NATIONAL SCIENCE FOUNDATION OFFICE OF INSPECTOR GENERAL OFFICE OF INVESTIGATIONS

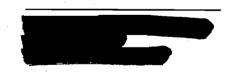
CLOSEOUT MEMORANDUM

TO: AIGI	File Number: 193020007	Date: 11 March 2002	
Subject: Clos	seout Memo	Page 1 of 1	

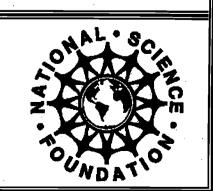
There was no closeout written at the time this case was closed. The following information was extracted from the file in conformance with standard closeout documents.

Our office was informed that the subject¹ was alleged to to have violated NSF's Conflict of Interest policy. The Office of General Counsel determined that the subject has a permanent post-employment restriction with regard to a particular grant² at the subject's institution³.

Accordingly this case is closed.



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



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Possible Conflict of Interest Involving Dr. 1

Introduction

Dr. was employed as the Co-Program Director of NSF's
program from September through August
On September 2000, Dr. Dr. Degan her employment as Acting Principal Investigator (P
on the Carried University award. Based upon this, NSF's Office of Inspector General
(OIG) reviewed the conflicts advice Dr. Treceived from NSF with regards to pos
employment restrictions. We found no evidence that Dr. wiolated any post-employment
restrictions, although we questioned the conflicts advice she received from NSF.

Basis for Investigation

During her tenure at NSF, Dr. And and the other Co-Program Director, Dr. Oversaw the inception of the implementation awards under the program and in November 19 recommended that cooperative agreements be awarded and five other universities. In the spring of 19 p., Dr. Oversaw the inception of the implementation awards under the program and in November 19 p., recommended that cooperative agreements be awarded and five other universities. In the spring of 19 p., Dr. Oversaw the inception of principal Investigator (PI) on the cooperative agreements be awarded that cooperative agreements be awarded and in November 19 p., Dr. Oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the program and in November 19 p., oversaw the inception of the implementation awards under the program and in November 19 p., oversaw the inception of the implementation awards under the program

19 , Dr. resigned from her NSF position to begin work as Acting PI on the award.

Under the Inspector General Act of 1978, as amended, we began an investigation to determine whether there had been any violations of 18 U.S.C. Section 208: acts affecting a personal financial interest, Section 207: restrictions on former employees of the executive and legislative branches; or NSF conflict of interest regulations as set out in Manual 15.

Method of Investigation

We interviewed Dr. Dr. Division and Deputy
Division Directors, NSF's Acting Designated Agency Ethics Official (DAEO), the Office of
General Counsel (OGC) attorney who conducted Dr. exit interview, and the former
PI on the award. We also reviewed Dr. official NSF personnel
file and division conflicts file, and the award files.

Background

NSF's program was initiated in 19 to increase participation by minorities in science and engineering fields. It is administered through the Division of in the Directorate ...

Dr. was hired in September 19 to manage and direct the program and to

oversee the initial awards. Dr. was hired in early January 19 as Co-Program Director of Drs. Drs. and and shared responsibility for management and direction.

In late January 19 1, implementation proposals from universities nationwide were submitted to NSF. Dr. implementation proposals from any dealings with the proposal submitted by university because he was the PI on the University planning grant prior to his NSF employment. Dr. told us that she followed Dr. is lead, and recused herself from handling any proposals submitted by universities, since she believed she would return to in the future and wanted to avoid any possible conflicts of interest with universities. Dr. however, did not recuse herself in writing from involvement with universities, as Dr. had, and Dr. in addoes not recall Dr. ever mentioning any such informal recusal.

Dr. Manufacture divided up the proposals for review, with Dr. Manufacture proposals submitted by universities, including the proposal, and Dr. Manufacture proposal than universities, including the proposal, and Dr. Manufacture proposal than university / proposal. After a mail and panel review of the proposals, Drs. Command discussed which universities to select to present their proposal at the NSF Reverse Site Visit in June of 1911. Dr. Manufacture proposal was not discussed substantively, because of its

high rating, another proposal was discussed by both Dr. and Dr. and Dr. Drs. University as one of 15 universities to participate in the Reverse Site Visits.

