report on certain hiring practices and on conflict of interest violations within the Directorate for [REDACTED]. As the senior manager in [REDACTED], you bear the ultimate responsibility for the appropriateness of such management practices, and your inexcusable actions did not reflect the good judgment NSF expects from members of its senior management team.

So that there is no misunderstanding of the bases for this memorandum, the following describes your inappropriate conduct or those matters which reflect a serious lapse in judgment.

- (1) Your use of a non-standard mechanism for staffing [REDACTED] responsibilities disregarded the intent of the Chief Operating Officer's express guidance on FTEs and IPAs. Even as "one-time temporary actions", your decision to "contract out" four positions – without informing the Chief Operating Officer of your intentions – avoided the hard calls necessary to make timely reductions in staffing levels through adjustments in [REDACTED] operations.
- (2) You failed to anticipate and consider the conflicts of interest issues that were triggered by the staffing arrangements you had suggested and approved, placing both the grantee awards at risk and [REDACTED] staff in jeopardy of serious conflicts violations.
- (3) In taking these actions, you failed to adequately consider the increased costs associated with the staffing conversions described in the OIG report and to adequately justify them. Given the sensitivity both within and outside NSF concerning staffing levels, your decision left the agency open to charges that it was inappropriately increasing its staff size at some considerable expense of program funds.

I am disturbed by the need to write this memorandum and hope that there will be no future occurrences of this nature, especially since your service to the Foundation and to the federal government has, until this point, been significant. I believe that this matter has already served as an appropriate learning experience.

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

nsf:

August 28, 1997

MEMORANDUM

OFFICE OF THE
DEPUTY DIRECTOR

TO: [REDACTED] Division Director. [REDACTED]

FROM: Acting Deputy Director

RE: Inspector General Investigation Report No. I96110056. "Hiring Practices
in the Directorate for [REDACTED]"

This memorandum reprimands you for your failure to comply with applicable conflict-of-interest standards.

I have reviewed the findings of the Inspector General's report on Investigation No. 196110056, dated April 7, 1997. I also reviewed your June 5th comments on the Inspector General's Report.

The Inspector General concluded that you allowed [REDACTED] to participate in seven matters involving his home institution, the [REDACTED]. During this time, you were serving as the Division Director for [REDACTED] and knew full-well that [REDACTED] was serving in your Division under an Intergovernmental Personnel Act agreement with [REDACTED] and that he should not handle NSF matters involving that institution. Further, as [REDACTED] Conflicts Official, you have a special responsibility for taking appropriate actions to prevent [REDACTED] staff from handling proposals and awards in which they have disqualifying conflicts of interest. I am especially disappointed that you completely failed to carry out that responsibility in this case. I consider this to be inexcusable misconduct on your part.

In the future, I expect that you will maintain an appropriate recusal system in order to avoid exposing other [REDACTED] staff to conflict-of-interest violations. I note that your comments indicate that you have already instituted such a procedure.

The public has a right to be confident that the NSF strictly adheres to basic ethical principles. Such public confidence is vitally important to the Foundation. Accordingly, I have ordered NSF staff outside of the [REDACTED] Directorate to conduct a comprehensive review of the [REDACTED] awards decisions in question to determine whether they were appropriately supported by the reviews and not adversely affected by [REDACTED] improper participation.

I recognize that you have done much good work for the Foundation during your tenure here. While not excusing your poor judgment in the [REDACTED] matter, I have taken this good work into account in imposing less severe discipline than I might otherwise have done under these circumstances. I trust that such misconduct will not be repeated.

If you have any questions about the contents of this memorandum, please contact the General Counsel.

Be advised that a copy of this reprimand will be placed in your official personnel file. If you engage in no further misconduct during the next twelve months, it will be removed from the file and destroyed.

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

nsf

August 28, 1997

MEMORANDUM

OFFICE OF THE
DEPUTY DIRECTOR

TO: [REDACTED]

FROM: Acting Deputy Director

RE: Inspector General Investigation Report No. I96110056, "Hiring Practices
in the Directorate for [REDACTED]"

This memorandum reprimands you for your failure to fully and appropriately consult with all relevant NSF administrative officials in establishing arrangements with the [REDACTED] for NSF staff support for the interagency [REDACTED]; and for your failure to address conflict-of-interest issues arising out of [REDACTED] support for the [REDACTED]

I have reviewed the findings of the Inspector General's report on Investigation No. I96110056, dated April 7, 1997. I also reviewed your June 5th comments on the Inspector General's Report.

The Inspector General concluded that you improperly used a cooperative agreement with [REDACTED] to provide staff support for the [REDACTED]. The Report also concludes that you failed to consult all relevant NSF offices before entering into this arrangement; and that you failed to adequately document consultations that may have occurred. You also failed to take into account the fact that the [REDACTED] support arrangement made certain [REDACTED] staff, especially [REDACTED], vulnerable to potential conflicts of interest. As the Directorate Conflicts Official for [REDACTED], you have a special responsibility to address such potential conflicts vulnerabilities. I consider these actions to constitute inexcusable misconduct.

I fully recognize that you have done much good work during your tenure at NSF. While not excusing your administrative and ethical shortcomings in this case, your past good work led me to impose less severe discipline than I might otherwise have done under these circumstances. I trust that such misconduct will not be repeated.

