



NATIONAL SCIENCE FOUNDATION
OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

CLOSEOUT MEMORANDUM

Case Number: I-03050017

Page 1 of 1

In May 2003, NSF-OIG Office of Audits submitted a referral to the Office of Investigations regarding issues identified during an audit of a large urban school district.¹

The referral identified numerous concerns, including missing records and documentation to support costs, questionable accounting records, lack of adequate grants management policies and procedures, and lack of monitoring of staff responsible for disbursing grant funds. The referral also raised questions concerning the district's cost sharing and their refusal to provide access to relevant documentation including payroll records during the audit.

While our subsequent investigation failed to identify any evidence of criminal activity, it was determined that the district's internal procedures had been inadequate to ensure compliance with NSF's grant requirements. Although the district had implemented several corrective actions voluntarily, it was determined in order to ensure continued compliance with these policies and procedures the subject should enter into formal agreements to settle the current issues and to outline their actions to continue to comply. The settlement agreement stipulated a reduction of funds for the subject's current award. The compliance agreement requires the subject to submit regular reports to NSF-OIG certifying their continued compliance with all policies, procedures, and regulations related to all current awards.

Copies of the settlement and compliance agreements are attached to this closeout.

Accordingly, this case is closed.

¹ Chicago Public Schools

**Compliance Agreement
Between
The National Science Foundation
And
The Board of Education of the City of Chicago**

1. This Compliance Agreement (the "Compliance Agreement") is entered into between the Board of Education of the City of Chicago a/k/a Chicago Public Schools ("CPS"), the National Science Foundation ("NSF"), and the NSF Office of Inspector General ("OIG"). CPS, NSF, and OIG may be referred to herein individually as "Party" and collectively as "the Parties." Pursuant to this Compliance Agreement, CPS agrees to undertake the compliance obligations outlined below.

I. Preamble

2. CPS agrees to implement a Compliance Program (the "Program") to prevent fraud, false statements, and misspending of funds related to NSF grants, contracts, and cooperative agreements ("Awards") by CPS, its officers, faculty, other employees, and relevant independent contractors. The Program shall be maintained so as to ensure that CPS and each of its officers, faculty, other relevant employees, and relevant independent contractors maintain the integrity required of a recipient of NSF funds, and that CPS is in compliance with all laws and regulations applicable to such awards and with the terms of the Compliance Agreement set out below.

II. Terms and Conditions

3. The period of future compliance obligations assumed by CPS under this Compliance Agreement shall be five (5) years from the effective date of this Compliance Agreement. The "effective date" shall be the date on which the final signatory to this Compliance Agreement executes this Compliance Agreement. The scope of this Compliance Agreement, as well as the accompanying Settlement Agreement, shall be limited to NSF grants that are awarded or disbursed during the aforesaid five year period. All reports and notifications required under this Compliance Agreement shall be sent to the OIG Associate Inspector General for Investigations, via email to oig@nsf.gov.

4. CPS agrees to implement the following measures within ninety (90) days of the effective date of this Compliance Agreement, unless otherwise specified below:

COMPLIANCE AGREEMENT

A. Compliance

1. Compliance Officer

5. A corporate officer, other than the General Counsel of CPS, shall be chosen by the CPS Chief Executive Officer (CEO) as Compliance Officer. The Compliance Officer shall be responsible for the Compliance Program operations including, where appropriate, the review of Awards, the development of training programs, and the submission of comprehensive written annual reports to the CEO and to OIG on the status of compliance at CPS.

2. Compliance Committee

6. The Compliance Officer shall chair a Compliance Committee that shall be responsible for ensuring implementation of the Compliance Program throughout CPS. In addition to the Compliance Officer, the members of the Compliance Committee shall include, at a minimum, the following CPS officers: Chief Administrative Officer, Chief Financial Officer, Chief Education Officer, and the Chief Officer of the Office of Math and Science at CPS.

