

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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October 31, 2023

The Honorable Sethuraman Panchanathan, Ph.D.
Director
National Science Foundation
2415 Eisenhower Avenue
Alexandria, Virginia 22314

Dear Director Panchanathan:

The House Committees on Oversight and Accountability and Science, Space and Technology are investigating the integrity of the National Science Foundation's (NSF) research security. The Federal Bureau of Investigation (FBI) has determined that American universities and laboratories are susceptible to undisclosed and illegal transfers of information, technology, and intellectual property.¹ In fiscal year 2022, NSF spent nearly \$7 billion on research and education at two thousand colleges, universities, and other academic institutions.² NSF recently designated threats posed by foreign talent recruitment programs as one of its current challenges,³ and reports indicate that these risks to U.S. national and economic security persist.⁴ Many of the reports published since 2018 by NSF's Office of the Inspector General (OIG) detail cases of foreign exploitation and influence.⁵ As such, the Committees request documents and information from NSF about protocols to protect national security.

American research institutions are the foundation of America's thriving scientific enterprise. The integrity of this system relies on the core principles and values of science: openness and transparency, accountability and honesty, impartiality and objectivity, respect, freedom of inquiry, reciprocity, and merit-based competition. These institutions should study science in a transparent manner that encourages collaboration, attracts the top scientific minds to the United States, and fosters discoveries. However, a priority of any research security policy should be to prevent U.S. funded research from being stolen. We must do all we can to protect

¹ See Federal Bureau of Investigation, *China: The Risk to Academia* (Oct. 4, 2019), <https://www.fbi.gov/file-repository/china-risk-to-academia-2019.pdf/view>.

² See National Science Foundation, *FY 2022 Performance and Financial Highlights* (Feb. 21, 2023).

³ *Id.*

⁴ See (Oct. 15, 2020), <https://trumpwhitehouse.archives.gov/wp-content/uploads/2020/07/Enhancing-the-Security-and-Integrity-of-Americas-Research-Enterprise.pdf>; Olivia Rosenzweig, *U.S. Science Research Has a Foreign Influence Problem*, the Regulatory Review (Jan. 5, 2022).

⁵ See, e.g., NATIONAL SCIENCE FOUNDATION, OFFICE INSPECTOR GENERAL, NSF-OIG-SAR-63, SEMIANNUAL REPORT TO CONGRESS APRIL 1 - SEPTEMBER 30, 2020 (Nov. 23, 2020), https://oig.nsf.gov/sites/default/files/reports/2022-01/NSF_OIG_SAR_63.pdf.

our innovation system and taxpayer-funded research from systematic attempts to exploit, degrade, and misappropriate our open system of science.

On April 19, 2023, NSF’s Inspector General Allison Lerner submitted testimony to the Committee on Science, Space, and Technology that stated “NSF, and other agencies that fund research, continue to face challenges from foreign government talent recruitment programs.”⁶ Members of these programs are often required to work for a foreign government in an arrangement that favors the foreign government’s interests.⁷ In these cases, foreign governments can dictate methodology, location, and who the co-researchers are. Ms. Lerner also testified before Congress that 45 percent of ongoing cases pertain to research security, many of which are linked to China.⁸

In other cases, the researcher affiliated with a foreign institution can be required to recruit other faculty into their program. In 2021, OIG testified that cases involving foreign influence represented 63 percent of OIG’s workload and that OIG lacked the resources to keep pace with the referrals.⁹ That testimony also revealed that an undisclosed number of cases were referred by OIG to the Department of Justice (DOJ).¹⁰ The referrals to DOJ indicate that some cases pose a risk to national and economic security. Since 2018, the FBI has increasingly requested assistance from OIG for cases involving foreign influence.¹¹

OIG’s latest semiannual report details how threats to the integrity of NSF funded research persist.¹² The report describes a case in which a university agreed to a civil settlement for failures under the False Claims Act. According to the report, “The university failed to disclose a professor’s affiliations with and support from a foreign government in proposals sent to several agencies, including NSF.”¹³ OIG also details the suspension of fourteen awards to one university for failure to disclose foreign affiliations.¹⁴

⁶ *Protecting the American Taxpayer: Highlighting Efforts to Protect Against Federal Waste, Fraud, and Mismanagement Before the H. Comm. on Sci., Space, and Tech.*, 118th Cong. (2023) (statement of Allison C. Lerner, Inspector General, National Science Foundation), <https://oig.nsf.gov/sites/default/files/document/2023-04/Final%20HSST%20Testimony%20-%20Allison%20Lerner%2004-19-23.pdf>.

⁷ *Id.* (“Members of these plans are often required to enter into contractual relationships with a foreign government, which strongly favor the foreign government’s interests. The foreign government can also exert control over the researchers’ intellectual property, the types of research they conduct and, in some cases, where the research is conducted and who works in the lab.”).