If you have any questions about this memorandum, please contact the General Counsel

Be advised that a copy of this reprimand will be placed in your official personnel file. If you engage in no further misconduct during the next twelve months, it will be removed from the file and destroyed.

cc: OGC
HRM

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

August 28, 1997



OFFICE OF THE
DEPUTY DIRECTOR

MEMORANDUM

TO: [REDACTED]

FROM: Acting Deputy Director

RE: Inspector General Investigation Report No. I96110056, "Hiring Practices in the Directorate for [REDACTED]"

This memorandum expresses my disappointment in your failure to recognize that your subordinate, [REDACTED], had a disqualifying conflict-of-interest as to NSF matters involving his home institution, and in your failure to take appropriate action to address that issue.

I have reviewed the findings of the Inspector General's report on Investigation No. 196110056, dated April 7, 1997. I also reviewed your June 6th comments on the Inspector General's Report.

The Inspector General concluded that [REDACTED] participated personally and substantially in certain matters involving his home institution, the [REDACTED]. The Report also concluded that you were fully aware of his affiliation with [REDACTED], but completely failed to take any steps to prevent him from handling such matters. I consider this to be inexcusable misconduct on your part.

The public has a right to be confident that the NSF strictly adheres to basic ethical principles. Such public confidence is vitally important to the Foundation. Accordingly, I have ordered NSF staff outside of the [REDACTED] Directorate to conduct a comprehensive review of the [REDACTED] awards decisions to determine whether they were appropriately supported by the reviews and not adversely affected by [REDACTED] improper participation.

I fully recognize that you have done much good work for the Foundation during your tenure here. While not excusing your ethical insensitivity in this case, your past good work led me to impose less severe discipline than I might otherwise have done under these circumstances. I trust that such misconduct will not be repeated.

If you have any questions about this memorandum, please contact the General Counsel.

cc: OGC

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230



August 28, 1997

MEMORANDUM

OFFICE OF THE
DEPUTY DIRECTOR

TO: [REDACTED] Program Director, [REDACTED]

FROM: Acting Deputy Director

RE: Inspector General Investigation Report No. 196110056. "Hiring Practices in the Directorate for [REDACTED]"

This memorandum expresses my disappointment in your failure to recognize that your subordinate [REDACTED] had a disqualifying conflict-of-interest as to NSF matters involving his home institution, and in your failure to take appropriate action to address that issue.

I have reviewed the findings of the Inspector General's report on Investigation No. 196110056, dated April 7, 1997. I also reviewed your June 5th comments on the Inspector General's Report.

The Inspector General concluded that [REDACTED] participated personally and substantially in certain matters involving his home institution, the [REDACTED]. The Report also concluded that you were fully aware of his affiliation with [REDACTED] but completely failed to take any steps to prevent him from handling such matters. I consider this to be inexcusable misconduct on your part.

The public has a right to be confident that the NSF strictly adheres to basic ethical principles. Such public confidence is vitally important to the Foundation. Accordingly, I have ordered appropriate NSF staff to conduct a comprehensive review of the [REDACTED] awards decisions to determine whether they were appropriately supported by the reviews and not adversely affected by [REDACTED] improper participation.

I fully recognize that you have done much good work for the Foundation during your tenure here. While not excusing your ethical insensitivity in this case, your past good work led me to impose less severe discipline than I might otherwise have done under these circumstances. I trust that such misconduct will not be repeated.

If you have any questions about this memorandum, please contact the General Counsel.

cc: OGC

NATIONAL SCIENCE FOUNDATION
4201 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22230

August 28, 1997



MEMORANDUM

OFFICE OF THE
DEPUTY DIRECTOR

TO: [REDACTED] Associate Program Director, [REDACTED]

FROM: Acting Deputy Director

RE: Inspector General Investigation Report No. I96110056. "Hiring Practices in the Directorate for [REDACTED]"

This memorandum reprimands you for your failure to comply with applicable conflict-of-interest standards while serving the National Science Foundation under an Intergovernmental Personnel Act (IPA) assignment.

I have reviewed the findings of the Inspector General's report on Investigation No. I96110056, dated April 7, 1997. I also reviewed your June 5th comments on the Inspector General's Report.

The Inspector General concluded that you participated personally and substantially in seven matters involving your home institution, the [REDACTED]. Since the Department of Justice has declined to pursue civil or criminal action in this matter, the Inspector General referred your case to me for appropriate administrative action.

Your unlawful participation in the [REDACTED] awards represented very serious and inexcusable misconduct. The public has a right to be confident that the NSF strictly adheres to basic ethical principles. Such public confidence is vitally important to the Foundation. Accordingly, I have ordered appropriate NSF staff outside of the [REDACTED] Directorate to conduct a comprehensive review of the relevant [REDACTED] awards decisions to determine whether they were appropriately supported by the reviews and not adversely affected by your improper participation.

I am aware of the mitigating factors cited in the Inspector General's Report. I also understand that you have done much good work for the Foundation during your tenure here. While not excusing your ethical misconduct, these factors led me to impose less severe discipline than I might otherwise have done under these circumstances. I trust that such misconduct will not be repeated.

If you have any questions about the contents of this memorandum, please contact the General Counsel,

Be advised that a copy of this reprimand will be placed in your personnel file. If you engage in no further misconduct during the next twelve months, it will be removed from the file and destroyed.

cc: OGC
HRM