

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

April 6, 2009

Via Electronic Transmission

Dr. Arden L. Bement, Jr.
Director
National Science Foundation
4201 Wilson Blvd. Suite 1205
Arlington, VA 22230

Dr. Steven Beering
Chairman
National Science Board
National Science Foundation
4210 Wilson Blvd., Suite 1225
Arlington, VA 22230

Dear Dr. Bement, Jr., and Dr. Beering:

As senior members of the United States Senate and as the Ranking Member of the Senate Committee on Finance and Chairwoman of the Appropriations Subcommittee on Commerce, Justice and Science (Committees), it is our duty under the Constitution to conduct oversight into the actions of the executive branch, including the activities of the National Science Foundation (NSF/Agency). In this capacity, we must ensure that the NSF properly fulfills its mission to promote and advance scientific progress in the United States by competitively awarding grants and cooperative agreements for research and education in the sciences, mathematics, and engineering and that it make responsible use of the public funding provided for these research disciplines.

We are writing to inform you of our continued concerns about NSF management's apparent lack of response to investigations and recommendations made by the Office of Inspector General (OIG) related to employee misconduct. Within this letter we request further information as to how NSF intends to completely resolve these matters in a way that shows the Agency takes these issues seriously and intends to provide a professional work environment for all its employees.

As a result of a letter dated January 28, 2009, from us to the NSF Office of Inspector General (OIG), we received background materials surrounding, among other things, investigations on NSF employees viewing sexually explicit material at work and sexual harassment matters. The investigative materials provided by the OIG lead us to believe that employee misconduct involving the viewing of sexually explicit material at work and sexual harassment by NSF management may be fostering an intimidating and offensive work environment. Our review revealed that NSF apparently failed to respond to the OIG's recommendations that were set forth in a recent Management Implications Report.

The following sections breakout our concerns into four categories: Misconduct by NSF employees, Lack of Equal Employment Opportunity Programs for NSF employees, and OIG Recommendation Not Adopted by NSF Management. Each provides further details into our concerns for which we expect complete responses.

A. Employee Misconduct involving Sexually Explicit Materials, Lack of Management Responsiveness, and Fear of Retaliation.

i. Employee Misconduct

A review of the OIG investigative materials revealed 10 matters involving 13 NSF employees who engaged in viewing, storing and/or sharing sexually explicit material on their government computers. In one particular case, OIG determined that 4 NSF employees were circulating and sharing sexually explicit material with one another, with other NSF employees and contractors, and with unknown individuals outside NSF via the NSF email exchange. The OIG indicated that inappropriate emails were circulating for at least 10 years, which contained blatantly explicit subject lines and sexually explicit images and videos. During a review of the circulating emails, the OIG further identified a group of 21 employees and 2 NSF contractors who were also possibly violating NSF's policies regarding the personal use of NSF's IT resources.

Furthermore, the OIG materials contained documentation on yet another NSF employee who visited and downloaded inappropriate material off adult web sites containing pornographic material with a government computer. Using peer-to-peer file sharing software, this same employee also downloaded pornography that consisted of 17 sexually explicit images, 36 hardcore porn movie files, and 45 full length copyrighted movies. Additionally, a help desk technician conducting an upgrade to an NSF employee's computer hard drive inadvertently found 8,580 inappropriate files containing hard core sexual content that included: 7 large video files that were approximately 30 minutes/each in length, 101 movie clips running between 2 to 20 minutes/each in length, 219 bitmap image files, and over 8,151 photo image files. This particular employee's disciplinary action resulted in a counseling letter.

According to OIG Investigation Report #I08050031, another senior NSF staff member spent 20% of his official work time viewing pornography. This inappropriate behavior occurred over the course of 2 years. Interestingly, this particular senior NSF staff member took few, if any, steps to conceal his activities. At one point, he even had his monitor positioned in a way that allowed coworkers to view pornographic images from a nearby copy room. When discussing this staff member's behavior with the OIG, one employee requested anonymity "for fear of backlash from other senior staff members." That same employee stated that the senior staff member's "viewing habits were common knowledge."

This particular senior staff member used his NSF computer to view live sexual performances via a live webcam and engaged in sex-oriented online "chatting" with the "performers". He even emailed the pornographic website's customer service host from his NSF computer, and inquired about billing and site-usage. (*See attached email correspondence*). Contained in these emails was his NSF office auto-signature block indicating his NSF position and office contact information.