3. Compliance Program

7. The Compliance Program shall include identification of the positions throughout CPS that have roles and responsibilities in the conduct and administration of NSF Awards. Each of those roles and responsibilities shall be described so that their relationship to CPS's responsibilities under NSF Awards is clear. The lines of responsibility shall be clearly established from each individual position all the way to CPS's responsible signatory officials. All individuals in such positions will be provided with (or have electronic access to) written policies and/or procedures applicable to their positions for (1) a code of conduct holding CPS personnel to high ethical standards of professional conduct and integrity, including addressing conflicts of interests; (2) accurate time and effort reporting under NSF Awards to meet the standards of the cost principles specified in the Office of Management and Budget (OMB) Circular A-87 and the Federal administrative requirements contained in OMB Circular A-102; and (3) accurate charging of costs under NSF Awards.

8. The Compliance Officer shall monitor CPS's internal controls to ensure compliance with all applicable Federal laws and regulations regarding the use and expenditure of NSF Award funds.

COMPLIANCE AGREEMENT

B. Audit Requirements

9. In addition to the single audit requirements contained in OMB Circular A-133, the Director of the Internal Audit Services of CPS shall conduct, on an annual basis, a comprehensive, statistically valid, audit of CPS's compliance with all applicable Federal laws and regulations regarding the use and expenditure of NSF Award funds, including the applicable NSF Award conditions and OMB Circulars. This audit shall include each component of CPS that receives or has oversight responsibility with respect to NSF Awards and shall be conducted in accordance with Generally Accepted Auditing Standards with a statistically-valid sample. Special attention shall be devoted to internal controls to ensure compliance with NSF requirements, including the certifications made on applications, progress reports, and other reports related to Awards. CPS will provide OIG with a copy of the written report and findings of the annual internal audit.

10. If other reviews conducted at CPS reveal situations that might constitute or indicate noncompliance with NSF requirements, the results of such reviews shall be provided to the Internal Audit office and the Compliance Officer.

C. Annual Written Reports

11. CPS will annually provide OIG with a written report of the corrective actions that CPS has undertaken as a result of any deficiencies that were discovered by the internal audit or by any other audits or reviews. Such reports shall be due one (1) year after execution of this Compliance Agreement and for each of the four (4) years thereafter. This report on CPS's corrective actions shall include a certification by CPS's Compliance Officer that all deficiencies found have been addressed to ensure CPS's compliance with all requirements of Federal law, regulations, and this Compliance Agreement. OIG may recommend additional corrective action if it believes that CPS's actions are not adequate to ensure compliance with Federal requirements.

12. All audit workpapers or other supporting documents for audits or reviews of compliance with this Compliance Agreement shall be retained by CPS for five (5) years and shall be made available to NSF upon request.

13. A "material violation" is one that has a significant adverse impact on the administrative, financial, or programmatic aspects projects supported by NSF Awards. Every material violation discovered during any audit or review shall be reported immediately to OIG and remedied within sixty (60) days of identification by CPS. CPS will report its findings concerning the material violation, its actions to correct such material violation, and any further steps CPS plans to take to address such material violation and prevent it from recurring in the future.

COMPLIANCE AGREEMENT

14. After five (5) years of compliance with the terms of this Agreement by CPS, the reporting requirements of paragraphs 11-13 shall expire.

D. CPS's Compliance Policies

15. Within ninety (90) days of the effective date of this Compliance Agreement, CPS shall implement written policies regarding its commitment to ensure compliance with all laws and regulations related to the receipt of NSF Awards. These policies shall be adopted by the CEO and distributed to all CPS employees involved in any way with NSF Awards. They shall be included as part of the annual training and shall be included as part of the annual report sent to OIG. Such policies shall be updated to reflect any changes in CPS's policies or practices. CPS's compliance policies shall include disciplinary procedures for dealing with employees who fail to meet the terms and conditions of NSF Awards.

E. Training

16. CPS shall institute and maintain a training program designed to ensure that each officer or other relevant employee involved in any way with NSF Awards, and any relevant independent contractor and relevant employees thereof, is aware of all applicable laws and regulations and standards of conduct that such individual is expected to follow in reporting to NSF on Awards, and the consequences both to the individual and CPS that will ensue from any violation of such requirements. Relevant employees and independent contractors are those individuals with a role or responsibility in the receipt of, or application for, NSF Awards and those individuals who conduct projects supported by NSF Awards. Each officer and other relevant employee or independent contractor shall receive at least two (2) hours of initial training that shall include a discussion of the contents of this Compliance Agreement as well as the relevant Award requirements, and shall receive additional training of at least one (1) hour on an annual basis. A schedule and topic outline of the training shall be included in the annual report submitted to OIG.