⁸ *Id.*

⁹ *Balancing Open Science and Security in the U.S. Research Enterprise, before the Subcomms. on Investigations & Oversight and Research and Technology of the H. Comm. on Sci., Space, and Tech.* 117th Cong. (2021) (statement of Allison C. Lerner, Inspector General, National Science Foundation).

¹⁰ *Id.* at 9.

¹¹ *Id.*

¹² NATIONAL SCIENCE FOUNDATION, OFFICE OF INSPECTOR GENERAL, SEMIANNUAL REPORT TO CONGRESS OCTOBER 1, 2022 - MARCH 31, 2023, 8-9 (May 24, 2023), <https://oig.nsf.gov/sites/default/files/reports/2023-05/NSF%2520OIG%2520SAR%252068.pdf>.

¹³ *Id.*

¹⁴ *Id.*

Reports since 2018 single out instances of individuals involved with foreign government talent recruitment programs and making false statements about their affiliations.¹⁵ Some of these cases have led to prosecutions and convictions by DOJ.¹⁶ For instance, a professor was debarred from NSF in 2021 for maintaining dual employment with a foreign university.¹⁷ The DOJ prosecuted this individual because the professor received \$151,099 while concealing that he received funding from the Chinese government and a Chinese university.¹⁸ Similarly, in 2019, a professor receiving NSF funds was found to have made false statements about his employment by an overseas research university.¹⁹ DOJ also convicted that professor for concealing employment with a Chinese government-affiliated university.²⁰

An OIG 2019-2020 examination describes one individual, serving in the NSF's Intergovernmental Personnel Act program, who failed to disclose foreign affiliations and submitted multiple grant proposals to NSF.²¹ The individual made recommendations for awards and met with congressional officials as part of NSF's program. NSF followed up OIG's revelations by terminating the grant, but it is unclear if there were any further repercussions.

Scrutiny by GAO has revealed gaps in NSF's conflict of interest policies.²² GAO noted that NSF's conflicts of interest policies do not specifically mention foreign financial interests or define non-financial conflicts.²³ NSF recently took steps to address these issues and updated disclosure requirements²⁴ to comply with NSPM-33 Implementation Guidance²⁵ and disclosure requirements in 42 U.S.C. §6605. The challenges facing the U.S. from foreign adversaries are increasing in intensity and complexity, and it is important that the policies of federal agencies

¹⁵ NATIONAL SCIENCE FOUNDATION, OFFICE OF INSPECTOR GENERAL, NSF-SAR-61, SEMIANNUAL REPORT TO CONGRESS APRIL 1, 2019 - SEPTEMBER 30, 2019, 5-6 (Nov. 25, 2019), https://oig.nsf.gov/sites/default/files/reports/2022-01/NSF_OIG_SAR_61.pdf.

¹⁶ See NATIONAL SCIENCE FOUNDATION, OFFICE OF INSPECTOR GENERAL, NSF-OIG-67, SEMIANNUAL REPORT TO CONGRESS, APRIL 1, 2022 - SEPTEMBER 30, 2022, (Nov. 29, 2022), <https://oig.nsf.gov/sites/default/files/reports/2022-11/NSF%2520OIG%2520SAR%252067.pdf>.

¹⁷ *Supra*, note 5.

¹⁸ U.S. Dep't of Justice, *Mathematics Professor and University Researcher Indicted for Grant Fraud*, (Apr. 21, 2021), <https://www.justice.gov/opa/pr/mathematics-professor-and-university-researcher-indicted-grant-fraud>.

¹⁹ *Supra*, note 8.

²⁰ U.S. Dep't of Justice, *Jury Convicts University of Kansas Researcher for Hiding Ties to Chinese Government*, Department of Justice (Apr. 7, 2022), <https://www.justice.gov/opa/pr/jury-convicts-university-kansas-researcher-hiding-ties-chinese-government>.

²¹ See NATIONAL SCIENCE FOUNDATION, OFFICE OF INSPECTOR GENERAL, NSF-OIG-SAR-62, SEMIANNUAL REPORT TO CONGRESS, OCTOBER 1, 2019—MARCH 31, 2020, 7 (May 29, 2020), https://oig.nsf.gov/sites/default/files/reports/2022-01/NSF_OIG_SAR_62.pdf.

²² SEE U.S. GOVERNMENT ACCOUNTABILITY OFFICE, GAO-22-105434, FEDERAL RESEARCH: AGENCY ACTIONS NEEDED TO ADDRESS FOREIGN INFLUENCE (Oct. 1, 2021), <https://www.gao.gov/assets/gao-22-105434.pdf>.

