



National Science Foundation • Office of Inspector General
4201 Wilson Boulevard, Arlington, Virginia 22230

To: France A. Córdova, Director

From: Allison C. Lerner, Inspector General /s/

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Subject: Opportunities to Strengthen Controls over Rotator Conflicts of Interest

Executive Summary

The National Science Foundation (NSF) was created in 1950 to promote the progress of science; to advance the national health, prosperity, and welfare; and to secure the national defense. It is the only federal agency that funds basic non-biomedical research and education across all fields of science and engineering and at all levels of education. It allocates nearly 90% of its research funding through a competitive merit review process as grants or cooperative agreements to individual researchers and groups at colleges, universities, academic consortia, nonprofit institutions, and small businesses.

To accomplish its mission, in FY 2014 NSF funded approximately 11,000 new competitive awards. In that year, NSF convened panels of external experts that evaluated 48,100 proposals through a competitive merit review process. The panels made recommendations to NSF program officers, who made the final funding determinations.

In addition to its permanent scientific staff, NSF utilizes a rotating staff of external researchers and educators from across the United States to participate in the funding decision process. Those external researchers, called “rotators”, constitute roughly 30% of NSF’s program officers. Most come to NSF under the authority of the Intergovernmental Personnel Act (IPA) for a period of up to four years, and then return to their home institutions.

In light of the Foundation’s reliance on rotators to make funding decisions, it is critical that strong controls be in place to identify and mitigate conflicts of interests (COIs) that occur as a result of rotators’ own research activities or their connections with their home institutions, which might be seeking NSF funding. Such controls protect incoming rotators—many of whom have never worked in a federal environment and are thus unfamiliar with the laws and rules that will govern their behavior at NSF—as well as the Foundation itself. We have prepared this Management Implication Report to document problems with those controls we found in the context of one rotator’s tenure at NSF. During the course of an investigation we conducted, we found that:

- No concrete plan to manage the rotator’s known conflicts was developed, documented, and clearly communicated to the rotator and the staff with whom she would be working upon her arrival at NSF;

- Although the rotator had known COIs, after her arrival at NSF there were significant delays in her completion of a required ethics course and her submission of a required financial disclosure form;
- When NSF became aware that the rotator had handled awards with which she had a COI, the actions taken to assess the impact of the COI on the awards were seriously flawed;
- The information in eJacket for one of the awards in question reflected neither the person who wrote the justification for funding nor the person who actually made the decision to fund the award, undermining the agency’s ability to identify and mitigate COIs; and
- A critical tool used to enforce the one-year cooling off period following the rotator’s tenure at NSF was circumvented.

While the circumstances we detail relate to the management of just one rotator’s conflicts in one NSF division, the extent of the problems we identified—ranging from the failure to adequately mitigate and manage known COIs upon the rotator’s arrival at NSF, to the inaccuracy of award information contained in eJacket, and the circumvention of the control over the cooling off period—seriously undermine the Foundation’s ability to identify, manage, and mitigate rotator COIs. We provide additional information about our findings and make recommendations designed to address the issues we identified in this Management Implication Report.

Background

A rotator, who ordinarily works at an NSF awardee, came to NSF under an IPA agreement to be a program officer in March of 2012.¹ After approximately a year at the Foundation, NSF’s Designated Agency Ethics Official² (DAEO) informed the Deputy Assistant Director³ (DAD) of the directorate in which the rotator was working that the rotator had recommended a proposal for funding that contained a letter of support she had written while at her home institution. The DAEO also stated that the rotator had: handled several other proposals that contained letters of support from other individuals at her home institution; failed to complete required in-person ethics training; and failed to submit a required financial disclosure form until her supervisor intervened.⁴

The DAEO noted the General Principles of Ethical Conduct for Employees of the Executive Branch,⁵ to which NSF employees and rotators are subject, require employees to avoid any actions that create the appearance that they are violating the law or ethical standards.⁶ She concluded that “any reasonable person with knowledge of the facts presented here would question the impartiality of an individual who recommended funding for a project she supported in a letter to the project’s PI [Principal Investigator] which was part of the jacket.”⁷ In light of the foregoing, the DAEO recommended the rotator’s IPA agreement be terminated and the directorate re-examine the

¹ [REDACTED]
 She went to work in NSF’s [REDACTED] Directorate.