F. Confidential Disclosure Program

17. CPS shall establish a confidential disclosure mechanism enabling CPS and contractor employees to disclose anonymously to CPS's Compliance Officer any practices, billing procedures, or acts deemed by the employee to be inappropriate. CPS shall make the confidential disclosure mechanism known to each relevant employee as part of the training described above. CPS shall require the internal review of all such credible disclosures and ensure that proper follow-up is conducted. CPS shall include in its annual report to OIG a summary of communications received under the confidential disclosure program, and the results of the internal review and follow-up of such disclosures.

COMPLIANCE AGREEMENT

III. Dealing with Debarred or Suspended Persons

18. CPS shall implement, and make appropriately known including as part of its training program, a written internal operating policy providing that CPS shall comply with 45 C.F.R. part 620.

19. As to persons or contractors who become excluded while they are employed by or under contract with CPS, CPS shall comply with 45 C.F.R. §§ 620.315 & -310, respectively. In addition, CPS shall notify OIG of each such person or contractor who is excluded while they are employed by or under contract with CPS under an NSF award, and the decision made by CPS (and the reasons therefore) about whether to discontinue the person's employment or to terminate the contract, within fifteen (15) days of such decision.

IV. OIG Inspection, Audit, and Review Rights

20. In addition to any other right that OIG has pursuant to NSF Award conditions or other authority, OIG may examine and copy CPS's records for the purpose of verifying and evaluating: (a) CPS's compliance with the terms of this Compliance Agreement; (b) CPS's conduct in its dealing with NSF and OIG; and (c) CPS's compliance with any NSF requirements. CPS shall make the records available at any reasonable time for inspection, audit, and/or reproduction. Furthermore, for purposes of this provision, OIG may interview any CPS employee at the employee's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the employee and OIG.

21. In the event that OIG believes CPS has breached any of its obligations under this Compliance Agreement, OIG shall notify CPS of the alleged breach by email and certified mail (return receipt requested) to CPS's Authorized Organizational Representative ("AOR"), specifying the nature and extent of the alleged breach. CPS will have thirty (30) days from receipt of the notice: (a) to cure said breach; or (b) otherwise satisfy OIG that (1) it is in full compliance with this Compliance Agreement or (2) the breach cannot be reasonably cured within thirty (30) days, but that CPS has taken action to cure the breach and is pursuing such action with diligence.

22. If, at the end of the thirty (30) day period described above, OIG determines that CPS continues to be in breach of any of its obligations under this Compliance Agreement, OIG may, by email sent to CPS's AOR, state its conclusion that CPS is in default and refer the matter for NSF to initiate proceedings to undertake appropriate administrative action, including but not limited to the suspension or termination of the award or and including suspension or debarment. If CPS is suspended or debarred based upon breach of the Compliance Agreement, and in the event CPS fully cures the material breach or otherwise satisfies NSF, it will be promptly reinstated, retroactive to the date of cure.

COMPLIANCE AGREEMENT

23. Should any action to enforce or interpret this Compliance Agreement or to resolve any dispute hereunder be required, the Parties acknowledge the jurisdiction of the federal courts. The parties agree that, absent a breach of the Compliance Agreement and/or the Settlement Agreement, the execution of the said Agreements shall be final as to all matters alleged in the said Agreements.

V. Costs

24. Each Party to this Compliance Agreement shall bear its own costs, expenses, and fees.

25. CPS agrees that all costs, whether direct or indirect, incurred by or on behalf of CPS in connection with the following are unallowable costs under the cost principles applicable to government Awards (hereafter, "unallowable costs"): (1) the matters covered by this Compliance Agreement, (2) NSF's audit(s) and investigation of CPS's performance under NSF award 9450600, (3) CPS's investigation, defense, and corrective actions undertaken in response to NSF's audit(s) and investigation in connection with CPS's performance under NSF award 9450600 and the matters covered by this Compliance Agreement and the Settlement Agreement (including attorney's fees), (4) the negotiation of this Compliance Agreement and the Settlement Agreement, and (5) the payment made pursuant to the Settlement Agreement.