With regard to the issue of NSF employees viewing sexually explicit material at work, please respond to the following questions and requests for information. For this response, please repeat the enumerated request and follow with the appropriate answer.

1. What enforcement mechanisms has the Agency implemented to help prevent web access, file sharing, and storing of sexually explicit material by NSF employees? Please provide the current NSF policy as it relates to this activity, and any previous policies over the last 4 years.
2. Has NSF expanded its recently implemented internet filtering software to include email filtering software? If so, please explain.
3. What are NSF's disciplinary guidelines when NSF staff member are found to be viewing sexually explicit material on an NSF computer? Please provide specific each disciplinary action for this type taken by NSF over the last 4 years.
4. Why did it take NSF almost two years to deal with an employee who was spending large amounts of time viewing pornography when the individual's behavior was, according to one source, "widely known"?

ii. Lack of Management Response

We were disturbed not only by the content of the information provided to us by the OIG in response to our request, but by the current status of the actions taken by NSF in response to these matters as represented in the OIG case documentation involving pornography and sexual harassment. The OIG documents we reviewed note that in 5 of the 11 cases involving employees viewing explicit material or in the sexual harassment cases, NSF failed to: take any personnel action; adequately respond to the OIG requests for formal notification of personnel action; or conduct its own Agency re-investigation of an earlier conducted OIG investigation. Our concern lies not only with the NSF's failure to take timely action against those NSF employees involved with viewing, sharing and storing pornography and its decision to re-investigate matters. We are also worried that NSF's lack of action sends an unfortunate message to all NSF employees.

During our review of the pornography-related cases received from the OIG, we noticed that in several cases, NSF followed up with its own investigations into the same matters; one would assume for the benefit of gathering a human resource/management perspective. This included the case involving a 20-year NSF employee who used an NSF computer to view pornographic websites and videos that were audible to other NSF staff. However, as of late January 2009, NSF has yet to impose any disciplinary action upon this employee who even acknowledged having visited numerous porn websites on his NSF computer. Assuming these re-investigations were conducted on the basis of assessing any appropriate measures for confronting and disciplining the employee, the Committees do not understand how or why NSF failed to take action.

Our review identified yet another related OIG case where NSF conducted its own independent re-investigation. This is reflected in a lengthy email exchange between the Assistant Inspector General for Investigations, and the NSF Director of the Office of

Information & Resource Management (OIRM). In that exchange, the OIRM Director stated (on behalf of the Agency), “*NSF Investigation Ongoing–Final Determination by February 2009; so far, unable to substantiate allegations sufficiently enough to support disciplinary action.*” This statement is baffling because it refers to an OIG investigation where the subject **already admitted to receiving, viewing, and forwarding sexually explicit emails.** (emphasis added)

Accordingly, we would greatly appreciate your explanation into these matters. For each response, please repeat the enumerated request and follow with the appropriate answer.

5. Why is NSF failing to act on the OIG investigations that are substantiated and referred for appropriate administrative/disciplinary action? In those cases where the NSF took action, why has NSF failed to provide the OIG with a formal notification of what action(s) were or were not taken?
6. Why has the Agency not responded to OIG investigative reports in a timely manner, or within the requested 30 day time frame? Please be specific in responding to this inquiry.
7. If not for work force management purposes, why did NSF choose to conduct its own independent re-investigation of the earlier conducted OIG investigations (OIG Investigative Case #I08060044 and #I08040025)? What existing workforce management issues at NSF (such as union agreements) prevent the Agency from following through with any disciplinary actions?

iii. Fear of Retaliation

Additionally, we found it particularly disconcerting that although numerous individuals were involved in receiving, viewing, and forwarding sexually explicit materials at NSF and that numerous individuals at NSF were aware of this behavior, staff was afraid to bring the issue to NSF management. Particularly, the Senior Executive Service (SES) employee who was utilizing the live webcam was involved in deliberate, inappropriate behavior for 2 years before the OIG received its first of two anonymous hotline allegations. At the time the second allegation was anonymously reported, the OIG was already investigating. Both complainants, who wished to remain anonymous, were concerned that they would be subjected to retaliation for reporting inappropriate behavior to NSF, because the inappropriate behavior was being conducted by a high level NSF official.