² [REDACTED]

³ [REDACTED]

⁴ Tab 1, DAEO Recommendation

⁵ 5 C.F.R. part 2635

⁶ 5 C.F.R. §§ 2635.101(14) & -.501

⁷ Tab 1

awards she participated in that included letters of support from her home institution (whether signed by her or by her colleagues at the institution) to ensure that the awards were warranted. The DAEO specifically recommended that the re-examination be done by a division other than the one in which the rotator served.⁸ The rotator's IPA agreement was not renewed, and she returned to her home institution in March 2013.

When the NSF Office of Inspector General (OIG) received information about the rotator's actions, we opened an investigation. We determined the rotator's supervisor⁹ had lied to our investigators and to his management and staff about actions he took in response to the DAEO's recommendations. We detailed the supervisor's actions in a Report of Investigation to NSF management, with recommendations for appropriate administrative action. NSF proposed termination, and the supervisor retired on March 21, 2015.

We also found one of the division's program officers¹⁰ provided a copy of the DAEO's recommendations to an online science magazine—an action that violated NSF's rule regarding the release of sensitive internal information. We addressed this individual's actions in a separate Report of Investigation to NSF, with recommendations for appropriate management action. NSF proposed termination, and the program officer retired on December 1, 2014.

Finally, during the course of our investigation, we identified significant problems with the way the rotator's conflicts were identified, managed, and mitigated while she was at NSF. It is unclear whether these problems are unique to this division or directorate, or if they are occurring across the Foundation. To assist NSF management in rectifying these problems, we detail our findings and our recommendations for corrective action below. Addressing these issues will strengthen the Foundation's controls over rotator COIs and help prevent a situation like this from occurring in the future.

Division staff and the rotator did not develop, document, and communicate a plan to manage the rotator's known conflicts upon her arrival at NSF

Prior to the rotator's arrival at NSF, her supervisor at her home institution was concerned that the rotator's position at NSF might prevent the home institution from receiving NSF funding. The rotator and NSF officials (including the DAEO and the rotator's anticipated supervisor) participated in a conference call where the DAEO clarified that the home institution would not have a conflict as an institution—only the rotator would, in that she would not be able to review any proposals from her home institution.¹¹

Despite the rotator's known conflict, no clear plan was developed to manage and mitigate her COIs at the outset of her tenure at NSF. Instead, a few months after her arrival at NSF, the rotator met with the division conflicts official¹² to discuss how to handle proposals that included letters of support from her home institution (a matter of particular concern, given that the rotator had frequently signed such letters while at her home institution). According to the conflicts official, subsequent to the meeting, he asked the rotator to provide a list of proposals that included a letter of support from her home institution so he could examine the letters and determine how to handle

⁸ *Id.*

⁹ [REDACTED]

¹⁰ [REDACTED]

¹¹ Tab 2, pp. 15-17, where the rotator acknowledges participating in this conference call.

¹² [REDACTED]

those awards. The conflicts official stated the rotator did not provide the requested list or respond to several attempts he made to follow through on the matter. It appears, therefore, that the question of how to handle proposals with letters of support was left to the rotator and her supervisor to resolve.¹³

The rotator recalled consulting the division conflicts official on the question of whether she could handle proposals to which she had supplied letters of support while at her home institution. She indicated that she did not receive a written answer to this question from the conflicts official, so she and her supervisor agreed that, even though they did not see the letters of support as conflicts, they would “take the very safe route”¹⁴ and assign proposals containing such letters to other POs to avoid the appearance of a conflict.