26. These unallowable costs will be separately estimated and accounted for by CPS and CPS will not charge such unallowable costs directly or indirectly to any Federal Awards.

VI. Modification

27. CPS and NSF agree that any modification to this Compliance Agreement shall not be effective until a written amendment is signed by representatives duly authorized to execute such amendment.

VII. Integration Clause

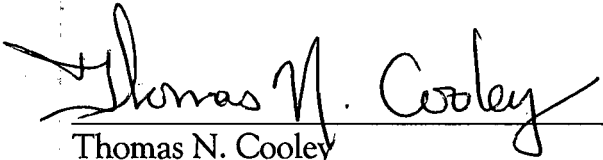
28. This Compliance Agreement and the Settlement Agreement entered into by NSF and CPS embody the entire agreement and understanding of the Parties with respect to the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants, or undertakings other than those expressly set forth or referred to in this Compliance Agreement and the Settlement Agreement. This Compliance Agreement, together with the Settlement Agreement, supersedes any and all prior agreements and understandings between the Parties with respect to this subject matter, except for the terms and conditions of individual Awards.

COMPLIANCE AGREEMENT

29. This Agreement will be deemed effective on the date that it is fully executed.

30. Each person who signs this Agreement in a representative capacity warrants that he or she is duly authorized to do so. IN WITNESS WHEREOF, the Parties hereto affix their signatures.

FOR THE NATIONAL SCIENCE FOUNDATION



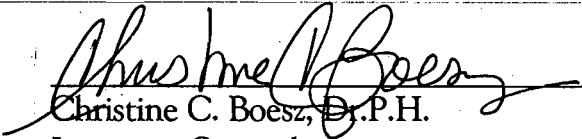
Thomas N. Cooley

Chief Financial Officer & Director, Office of Budget, Finance, and Award Management

09 Feb. 2005

Date

FOR THE NSF OFFICE OF INSPECTOR GENERAL



Christine C. Boesz, D.P.H.

Inspector General

13 October 2004

Date

Resigned 6 December 2004

FOR THE BOARD OF EDUCATION OF THE CITY OF CHICAGO



Ruth M. Moscovitch

General Counsel

11-30-04

Date

Settlement Agreement
Between
The National Science Foundation
And
The Board of Education of the City of Chicago

1. This Settlement Agreement (the "Settlement Agreement") is entered into between the Board of Education of the City of Chicago a/k/a Chicago Public Schools ("CPS"), the National Science Foundation ("NSF"), and the NSF Office of Inspector General ("OIG"). CPS, NSF, and OIG may be referred to herein individually as "Party" and collectively as "the Parties."

I. The Covered Conduct

2. OIG engaged an independent audit firm to audit the funds awarded by NSF to CPS under Cooperative Agreement 9450600 (the "Award"), for the full award period, 15 September 1994 through 29 February 2000.

3. Under the Award, CPS assumed primary responsibility for planning, operating, and managing the Chicago Urban Systemic Initiative (CUSI) project. NSF provided up to \$15,000,000 and CPS agreed to provide cost sharing in the amount of \$19,955,588 to support the project for the entire award period. Through 29 February 2000, CPS had claimed \$13,879,301 in NSF funded costs and \$21,043,878 in cost sharing.

4. CPS failed to provide adequate source documentation to support \$13,879,301 in claimed costs and \$21,043,878 in cost sharing amounts charged to NSF in the Schedule of Award Costs.

5. OIG conducted an investigation. OIG found that, of the 116 invoices identified during the audit as missing, 41 could not be accounted for, totaling \$130,327.36. Two of the located invoices, totaling an additional \$5,350.00, were questionable.

6. The conduct described in paragraphs 2-5 is the "Covered Conduct."

7. OIG believes that CPS may have provided false certifications to NSF pertaining to its appropriate use of Award funds and its cost sharing contributions.

SETTLEMENT AGREEMENT

8. CPS believes that all grant funds were expended properly and all required cost sharing amounts were provided.

II. Awardee Obligations and NSF Authority

9. Applicable Federal cost principles and NSF award terms and conditions require the awardee to provide adequate records demonstrating that claimed costs and cost sharing amounts are allowable, allocable, and reasonable.

