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Committee on Science, Space, and Technology

Subcommittee on Investigations and Oversight

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"Stimulus Oversight: An Update on Science Funding Accountability, Transparency, and Performance"

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Chairman Broun, Ranking Member Tonko, and Members of the Subcommittee, I appreciate this opportunity to provide you with an update of my office's continuing efforts related to monitoring the $3 billion in American Recovery and Reinvestment Act (ARRA) funding provided to the National Science Foundation (NSF).

Brief Summary of Past ARRA-Related Work

Under the American Recovery and Reinvestment Act (ARRA), NSF received an additional $3 billion in appropriations for its three core appropriation accounts: Research and Related Activities (R&RA), Education and Human Resources (EHR), and Major Research Equipment and Facilities Construction (MREFC). ARRA also provided for unprecedented levels of transparency and accountability through increased reporting requirements, accountability measures, and oversight from various entities including agencies' Inspectors General. To that end, my office received $2 million in ARRA funding to conduct this necessary oversight. Based upon guidance from the Office of Management and Budget (OMB) that established new administrative obligations for NSF and its awardees, my office's approach to ARRA oversight has consisted of two phases: 1) an initial *proactive* phase for risk mitigation activities that was accomplished primarily during the funding stage to help prevent problems and prepare for more substantive work; and 2) an *operational* phase during which we planned to undertake more traditional audits, investigations, and other types of reviews.

During the initial proactive phase, my office conducted what we referred to as "real-time" reviews of NSF's ARRA-related activities. This work resulted in several recommendations to NSF management. First, in May, 2009, prior to NSF awarding a significant number of ARRA grants, my office reviewed the pool of potential ARRA awardees and identified those that we considered to be of greater risk based on previous audit and investigative findings. Second in May, 2009, we conducted an in-depth review of stakeholder expectations on how NSF could meet the goals of ARRA, in addition to providing comments on NSF's required ARRA program plans. Finally, in September, 2009, we provided NSF with a report on our review of a sample of

its initial ARRA awards and recommended methods for how the award process could be more accountable and transparent. In addition to these memoranda, we provided NSF with feedback in other ways, such as reviewing and providing suggested changes to NSF's proposed ARRA award terms and conditions, as well as providing feedback on NSF's activities through its ARRA "Tiger Teams." NSF was very receptive to our proactive "real time" approach and made changes to its business processes based on our input.

Efforts Related to Data Quality of Recipient Reports

During this proactive phase, we also undertook several efforts related to the quality of data reported by ARRA recipients. One of the key aspects of ARRA is its unique quarterly reporting requirement, which provides both transparency and accountability. For this mechanism to be effective, the data contained in the awardee-provided reports must be both timely and accurate.

Our first data quality project, in October, 2009, sought to determine whether NSF was establishing a process to perform effective limited reviews of reported data to identify material omissions and/or significant reporting errors on recipient quarterly reports and notify recipients, when necessary, of the need to make appropriate and timely changes. At that point we found that NSF was still in the process of establishing its policies and procedures and working out the details of its process, but appeared to be on the right track. Because of the importance and high profile nature of the information contained in recipient reporting under ARRA, we revisited this issue in early 2010 and tested how well NSF was finding errors within the data it received from ARRA recipients. As a result of this review, we found that NSF's process was effectively detecting errors in awardee-reported data, for those data elements we reviewed. These projects were conducted as part of government-wide ARRA-related oversight projects that we participated in with the Recovery Accountability and Transparency Board (RATB).

In addition to examining how NSF was overseeing recipient-reported data, we also focused on the source of the data – the recipients themselves. To that end, we initiated a series of reviews of large, medium, and small universities and non-profit organizations that received ARRA funds. Each of these reviews consisted of two separate components. The first sought to determine at an early stage whether the organization had the financial capability to manage ARRA funds. The second assessed how well the organization was complying with the Act's quarterly reporting requirements.

The financial capability reviews were intended to provide an overall opinion of internal controls over the grants process. Internal controls are an essential mechanism for ensuring that recipient institutions properly account for costs claimed by grant awardees. For example, OMB requirements stated that agencies must ensure that all funds provided by ARRA were clearly distinguishable from non-ARRA funds in agency financial systems. We reviewed the institutions' financial management systems to determine whether they could adequately segregate and separately track ARRA funds in their project cost accounting systems, as required by OMB. We also looked at overall internal controls to determine whether institutions had processes to adequately manage current grants, as well as their additional ARRA funding. Additionally, we focused on each institution's ability to provide accurate and timely quarterly reporting as required by ARRA.