The rotator did eventually review several proposals that contained letters of support from her home institution. In one of those proposals,¹⁵ for which she wrote the letter of support, she had also recently collaborated with the PI and the co-PI - constituting additional COIs.¹⁶

Developing and documenting a plan as to how the rotator’s conflicts would be managed immediately upon her arrival at NSF would have enabled the rotator and all of the individuals working with her to take concrete, appropriate steps to deal with those conflicts over the course of her tenure at NSF.¹⁷ The specific issue of how to handle proposals containing letters of support would have been identified and clearly addressed in this plan, ensuring that the rotator and those with whom she was working knew how to handle such proposals. Appropriate instructions could then have been provided to those responsible for assigning proposals for review to ensure that no proposals with which the rotator had a known conflict were assigned to her. Creating such a plan, along with taking appropriate training, at the outset of the rotator’s arrival at NSF would have ensured that the rotator was sensitized to other potential conflicts she might have—such as the ones associated with individuals with whom she had recently collaborated. In the future, NSF should ensure that immediate, concrete steps are taken to develop, document and communicate plans to manage rotators’ known conflicts upon their arrival at NSF.

Significant delays in the rotator’s completion of a required ethics course and submission of required financial disclosure form undermined the rotator’s and NSF’s ability to prevent, identify, and manage conflicts

NSF requires all new program staff, including rotators, to attend a one-hour, in-person course covering the basic COI laws and rules, as well as gifts, travel and “some of the myths rotators seem to pass on to one another.”¹⁸ The rotator arrived at NSF in March of 2012; in May of that year she received an email reminder from the NSF Office of General Counsel (OGC) concerning her need

¹³ Tab 3; MOI with conflicts official

¹⁴ Tab 2, p. 18. Generally, see Tab 2, pp. 7-18.

¹⁵ [REDACTED]

¹⁶. See Tab 4 for documents evidencing these COIs.

¹⁷ We note that although the affected division did have a process for identifying conflicts before assigning proposals to program officers, it was not effective here. In her interview, the rotator said she relied on this process, but that does not excuse her from failing to recognize obvious conflicts resulting from her actions at her home institution and her current collaborations.

¹⁸ Tab 5, p. 1, [REDACTED]-COI training

to complete the course by December 31, 2012.¹⁹ The email noted the importance of taking the training as soon as possible after coming on board “to avoid inadvertently not precisely meeting the letter of a rule.” It further noted OIG recommends that employees attend the course within their first 3 months of working at NSF.²⁰

The rotator received further reminders from OGC to take the required in-person ethics training on November 20, 2012, and on December 17, 2012. On December 25, 2012, OGC informed the DAD of the rotator’s directorate that the rotator and nine other individuals in the directorate had not completed required annual ethics training and would have to be reported to the U.S. Office of Government Ethics (OGE) if they failed to complete the course by December 31, 2012.²¹ In light of the limited time left, the named individuals, including the rotator, were given the opportunity to take online training in lieu of the in-person new program officer course. The online course is intended for permanent employees, or those who have been at NSF for longer than a year, and thus did not present the material in the level of detail a new employee or rotator needs. On December 31, 2012, after the rotator received a final reminder to take the required online training by the end of business that day, she completed the online course.

NSF also requires incoming rotators to file an Executive Branch Personnel Confidential Financial Disclosure Report (OGE Form 450), covering the 12 months prior to their appointment, within 30 days of their arrival at NSF. The rotator was informed of this requirement by OGC on March 11, 2012, (her due date was April 17, 2012) and reminded by OGC staff of her need to complete the form on April 18, 2012 and on May 17, 2012.²²

On February 27, 2013, NSF’s Deputy DAEO²³ informed the rotator’s Division Director,²⁴ along with the rotator, the division conflicts official, and the DAD, that as she was preparing the annual report to the Office of Government Ethics for calendar year 2012, she noticed the rotator had failed to submit the Form 450. According to the Deputy DAEO,