In light of the fact that NSF staff members were afraid of retaliation if they reported obvious inappropriate behavior being conducted by a senior NSF staff member, please respond to the following question:

8. What actions has NSF taken to encourage employees to report inappropriate behavior to management?

B. Office of Equal Opportunity Programs

The OIG also indicated in its case documents that NSF employees were inadvertently encountering explicit images and sounds associated with pornographic material, coming from a co-workers computer. The employees then became acutely embarrassed and did not know how to respond. The OIG noted that the employees in general were not aware of how to contact NSF's Office of Equal Opportunity Programs (OEOP), as a reporting outlet for NSF employees who witnessed inappropriate behavior. Even the OIG encountered significant difficulties finding information about OEOP on the NSF website and employee directory. According to NSF sources, we also learned that the perception within NSF is that the OEOP is essentially a "buried office."

Please respond to the following questions about the actions NSF took to ensure that NSF employees can contact OEOP:

9. What actions has NSF taken to determine if web access, file sharing, and storing of sexually explicit material by NSF employees, is fostering a hostile work environment, and whether or not this is a systemic problem within the Agency?
10. Describe in detail what actions NSF has taken to promote access to the Office of Equal Opportunity among NSF employees.

C. Sexual Harassment

Also two alarming cases involving sexual harassment by NSF senior employees came to our attention. In both cases these senior employees utilized NSF travel funds to pursue intimate relationships with subordinate NSF employees.

In one instance, an NSF senior employee extended and initiated official business trips using taxpayer funds to facilitate intimate relationships with multiple female companions. The disciplinary action imposed upon this employee by NSF was that it: suspended the supervisor's international travel; required that he have all future domestic travel approved by his supervisor; and required that he reimburse NSF for some of the government funds improperly expended on travel.

A second matter involved sexual harassment pertaining to a NSF senior employee, who arranged taxpayer funded travel with a subordinate to facilitate an inappropriate sexual relationship. When this was investigated, the subordinate indicated to the OIG investigators discomfort with the relationship and described it as being manipulative and the equivalent of sexual abuse.

In this case, NSF contracted a private law firm to conduct a re-investigation of the inappropriate relationship and sexual harassment allegations. We are unclear why NSF hired a private law firm to re-investigate a matter that the OIG already investigated. The

NSF/OIG is an independent oversight organization that was expressly empowered by Congress to perform this exact function.

In light of the cases described above please respond to the following questions:

11. What actions has NSF taken to address the OIG recommendation that guidelines and training be developed to encourage the appropriate disclosure of inappropriate relationships to management, and to assist managers in addressing allegations or knowledge of such relationships?
12. What action(s) has NSF taken to reinforce the expectation that senior management should act with the highest level of integrity?
13. In the last year, what action has NSF taken to institute clear travel policies that, distinguish between personal and essential travel?
14. What actions has NSF taken to ensure that individuals cannot sign off on their own travel?
15. Why did NSF choose to contract with a law firm to conduct an independent re-investigation of the OIG investigation (OIG Investigative Case #I07120049)?

D. OIG Recommendations - Management Implication Report (MIR)

In addition to the aforementioned cases, there were multiple incidents in which the employees disregarded NSF policies related to viewing sexually explicit material while at work. All of the employees who were investigated for viewing sexually explicit material had previously completed NSF's mandatory IT Security Awareness Training.^[1] Clearly, NSF's current policies and their implementation are apparently insufficient to deter, among other things, inappropriate web access for the purpose of viewing sexually explicit material.

Further, after conducting multiple pornography-related investigations and investigations of sexual harassment, the OIG became concerned with NSF's enforcement of policies prohibiting gender discrimination, offensive work environments, and retaliation. To deal with these problems, the OIG outlined some recommendations in a Management Implication Report (MIR), dated July 14, 2008. Clearly, the cases that OIG referenced in its MIR and in its most recent Semiannual Report to Congress demonstrate that NSF's current policies and practices fail to deter either inappropriate web access to pornography or concerns about the possible creation of a hostile workplace environment.

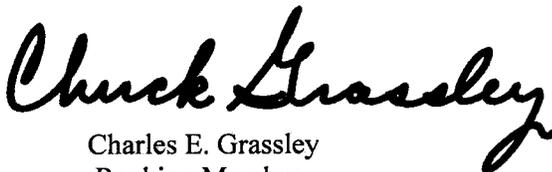
^[1] NSF Bulletin 05-07, *Information Systems Security Awareness Training*; "I understand that NSF IT resources, including e-mail accounts are for authorized Government use only and in accordance with NSF policy. Any activity that would discredit NSF, including seeking, transmitting, collecting or storing defamatory, discriminatory, obscene, harassing or intimidating messages or material is not permitted."