During the Reverse Site Visits, Drs. And Leading led the discussions for the proposals that they had reviewed initially. Dr. Leading left the room during the Reverse Site Visit presentation by Leading the Reverse

Prior to the Reverse Site Visits, each of the 15 universities was sent a list of issues that it had to respond to during its presentation, and each university response was included in the proposal jackets. After the Reverse Site Visits were conducted, Drs. and reviewed the university responses and discussed which universities to recommend for funding. Dr. and never saw the which university / proposal or response, and he did not discuss with Dr. whether that proposal should be funded. Dr. told us that she did not discuss the proposal with Dr. and proposal with Dr. and proposals (except for the proposals for award; in fact, they expected to recommend as many as ten proposals. Drs. and selected and five other universities to receive funding.

Dr. Land Dr. Land each maintained their previously held responsibility for three of the six universities awarded funding. This responsibility now included handling all preaward budget negotiations with the universities prior to the awards being made in November 1911, and all post-award adjustments and reviews. Dr. Land naintained responsibility for the university / Land award and two other awards, and Dr. Land maintained responsibility for the university / Land award, and two other awards.

Although Dr. and maintained responsibility for the award, during the spring and summer of 19 , and the summer of 19 , some documents relating to the lateral P were addressed by to Dr. and later included in the award jacket.

In November 19 , the six universities were awarded funding through cooperative agreements with NSF. In early 19 NSF received new proposals in response to the second solicitation for awards. Dr. viewed at least two proposals from universities (neither of which was submitted by

On March 30, 19 Drs. In and the signed a recommendation for supplemental funding for the supplemental funding was awarded for the specific purpose of establishing an inewsletter, to be produced by the supplemental and programs. In addition, both Dr. Sand Dr. Panel Meeting on April 19, 19, where future

awards were discussed in the presence of at least one continues official. Drs. Administration of also presided over the Evaluation Meeting on April 19 where the review and rating procedures of the six initial awards were discussed with the PIs on the awards, including the PI on the Continue award.

On or after April 19 the PI on the award spoke with Dr. Spoke with Dr. The PI of the spoke with stated that he approached Dr. Spoke with during the April 19 Evaluation Meeting to discuss the PI position. In contrast, Dr. Spoke With Dr. Spoke With

On June 2, and July 2, 19 Dr. Carefulate and received advice from NSF's Acting DAEO on: 1) accepting the position at 2 University, 2) conducting two site visits after departing from NSF in September of 19 and 3) attending the Project Directors' Meeting in September 19 During the meetings, the DAEO asked Dr. about her level of involvement with the award, and she stated that she had not been involved with that award. The Acting DAEO stated that he provided general advice to Dr. axis explaining the conflicts rules to her and advising her about specific dealings with NSF after her departure. The Acting DAEO did not believe that he provided any specific advice to Dr. axis because if he had, he would have provided that advice in writing, and he

had no records of any written advice to her. In contrast, Dr. Market Dieves that the Acting DAEO did provide specific advice to her, stating that the one-year post-employment restriction applied to her when departing from NSF. In accordance with her understanding that the one-year restriction applied to her, Dr. Market Department of the provided to her, Dr. Department of the provided to her advantage of the provided to her ad

The Acting DAEO approved Dr. service as an NSF consultant on the following three occasions after her departure, as indicated in a July 1988 memo from Dr. to 1988 beputy Division Director*:

- The site visit of the formal on September 19
- The site visit of the University / September
- The Project Directors' Meeting from September 19 through September 19

In this memo, Dr. States that she has explored with the DAEO the issue of conducting two site visits in September 19 after her departure from NSF, and that he saw no problem with it as long as she followed one of three approaches: 1) continue her employment with NSF until the end of September with many days of leave of absence, 2) depart NSF at the end of August 19 and return as a consultant in September 19 or 3) depart NSF at the end of August 19 and develop a contract with NSF for her services in September 19 Dr. Sollowed the second approach. Dr. Salso stated in this memo that she discussed with the DAEO the issue of attending the September 19 Project Directors' meeting and he suggested that she return to NSF as a consultant for this meeting rather than as an Program Director. Dr. Sollowed this advice, and served as a consultant to NSF during the meeting.