Usually I can provide a reason for their failure to file such as they left the Foundation prior to filing or sometimes they are deceased, mostly they are consultant/experts who do not understand the importance of filing—but rarely are they current program officers. I did not realize until I started putting the annual requirement together that we even had program officers who had not filed an annual report from last year.... As you are probably aware, *the eFile system sends a delinquency notice every other day when a filer becomes delinquent.* (emphasis added)²⁵

According to the Deputy DAEO, after the intervention of the rotator’s supervisor, the rotator finally submitted the required form, but on examination, it proved to be blank (*i.e.*, contained no information at all). After she was reminded again, the rotator submitted a completed form.

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Id.*, p. 5

²² Tab 6, Financial Disclosure

²³ [REDACTED]

²⁴ [REDACTED]

²⁵ Tab 6, p. 3

When asked about her failure to take the in-person ethics course, the rotator indicated the press of business prevented her from complying. According to the rotator, she was working to address a backlog of proposals in a troubled program, so she put off “[e]verything that wasn’t absolutely crucial right now.”²⁶ With respect to her failure to file the financial disclosure form, the rotator indicated that she did not view the form as a “thing that would reveal information that was relevant,” so she did not view completing the form as something that should take priority over what she considered more important tasks.²⁷

The significant delays in the rotator’s completion of the required ethics course and her submission of a required financial disclosure form undermined both the rotator’s and NSF’s ability to identify, manage, and mitigate the rotator’s conflicts. These controls exist to protect both the rotator and the Foundation. Prompt attendance at an in-person ethics course benefits NSF by ensuring that new employees and rotators are made aware of important laws and regulations governing their behavior in a timely fashion. Such a course is particularly valuable for rotators, most of whom have never worked for a federal agency before and thus have never been exposed to the many rules and regulations governing their conduct at NSF. Had the rotator taken the required ethics training in a timely fashion, she would have had a much better understanding of the rules and regulations governing her actions as an NSF program officer. In particular, she likely would have realized the need to clarify whether or not she could handle proposals containing letters of support from her home institution with her division conflicts official. She would have likely also realized that she should not review proposals submitted by individuals with whom she had recently collaborated. Timely completion of the financial disclosure form would have been another way of ensuring that the rotator understood the impact of her organizational affiliation on her work at NSF, and would have provided NSF management with information they needed to ensure that they understood all of the rotator’s possible conflicts.

The failure of the rotator to respond to the repeated reminders to take the ethics course and complete the financial disclosure form is quite concerning, as is the fact that her supervisors allowed her to work for an extended period without ensuring that she completed either task. Given the importance of both ethics training and financial disclosures in identifying and addressing COIs, NSF needs to ensure that all incoming staff—especially rotators—accomplish both tasks as soon as possible after coming to NSF. In the past OIG has recommended that new employees attend the training within 3 months of their arrival at NSF. In the case of rotators with known conflicts, NSF should require that the training be taken within 30 days of their arrival. NSF should also develop controls it could use—such as suspending the employee or rotator from proposal and award duties until they comply—to enforce the timeframes associated with the ethics training and financial disclosure requirements. Finally, NSF should ensure that individuals who supervise POs, including rotators, have timely access to the status of their employees’ compliance with ethics training and financial disclosure requirements and are held accountable for their staff’s prompt compliance with these requirements.

When NSF became aware that the rotator had approved an award with which she had conflicts, the actions taken to assess the impact of the COI on the award were seriously flawed

In March of 2013, the DAEO expressed concern to directorate management about the rotator’s decision to fund proposals that contained letters of support signed by the rotator or other

²⁶ Tab 2, p. 8

²⁷ *Id.*, p. 13. Generally, see pp. 8-14

individuals from her home institution, and recommended that the directorate have someone from another division re-examine those awards to ensure that they were warranted.²⁸

The first assessment undertaken in response to the DAEO's recommendation resulted in an unwarranted and unsupported assurance to directorate management that the COI had no negative impact on the award.²⁹ The problems with this assessment began when the DAD asked the rotator's supervisor—who had been an outspoken defender of the rotator when the conflict surfaced³⁰—to obtain and oversee the independent review. The problems were compounded when, despite the fact that the DAEO's memo raised concerns about conflicts and possible bias, the DAD agreed with the supervisor that the reviewer³¹ did not need to be told about the rotator's affiliation as “the conflict is not the issue.”³² In fact, knowledge of the rotator's affiliation was a crucial piece of information in assessing the reasonableness of her recommendations.