10. When OIG determines that an awardee is unable to provide adequate records demonstrating that claimed costs and cost sharing amounts are allowable, allocable, and reasonable, OIG must question those amounts in their entirety.

11. When OIG questions claimed costs or cost sharing amounts, NSF must determine whether to disallow those amounts; the awardee must reimburse any amounts disallowed by NSF.

12. In circumstances in which an awardee is unable to provide adequate records demonstrating that claimed costs and cost sharing amounts are allowable, allocable, and reasonable, but NSF determines that the awardee's performance under the award was adequate and that appropriate equitable circumstances exist, NSF has the intrinsic authority to adjust the amount that the awardee must reimburse to NSF.

13. NSF also has the intrinsic authority to settle disputes with awardees concerning questionable charges and cost sharing contributions.

III. Terms and Conditions

14. In order to avoid the needless burden and expense of protracted litigation and because NSF regards that it is in the public interest to settle such disputes, NSF and CPS have agreed to settle all claims raised by the Covered Conduct by virtue of this agreement.

15. CPS and NSF entered into Cooperative Agreement 0085115 ("CA 0085115"), with an award period of 1 September 2000 to 31 August 2005. The Parties agree that NSF will reduce the Year 5 funding allocation for CA 0085115 by \$150,000, from \$2,407,486 to \$2,257,486.

16. The Parties agree to enter into and comply with the Compliance Agreement.

SETTLEMENT AGREEMENT

17. The Parties agree that this settlement will have no effect on CPS's submission of proposals to NSF, NSF's evaluation of CPS proposals, or any future awards by NSF to CPS.

18. CPS releases NSF and each of its officers, agents, employees, and contractors and their employees for any and all claims, causes of action, adjustments, and set-offs of any kind arising out of or pertaining to the Covered Conduct, including the investigation of the Covered Conduct and this Agreement.

19. Subject to the exceptions in paragraph 20 below, in consideration of the obligations of CPS set forth in this Agreement, NSF on behalf of itself, its officers, employees, and agents, releases CPS, its predecessors, successors, assigns, and affiliates from any civil or administrative monetary claims NSF has or may have under common law theories, including payment by mistake of fact, unjust enrichment, disgorgement, restitution, breach of contract, and breach of fiduciary duty for the Covered Conduct.

20. Notwithstanding any provision of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including CPS) are the following:

- (1) Any civil, criminal, or administrative claims arising under Title 26, U.S. Code (Internal Revenue Code);
- (2) Any criminal liability;
- (3) Any liability to the United States (or its agencies) or NSF for any conduct other than the Covered Conduct;
- (4) Any claims or administrative actions arising from a breach of this Settlement Agreement or the Compliance Agreement.

21. In consideration of the funding reduction specified in paragraph 15 and the compliance promised in paragraph 16, OIG agrees to conduct no further audit or investigation activities concerning the Covered Conduct, except that in OIG's sole discretion it may audit or investigate substantive credible evidence concerning (1) CPS's compliance with this Settlement Agreement or the Compliance Agreement, or (2) other wrongdoing based on evidence not in OIG's possession at the time of entering into this agreement. The Parties agree that, absent these exceptions and the exclusions listed in Paragraph 20, the execution of the said Agreements shall be final as to all matters alleged in the Agreements.

SETTLEMENT AGREEMENT

22. CPS fully and finally releases NSF, OIG, and their employees and agents from any claims (including attorneys fees, costs, and expenses of every kind and however denominated) which CPS could have asserted or may assert in the future against NSF, OIG, and their employees and agents, related to the Covered Conduct and OIG's audit and investigation thereof through the effective date hereof.

IV. Breach and Default Provisions

23. In the event that NSF believes CPS has breached any of its obligations under this Settlement Agreement or the Compliance Agreement, NSF shall notify CPS of the alleged breach by email and certified mail (return receipt requested) to CPS's Authorized Organizational Representative ("AOR"), specifying the nature and extent of the alleged breach. CPS will have thirty (30) days from receipt of the notice: (a) to cure said breach; or (b) otherwise satisfy NSF that (1) it is in full compliance with this Settlement Agreement or (2) the breach cannot be reasonably cured within thirty (30) days, but that CPS has taken action to cure the breach and is pursuing such action with diligence.