With respect to this MIR, we would like to know in detail what NSF has done to address each OIG recommendation. For each response, please repeat the question and follow with a detailed response.

16. What actions has NSF taken to address the OIG's recommendations that pertain to the NSF IT Security Awareness Training? Please provide any/all supporting documentation as it relates to the applicable training.
17. What actions has NSF taken to address the OIG recommendation to limit the amount of server storage space available to employees? Please provide any/all supporting documentation as it relates to server storage space.
18. It is our understanding that NSF installed internet filtering software. If so, please do state; if not why not? Does this software include email filtering software? If not why not?
19. Please describe in detail what actions NSF has taken to ensure that the reports produced by the internet filtering software are examined to detect employee attempts to access inappropriate sites? In the event that NSF is maintaining reports on access to inappropriate sites please provide to us copies of all reports prepared to date.
20. What actions has NSF taken to address the OIG recommendation to screen share drives and computer hard drives for inappropriate content? Please provide any/all supporting documentation.

We look forward to hearing from you by no later than April 27, 2009. All documents responsive to this request should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov. Should you have any questions regarding this matter, please do not hesitate to contact Misha Kelly or Paul Thacker of Senator Grassley's staff at (202) 224-4515 or Jeremy Weirich of Senator Mikulski's staff at (202) 224-7363.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on Finance



Barbara Mikulski
Chairwoman
Committee on Appropriations
Subcommittee on Commerce, Justice and Science

Date: Tue [REDACTED]
Subject: cam2cam
To: '[REDACTED]@chathostess.com'
From: "[REDACTED]" </O=NATIONAL SCIENCE FOUNDATION/OU=NSF/CN=RECIPIENTS/CN=[REDACTED]>
Cc: [REDACTED], [REDACTED]

Lady/Sir:

I am trying to learn how to use cam2cam capability on your asianbabes.com site. I do not seem to be able to do that. I have Windows Netmeeting capability. Please Advise.

Thanks.

[REDACTED]

Date: Wed [REDACTED] GMT
Subject: question
To: '[REDACTED]@chathostess.com'
From: '[REDACTED]' </O=NATIONAL SCIENCE FOUNDATION/OU=NSF/CN=RECIPIENTS/CN=[REDACTED]>
Cc: [REDACTED], [REDACTED]

Dear Lady/Gentleman:

Membership ID [REDACTED]

Username [REDACTED]

Password [REDACTED]

I am not able able to buy credits apperently because I reached my 30-day limit. Since yesterday the 30 day period expired I thought I would be able to buy credits. Please let me know when I will be able to do so.

Thanks for your help.

[REDACTED]
Senior Advisor

Directorate for [REDACTED]

National Science Foundation

4201 Wilson Boulevard, Suite [REDACTED]

Arlington, VA 22230

Tel.: 703-[REDACTED]

Fax: 703-[REDACTED]

E-mail: [REDACTED]@nsf.gov

URL: www.nsf.gov/mps

Date: Fri [REDACTED]
Subject: RE: [#IDG-753906]: MEMBERSHIP ID
To: '[REDACTED]@camsupport247.com'
From: "[REDACTED]" </O=NATIONAL SCIENCE FOUNDATION/OU=NSF/CN=RECIPIENTS/CN=[REDACTED]>
Cc: [REDACTED], [REDACTED]

I have another question. When I try to get information about my account and enter all the required fields, I get a message saying that my record could not be found. What's going on?

Thanks for your help.

[REDACTED]
Senior Advisor

Directorate for [REDACTED]

National Science Foundation

4201 Wilson Boulevard, Suite [REDACTED]

Arlington, VA 22230

Tel.: 703-[REDACTED]

Fax: 703-[REDACTED]

E-mail: [REDACTED]@nsf.gov

URL: www.nsf.gov/mps

-----Original Message-----

From: [REDACTED] [mailto:[REDACTED]@camsupport247.com]

Sent: Friday, [REDACTED] 7:02 PM

To: [REDACTED], [REDACTED]

Subject: [#IDG-753906]: MEMBERSHIP ID

[http://secure.asianbabecams.com/\[REDACTED\]](http://secure.asianbabecams.com/[REDACTED])

The link above will allow you to recover your username and password.