The supervisor informed the DAD that he did not believe there was any basis to question the rotator's impartiality with respect to the award and that the independent reviewer had found no evidence of bias.³³ It is noteworthy that the supervisor provided this determination to his management *before* he received an assessment from the independent reviewer. In fact, the independent reviewer informed the supervisor that he saw little justification for the award based on the proposal itself, and noted that the PI and the rotator appeared to have worked at the same institution in the recent past and to have worked on a paper together in the recent past. The independent reviewer indicated that there was no COI statement in the review analysis, which he found “worrisome of bias,” and that he was “worried about positive bias—and would want to see more than [one, out of three] favorable reviews.”³⁴ The supervisor did not share any of this feedback with directorate management.

When OIG, in the course of its investigation, determined that the supervisor had misled directorate management about the review of the impact of the rotator's conflict, it asked NSF to suspend the three affected awards while an independent re-examination was conducted, as directed by the DAEO.³⁵ The second assessment that was conducted as a result of this request resulted in an NSF response to the OIG indicating that a suspension was unnecessary because “normal procedures had been followed, and there was no indication of favoritism based on the conflict of interest.”³⁶ As detailed below, that conclusion was not supported by the evidence.

After OIG issued its recommendation to suspend, the DAD consulted with a senior official³⁷ in the Office of the NSF Director about how to structure the second review. They identified a reviewer

²⁸ Tab 1, DAEO Recommendation

²⁹ This issue is addressed in detail in OIG's ROI on the supervisor, already in NSF's possession. What follows here are the most significant points.

³⁰ The supervisor and others authored a “mitigation memo” detailing their objections to the DAEO's concerns. See Tab 7.

³¹ [REDACTED]

³² Tab 8, no COI email

³³ Tab 7

³⁴ Tab 9, first review

³⁵ Tab 10, OIG suspension recommendation

³⁶ Tab 11, NSF suspension decision

³⁷ [REDACTED]

from outside the rotator's directorate³⁸ and agreed to withhold from her any information about the rotator's conflicts. Both indicated they withheld this information in an effort not to influence or bias the second reviewer.³⁹

The second reviewer's report stated she was "[u]nable to review potential PO/DD COIs."⁴⁰ It notes that each of the three awards she was asked to examine appeared to comply with the PAM. With respect to the award containing the letter of support from the rotator, she noted that the "small number of disparate reviews (1 positive and 2 negative) and the serious criticisms raised by the reviewers would normally justify seeking additional reviews or a PI response to address the identified weaknesses. As reviewed and justified, the award justification would be unlikely to receive DD concur" in the second reviewer's division.⁴¹

When interviewed by OIG, the second reviewer stated that, in general, the three proposals she reviewed were not of the caliber that she would expect to see funded by NSF.⁴² When she was informed of 1) the identity of the rotator's home institution, 2) the fact that the rotator wrote a letter of support for one of the awards; 3) the fact that the rotator had recently collaborated with the PI and co-PI on the award for which she had written the letter of support; and 4) that the proposal listed the rotator's home institution as a participant, the second reviewer stated that there was a clear conflict, and she would not have made the award.⁴³ She said the award should be suspended and an objective program officer should conduct a *de novo* review to result in a new recommendation. She also rescinded her previous conclusion that the review process was compliant with the PAM. The second reviewer stated she would no longer be comfortable stating that the rotator acted objectively, noting that the COI "negates the whole objectivity of the process."⁴⁴

During the course of our investigation, we also interviewed DGA staff who were involved in crafting the response to the suspension recommendation. They indicated their belief that suspension is not an appropriate remedy when the problem with the award that has arisen is the result of an NSF conflict, as opposed to an issue with the awardee itself. This response overlooks the fact that the rotator's conflict may have tainted the merit review process and resulted in an award being made that was not warranted.