24. If, at the end of the thirty (30) day period described above, NSF determines that CPS continues to be in breach of any of its obligations under this Settlement Agreement, NSF may, by email sent to CPS's AOR, declare CPS to be in default and initiate proceedings to undertake appropriate administrative action, including but not limited to the suspension or termination of the award or and including suspension or debarment. If CPS is suspended or debarred based upon breach of the Compliance Agreement, and in the event CPS fully cures the material breach or otherwise satisfies NSF, it will be promptly reinstated, retroactive to the date of cure.

25. Should any action to enforce or interpret this Settlement Agreement or to resolve any dispute hereunder be required, the Parties acknowledge the jurisdiction of the federal courts.

V. Costs

26. Each Party to this Settlement Agreement shall bear its own costs, expenses, and fees.

27. CPS agrees that all costs, whether direct or indirect, incurred by or on behalf of CPS in connection with the following are unallowable costs under the cost principles applicable to government Awards (hereafter, "unallowable costs"): (1) the matters covered by this Settlement Agreement, (2) NSF's audit(s) and investigation of the Covered Conduct, (3) CPS's investigation, defense, and corrective actions

SETTLEMENT AGREEMENT

undertaken in response to NSF's audit(s) and investigation in connection with the Covered Conduct and the matters covered by this Settlement Agreement and the Compliance Agreement (including attorney's fees), (4) the negotiation of this Settlement Agreement and the Compliance Agreement, and (5) the payment made pursuant to this Settlement Agreement.

28. These unallowable costs will be separately estimated and accounted for by CPS and CPS will not charge such unallowable costs directly or indirectly to any Federal Awards.

VI. Modification

29. CPS and NSF agree that any modification to this Compliance Agreement shall not be effective until a written amendment is signed by representatives duly authorized to execute such amendment.

VII. Integration Clause

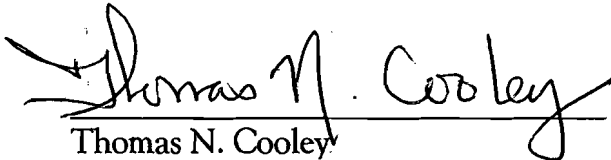
30. This Settlement Agreement and the Compliance Agreement entered into by NSF and CPS embody the entire agreement and understanding of the Parties with respect to the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants, or undertakings other than those expressly set forth or referred to in this Settlement Agreement and the Compliance Agreement. This Settlement Agreement, together with the Compliance Agreement, supersedes any and all prior agreements and understandings between the Parties with respect to this subject matter, except for the terms and conditions of individual Awards.

31. This Agreement will be deemed effective on the date that it is fully executed.

SETTLEMENT AGREEMENT

32. Each person who signs this Agreement in a representative capacity warrants that he or she is duly authorized to do so. IN WITNESS WHEREOF, the Parties hereto affix their signatures.

FOR THE NATIONAL SCIENCE FOUNDATION



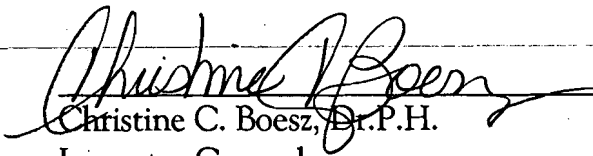
Thomas N. Cooley

Chief Financial Officer & Director, Office of Budget, Finance, and Award Management

09 Feb. 2005

Date

FOR THE NSF OFFICE OF INSPECTOR GENERAL



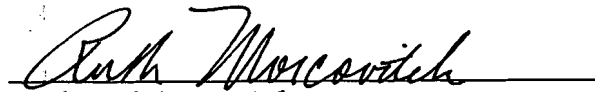
Christine C. Boesz, Dr. P.H.

Inspector General

13 October 2004
Resigned 6 December 2004

Date

FOR THE BOARD OF EDUCATION OF THE CITY OF CHICAGO



Ruth M. Moscovitch
General Counsel

NKJ

11-30-04

Date