With respect to financial capability, we found that, in general, the entities we sampled had established adequate internal controls to provide reasonable assurance that non-ARRA funds had been properly segregated from ARRA funds in their accounting systems.

Regarding the data quality reviews[1], we concluded that the institutions we reviewed had generally established appropriate processes for compiling and reporting quarterly data in compliance with ARRA reporting requirements. However, we identified five areas where NSF recipients were not consistently, accurately, or completely reporting data in their quarterly reports. These areas were: ARRA jobs for NSF fellowships; scholarships, and training grants; job estimates for sub-awards and vendor contracts; jobs reported in the proper quarter; grant activities; and sub-awardee and contractor debarment and suspension status. Since the quarterly reports are published on the website Recovery.gov to provide the public an understanding of how ARRA funds are being spent, it is critical for this information to be accurate to meet ARRA's goals of accountability and transparency.

To promote consistent and accurate recipient reporting, we recommended that NSF perform additional outreach to its recipient community and/or work with OMB to enhance its reporting guidance. Key recommendations included that NSF clarify whether ARRA job creation and retention estimates should be reported for NSF fellowships, scholarships, and training grants and for vendor contracts under $25,000. We also recommended that NSF conduct more outreach to emphasize the importance of reporting job information in the quarter when the work was performed. Further, we recommended that recipients take steps to ensure that they do not award ARRA funds to entities that have been debarred or suspended from receiving federal money.

NSF generally agreed with the findings and recommendations and has taken or proposed appropriate actions to address the recommendations. Also, the ARRA recipients we reviewed stated that they were taking corrective action to establish and/or enhance processes for improving the quality and accuracy of their quarterly ARRA data.

Brief Summary of Present and Future Engagements

Now that NSF's $3 billion in ARRA funding has been fully obligated, our focus has shifted from one of proactive, side-by-side business-system monitoring, to an *operational* phase during which more traditional audits, investigations, and other types of reviews are conducted.

Several of our current audit programs contain an ARRA component. For example, the Alaska Region Research Vessel is a MREFC project that received $148 million of ARRA funding. From our ongoing monitoring of this project, we have found that the project for the resulting vessel, the *R/V Sikuliaq*, has significant risks, including how the awardee is spending budgeted contingencies funds that were provided with ARRA monies. My office is now conducting an audit of these high risk areas, as well as the project's overall compliance with ARRA and other applicable federal and NSF requirements.

[1] Ten of these data-quality reviews subsequently became part of a larger, government-wide RATB review.

In addition, to help improve U.S. academic research facilities, ARRA provided NSF with $200 million to revive the former Academic Research Infrastructure (ARI) program. The ARI Program provides funds to purchase equipment or services to repair and renovate, or in exceptional cases, replace research facilities; to assist research organizations, including those that have historically received limited federal research and development funds, to improve their science and engineering research environments; and to enable academic departments, disciplinary and cross-disciplinary units, or multi-organization consortia to renovate research facilities through the addition or augmentation of cyber-infrastructure. ARI awards have a strong construction component and unique cost considerations. They all require cost sharing and have their own cost allowability considerations, in addition to the cost standards that are set forth in OMB regulations. Because of the complexity of the ARI program and its financial standards, we will begin auditing NSF's management of this inherently risky program in FY 2012.

In addition, we will be auditing specific ARRA awards, including some ARI awards, at recipient institutions. In determining which awards to audit, we will be conducting a risk assessment which takes into consideration variables such as award type, results of prior audits and reviews, and anomalous spending patterns. ARRA-specific risk factors include the total number and dollar amount of ARRA awards, whether the recipient was a new NSF awardee, and the percentage increase in total funding at an institution as a result of receiving ARRA funds. ARRA-specific audit work at selected grantees will also include some non-financial variables, such as jobs retained and created.

Special Risks Related to Acceleration of ARRA Expenditures

One of the special risks our office will be paying attention to as we conduct audits of ARRAawards relates to the impact of the acceleration of ARRA expenditures on costs incurred by ARRA recipients. On September 15, 2011, OMB issued a Memorandum (M-11-34) to the heads of federal departments and agencies urging them to spend remaining ARRA funds quickly and efficiently. Federal agencies were instructed to recapture funds not spent by September 30, 2013, to the greatest extent permitted by law.