The fact that two successive efforts to determine whether the awards identified by the DAEO were warranted both resulted in unsupported conclusions raises a question as to whether NSF management really knows how to respond to such a concern. One could perhaps dismiss the failure of the first review, given the supervisor's deception. The failure of the second review—which was overseen by the directorate's DAD and a senior official from the Office of the Director—is more troubling, especially given OIG's express concern about the COIs. In light of the fact that the three awards remain open, with over \$400,000 in NSF funds yet to be spent as of May 28, 2015, NSF should heed the advice of the second reviewer to suspend the awards and have an objective PO conduct a *de novo* review. NSF should also ensure all staff understand the negative impact that

³⁸ [REDACTED]

³⁹ Tab 12, pp. 41-44; Tab 13, pp. 15-23 DAEO and Senior Official transcripts, respectively

⁴⁰ Tab 14, p. 1; second reviewer assessment

⁴¹ *Id.*, p. 2

⁴² Tab 15, p. 19; second reviewer transcript

⁴³ *Id.*, p. 43

⁴⁴ *Id.* p. 28

unaddressed COIs can have on the integrity of the merit review process, and that any questions about the impact such COIs can have on a funding decision are swiftly, appropriately, and effectively addressed.

Information in eJacket for one of the awards in question reflected neither the person who wrote the justification for funding nor the person who actually made the decision to fund the award, undermining the agency’s ability to identify and mitigate COIs

At NSF, all funding actions associated with an award are supposed to be documented in eJacket, which serves as the official government record of those decisions. Knowing which individuals are involved in the decision to fund an award is critical to managing conflicts of interests, as COIs are inevitably tied to specific individuals. During the course of our investigation, we found the information in eJacket, for the award to the rotator’s collaborators that contained a letter of support signed by the rotator, did not reflect the true identity of either the person who wrote the recommendation for funding or the person who decided to fund the award.

During our interview of the rotator, she told us she did not read or review the proposal before approving the award.⁴⁵ The rotator stated that by approving the award she was carrying out the wishes of her predecessor (rotator B)—who returned to his home institution shortly after the rotator arrived at NSF.⁴⁶

When we interviewed rotator B,⁴⁷ he indicated that prior to leaving NSF he had already contacted the PI on the proposal, negotiated the budget with him, and informed the PI of his intention to fund the award. He told us he expected the rotator to carry out his recommendation. Rotator B had not documented his negotiation with the PI, nor had he written an analysis to justify the decision to fund. Thus, as far as NSF’s official record is concerned, none of rotator B’s actions contributed to the rotator’s decision to fund the proposal.

Rotator B told us that no one had told him how to handle proposals that were in transition. He indicated that when he arrived at NSF, his predecessor had provided recommendations that he was expected to carry out, and his predecessor’s name would not be associated with those decisions. He concluded that outgoing rotators’ recommendations for funding, which their successors would have to implement, should be honored by their successors, even if the incoming rotator did not agree with the recommendation, because the outgoing rotator likely knew information the incoming rotator did not. He stated that in this case he expected the rotator to honor his commitment to fund the proposal, and that she had agreed to do so. Compounding the inaccuracy of NSF’s record documenting the funding decision is the fact that the rotator did not write the review analysis, even though her name appears on it. In fact, the analysis was written by an NSF program officer (PO)⁴⁸ in the same division as the rotator. That PO said he had been preparing review analyses for rotators for many years and signing their names instead of his own, in an effort

⁴⁵ Tab 2, p. 52

⁴⁶ *Id.* pp. 21, 37-39, 52. “Rotator B” is [REDACTED].