University officially offered Dr. In a letter dated July 10, 19 the PI position and she accepted. On August 6, 19 an attorney from NSF's OGC conducted an exit interview with Dr. According to Dr. the exit interview was a short meeting where the OGC attorney questioned her about: 1) her understanding of the NSF postemployment restrictions, and 2) whether she was involved in any NSF procurement activities. told the OGC attorney that she understood the different NSF post-employment restrictions, and that she had not been involved in any procurement activities during her tenure at NSF. Dr. Market also told the OGC attorney that she had met with the Acting DAEO prior to the exit interview to discuss NSF post-employment restrictions. The OGC attorney who conducted the exit interview had no specific recollections of his meeting with Dr. OGC does not routinely keep notes of exit interviews with departing employees, and therefore, had no notes of the exit interview with Dr. However, the OGC attorney stated that NSF post-employment restrictions are reviewed in detail during all exit interviews. In addition, any questions posed by departing employees are answered, and specific advice regarding conflict of interest matters is often provided.

Findings Concerning Dr.

We found no evidence of any violations of 18 U.S.C. Section 208 or related NSF conflict of interest regulations regarding acts affecting a financial interest as found in § 683.20 of NSF Manual 15. After April 19 the earliest likely date of job negotiations between Dr. and University, we found no evidence that Dr. was dealing with the award in her official NSF capacity as Co-Program Director, or that she took any actions in favor of the April 20 award at, or after, that time. We also found no violations of 18 U.S.C. Section 207 or related NSF conflict of interest regulations regarding post-employment restrictions as set out at § 682.10 and § 682.20 of NSF Manual 15.

However, we believe that the following actions by Dr. raise a substantial question whether she participated personally and substantially in the

- Dr. was involved in the implementation awards of the Program from their inception and was one of the authors of evaluation procedures.
- Pr. participated in discussions about which universities to invite to the Reverse Site Visits in June 1 2. What was one of 15 universities selected to participate.

We were unable to determine the exact date Dr. University for the PI position because of a discrepancy about where and when the actual negotiations started.

- Dr. participated in the Reverse Site Visit of the proposal, and afterwards, in discussions of that proposal along with the five other proposals recommended for funding. Dr. reviewed materials submitted by the universities, and jointly recommended the first six awards with Dr.
- Dr. Dr. deceived documents during the spring and summer of 19 and the summer of 19 relating to the
- On March 19 Dr. Dr. general gned the recommendation for supplemental funding for the manufacture and awards.
- From April 19, 19, Dr. Presided over the Panel Meeting where at least one one official was present.

On the basis of these facts, and absent contrary information from Dr. NSF's

Acting DAEO concluded that Dr. Personally and substantially participated in the same award matter while employed by NSF. He so advised Dr. Over the

telephone on August 19 He followed up on this advice in a letter to Dr. August 19 He followed up on this advice in a letter to Dr. August 19 He followed up on this advice in a letter to Dr.

Systemic Recommendation

In this case, the Acting DAEO inquired about Dr. level of involvement with the ward, which was her intended future employer, and she said that she had had none. When provided with the information gleaned from our review of the program files, however, the DAEO concluded that while employed by NSF, Dr. personally and substantially participated in the ward, which is her current employer.

Avoiding conflicts of interests is the personal responsibility of individual current and former NSF employees. We believe this case developed as it did because Draw relied on her recollection of her actions regarding the ward. We recommend that, in circumstances where an NSF employee is leaving NSF to work on an NSF-funded project, OGC ethics counsellors suggest to the employee that the employee review the NSF program jacket for that project for any indications of involvement by that employee — particularly the presence of that employee's name and/or signature on documents in the jacket — and then discuss with the ethics counsellor the significance of any such indications. If Draw had conducted such a review of the piacket, we believe it likely that she would have found the documents with her name and signature that formed the basis for this investigation, and resolved the issues with the OGC ethics counsellor before she left NSF.