At NSF, projects are frequently funded for three, four and sometimes even five years. After receiving this memorandum, NSF reviewed its ARRA portfolio and found over 600 awards with expiration dates after September 30, 2013. NSF is currently working to implement the OMB Memorandum, but has indicated that its ARRA awardees should look for opportunities to accelerate their award spending where this can be done "responsibly within the terms and conditions of their awards."

Accelerated spending of these "stimulus" funds has always been a goal of ARRA. Moving funds quickly into the economy, rather than allowing them to languish within the treasury, is a key component of economic recovery. Scientific discovery, unlike manufacturing, is difficult to accelerate, and the need to increase spending may prove challenging. Our audits will examine ARRA award expenditures, including ones that may have been accelerated, to ensure that they are allowable and for the purposes of the intended award and that the pressure to spend available funds has not led to improper decision making.

Special Risks Related to Contingency Funding in Large Facility Projects

One of the most visible aspects of NSF's ARRA funding is its MREFC component, which consists of $400 million to upgrade and enhance the nation's research capabilities through repairing, renovating, and in some cases replacing existing research facilities and continuing to outfit those facilities with state-of-the-art research equipment. Within the MREFC program, NSF received ARRA funds for the construction of three major projects: the Alaska Region Research Vessel, the Ocean Observatories Initiative (OOI), and the Advanced Technology Solar Telescope (ATST).

We have directed significant oversight resources to these projects due to the large amounts of ARRA funding they received, the complexity of the projects, and the management challenges inherent in such projects. We began this oversight activity with audits of the cost proposals for OOI, which had a total projected cost of $386 million (including $106 million in ARRA funds), and for ATST, which had total projected costs of $298 million, (with $146 million in ARRA funds). We reviewed these cost proposals because they constitute the basis upon which the awardees can draw down funds over the course of their awards. The resulting audits, performed on our behalf by the Defense Contract Audit Agency (DCAA) disclosed significant problems with the use and management of contingency funds.

NSF requires awardees to include contingency estimates in the budgets of its large MREFC projects in an effort to ensure that actual costs do not exceed planned costs. The applicable cost principles provide that "[c]ontributions to a contingency reserve or any similar provision made for events the occurrence of which *cannot be foretold with certainty* as to time, intensity, or with an assurance of their happening, are unallowable."

DCAA found that the awardees' proposed budgets for OOI and ATST, contained a combined total of $150 million of unallowable contingency costs[2], $55 million of which (or 37%) consisted of ARRA funds. The auditors questioned the costs because they found them to be inconsistent with the relevant cost principle.

In both audits, the auditors were also concerned by the lack of controls over the contingency funds. Although NSF allows contingency funds to be held by the awardee's project officer during the construction phase, DCAA found the awardees could draw down the contingency funds without prior NSF approval at any point in the project just as they would normal funds, and that there were no technical barriers to prevent these funds from being drawn down in advance and used for purposes other than contingencies. As a result, there is an increased risk of fraud or misuse of these funds.

We recommended that NSF require the awardees to remove unallowable contingencies from their proposed budgets and that NSF stop its current practice of allowing awardees to manage contingency funding. We recognize that the identification of funds needed for contingencies is an important part of project management; however, we are concerned by the risk associated with

[2] Total proposed contingency costs for OOI were $88 million; for ATST, the total amount of proposed contingencies was $62 million.

the approach NSF is taking. To protect federal funds set aside for contingencies, we have therefore recommended that NSF, not awardees, control the release of contingency payments for unforeseen events. NSF should implement procedures so that it controls contingency funds and does not release them until the awardee has demonstrated to NSF that the funds are needed to meet a project requirement.

We are currently working with NSF to resolve these and other contingency-related findings. Because of the large dollar amounts associated with contingencies in NSF awards, the risk we see posed by the agency's current process of funding these costs, and the complexity of the issue, we have started additional audit work that focuses broadly on NSF's use of contingencies in its awards. Among other things, we are beginning work to examine the use of ARRA funds for contingencies in the construction of the Alaska Region Research Vessel in light of these findings.

Conclusion

Mr. Chairman, ARRA came at a time of great need in our nation and with it came great hopes for job growth and economic stability. But ARRA also brought with it significant transparency and accountability requirements that had never been seen before within government. My office has worked to strategically use our resources to develop and implement an oversight protocol that combines proactive business-system monitoring with a more traditional audit and investigative approach. We feel this model has been valuable for both ourselves as an Office of Inspector General, and for our agency.

This concludes my statement. I would be happy to answer any questions you or other Members have.