⁴⁷ Tab 16, MOI of our interview of rotator B.

⁴⁸ [REDACTED] was a program officer in [REDACTED], who is now retired from NSF; see fn. 10 and accompanying text.

to be helpful.⁴⁹ Rotator B noted this PO wrote several review analyses during his and the rotator's transition period.⁵⁰

In light of the foregoing, we are faced with the peculiar result that the individual who is documented as the decision-maker for the award actually gave no independent thought to whether the award should be made, while the names of the persons who made the decision to fund and wrote the review justifying funding are nowhere to be found in the official record. NSF therefore has no way to identify and address potential COIs of the unnamed individuals, who clearly played key roles in the funding decision. Thus, its ability to manage and mitigate COIs is seriously undermined. In addition, allowing outgoing rotators to bind their successors with respect to funding decisions they have made but not documented damages the integrity of the merit review process, as it contributes to an environment where rotators may believe they *must* approve awards made by their predecessors without exercising independent judgment and that they can therefore approve an award without reading the proposal or review analysis.

To protect its ability to manage and mitigate COIs, NSF should ensure that all program staff, including rotators, understand that the names of the individuals who write funding justifications and make funding decisions must be clearly reflected in eJacket. NSF should also clarify when—if ever—an outgoing rotator can make a funding commitment that his or her successor must implement and, if such a commitment can be made, how it should be documented in eJacket. Finally, as we were informed that these actions are accepted practices within the division, NSF should also take appropriate action to determine the extent to which these practices occur elsewhere in the directorate and across the Foundation.

A critical tool used to enforce the one-year cooling-off period following the rotator's tenure at NSF was circumvented

All individuals who receive NSF funding have a unique PI number (the PI ID) that tracks their funding history at NSF. Most PI IDs are created externally from NSF through FastLane (usually by an institution's sponsored research office), but they can also be created within the agency via NSF's Proposal and Reviewer System (PARS). Usually this occurs only when a rotator does not have a pre-existing PI ID because he/she has never been an NSF PI or co-PI.

For rotators, the PI ID also reflects their temporary tenure at NSF. When a rotator's time at NSF ends, they begin a one-year cooling off period during which any communications between the former rotator and NSF staff about a proposal involving the former rotator must be done through a substitute negotiator because the former rotator is prohibited from engaging in substantive discussions with NSF staff. Because a rotator's tenure at NSF is associated with his or her PI ID, if a former rotator applies for funding within the cooling off period, a warning banner flags the conflict and signals that NSF personnel should not be directly communicating with the former rotator about funding.

We found that shortly after the rotator left NSF, and while she was in the cooling off period, her institution applied for \$14 million in NSF funding for a project for which the rotator was the PI.⁵¹ Normally the rotator's PI ID would have indicated that she was in a cooling off period and needed to appoint a substitute negotiator for the proposal. In this case, however, the rotator used a new PI

⁴⁹ Tab 17, pp. 5-8

⁵⁰ Tab 16, p. 1

⁵¹ [REDACTED]

ID that did not reflect her funding history with NSF and did *not* contain the COI warning flag relating to her period as a rotator.⁵² Although a substitute negotiator had been appointed, the former rotator nevertheless engaged in substantive conversations with NSF staff (the managing PO and DGA) about the proposal during her cooling off period. The managing PO was aware of the rotator’s cooling off period independently of the PI ID, and thus was admonished by the DAEO for their correspondence.⁵³ Because the rotator used the second PI ID, which had no COI warning flag, DGA was unaware it should not have been engaging in conversations with the rotator.

While DIS could not determine precisely who created the rotator’s second PI ID, it appears to have been done by someone within NSF via use of PARS.⁵⁴ We determined that the new PI ID was created approximately one month after the rotator returned to her home institution. The first name, last name, and email address is the same on both PI IDs—the only difference between the two is that the second did not reflect the rotator’s COI due to her tenure as a rotator and thus did not trigger the warning flag.⁵⁵ As we were told that FastLane does not allow creation of a duplicate record if the PI’s first name, last name, and email address are identical, it does not appear that anyone outside of NSF could have created the new PI ID.⁵⁶ With respect to who within the agency might have created the new PI ID via PARS, we were told that NSF staff in six designated classes can create PI IDs, but because one of those classes has over 1600 members, the universe of people within NSF who could have created the ID is too large to make identification practical. Given the sheer number of people who could have created the second PI number, and the fact that PARS does not document who creates a PI ID, we could not determine who created the second ID.

Being able to identify a funding applicant’s history with NSF via a PI ID is an especially important tool NSF can use to identify and manage COIs—especially if the applicant has been a rotator. If applicants for funding can change or hide their history by obtaining new PI IDs, which do not reflect awards they have received or their tenure as a rotator, then the utility of that tool is seriously undermined. NSF should ensure that neither of its systems (FastLane or PARS) allow the creation of a duplicative PI ID without an explicit override by NSF’s Division of Information Services (DIS), and that the need for this override is justified and documented.

Conclusion

By bringing their research experience to NSF, rotators make significant contributions to the quality of the Foundations’ funding process. In light of their ongoing research and organizational affiliations, rotators also bring COIs which NSF must identify, mitigate, and manage. Strong controls designed to address COIs ultimately protect both the rotator and NSF. Based on the issues we noted in our investigation, we recommend that NSF take appropriate action to strengthen those controls. Such action should include:

1. Ensuring that immediate, concrete steps are taken to develop, document, and communicate plans to manage rotators’ known conflicts upon their arrival at NSF.
2. Ensuring that all incoming staff—including rotators—attend in-person ethics training and, when required, submit financial disclosures as soon as possible after coming to NSF. As

⁵² Tab 18, the rotator’s two PI IDs, with different information regarding her COI as a former IPA

⁵³ Tab 19, DAEO email to program officer

⁵⁴ Tab 20; DIS PI ID

⁵⁵ Tab 18

⁵⁶ Tab 20

noted previously, in the past OIG has recommended that new employees attend the training within 3 months of their arrival at NSF. In the case of rotators with known conflicts, NSF should require that the training be taken within 30 days of their arrival.

3. Developing enforcement tools—such as suspending the PO or rotator from proposal and award review duties until they comply—to enforce the timeframes associated with ethics and financial disclosure requirements.
4. Ensuring that individuals who supervise POs, including rotators, are provided with timely access to the status of their employees' compliance with ethics and financial disclosure requirements, and are held accountable for their staff's prompt compliance with those requirements.
5. Suspending the three awards identified by the DAEO and having an objective PO conduct a *de novo* review of those awards to determine if they are warranted.
6. Ensuring that all staff understand the negative impact that unaddressed COIs can have on the integrity of the merit review process, and that any questions about the impact such COIs can have on a funding decision are swiftly, appropriately, and effectively addressed.
7. Ensuring that all program staff, including rotators, understand that the names of the individuals who write funding justifications and make funding recommendations and decisions must be clearly reflected in eJacket.
8. Determining the extent to which outgoing rotators make undocumented funding commitments that their successors must implement, and program officers or rotators write funding recommendations that they do not sign, elsewhere in the directorate and across the Foundation.
9. Clarifying when—if ever—an outgoing rotator can make a funding commitment that the rotator's successors must implement and, if such a commitment can be made, how it should be documented in eJacket.
10. Ensuring that neither of its systems (FastLane or PARS) allows the creation of a duplicative PI ID without an explicit override by DIS, and that the need for this override is justified and documented.

Cc: Roger Wakimoto, Assistant Director, Geosciences
Fae Korsmo, Office of the Director, Liaison to OIG
Christina Sarris, Office of the Director, Liaison to OIG