²³ *Id.*

²⁴ See NATIONAL SCIENCE FOUNDATION, NSF 23-1, PROPOSAL AND AWARD POLICIES AND PROCEDURES GUIDE, (January 30, 2023), https://nsf-gov-resources.nsf.gov/2022-10/nsf23_1.pdf?VersionId=7yfheI.bNrekBK7F5cKu9riXFb1YjRX.

²⁵ See OFFICE OF SCIENCE AND TECHNOLOGY POLICY, NATIONAL SCIENCE AND TECHNOLOGY COUNCIL, SUBCOMMITTEE ON RESEARCH SECURITY, JOINT COMMITTEE ON THE RESEARCH ENVIRONMENT, GUIDANCE FOR IMPLEMENTING NATIONAL SECURITY PRESIDENTIAL MEMORANDUM 33 (NSPM-33) ON NATIONAL SECURITY STRATEGY FOR UNITED STATES GOVERNMENT-SUPPORTED RESEARCH AND DEVELOPMENT (January 2022), <https://www.whitehouse.gov/wp-content/uploads/2022/01/010422-NSPM-33-Implementation-Guidance.pdf>

adapt to novel threats. The cases mentioned above demonstrate a pattern and, given OIG's admission that the office lacks the ability to conduct sufficient oversight, the Committees have serious concerns as to just how widespread the problem of foreign influence is.

Congress provided \$8.8 billion to NSF for fiscal year 2022, which the agency used to fund 11,000 competitive awards.²⁶ The CHIPS and Science Act²⁷ also authorized \$81 billion over a span of five years to NSF, doubling the size of the agency. Given this increase, it is important that the agency ensures that American taxpayer-funded research is protected against theft and exploitation by foreign interests. That is why, over the past four years, Congress has worked to address many of the research security concerns and consistently strived to balance security risks and the importance of scientific openness and international collaboration. Many provisions included in the National Defense Authorization Act for fiscal years 2020²⁸ and 2021²⁹, as well as the 2022 CHIPS and Science Act³⁰, have addressed the need for coordination of research security policies across the Federal government. These include consistent disclosure requirements and conflicts of interest statements, prohibitions on participation in malign foreign talent recruitment programs and other foreign talent programs, and annual training for researchers and grantees.

Defending American research is essential to maintaining U.S. scientific competitiveness and safeguarding economic and national security. This will require proactive oversight and NSF should be an active participant with research institutions to protect American science. NSF provided an outline of planned activities for fiscal years 2023 and 2024 related to the agency's research and security strategy and policy, including the establishment of a Research Security and Integrity Information Sharing Analysis Organization, Research on Research Security funding program as recommended in the JASON study³¹, new analytic capabilities to proactively identify conflicts and risks, and awards to develop research security training modules for the research security.³² While NSF's recent actions are encouraging, it is imperative that NSF continues to take appropriate actions and establish protocols to ensure research integrity. For this reason, the Committees request you provide the following information no later than November 14, 2023:

1. Documents detailing NSF's policies for differentiating legitimate talent recruitment programs from foreign institutions with a conflict of interest. Additionally, and specifically:

²⁶ *Supra*, note 2.

²⁷ The CHIPS and Science Act, Pub. L. No.117-167 (Aug. 9, 2022).

²⁸ William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2020, Pub. L. No.116-92 (Dec. 20, 2019).

²⁹ William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No.116-283 (Jan. 1, 2021).

³⁰ The CHIPS and Science Act, Pub. L. No.117-167 (Aug. 9, 2022).

³¹ JASON, The MITRE Corporation, JSR-22-08, *Research Program on Research Security* (March 15, 2023).

³² NATIONAL SCIENCE FOUNDATION, FY 2024 BUDGET REQUEST TO CONGRESS (March 13, 2023), https://nsf.gov-resources.nsf.gov/2023-08/NSF%20FY24%20CJ_Entire%20Rollup_web_%28ERRATA%20v4%29.pdf?VersionId=O1Um6rPm6xnLj80uA05Dm7IwxHUqScDO.

- a. NSF's definition of a legitimate talent recruitment program and a definition of a malign foreign talent program/foreign conflict of interest;
2. A list of awardees from 2018-2022 that self-reported a foreign conflict of interest, along with the award amount, the goal of the award, and the foreign institution connected to the awardee;
3. A list of awardees from 2018-2022 that OIG recommended terminating, suspending, or other action due to disclosure violations related to a foreign conflict of interest, along with the award amount, the goal of the award, and the foreign institution connected to the awardee;
4. A list of awardees from 2018-2022 that NSF suspended, terminated, demanded repayment, temporarily barred, or permanently banned due to violations related to foreign conflicts of interest. Please provide breakdown by category and year;
5. As mentioned above, the OIG has testified that cases of foreign influence comprise most of the office's cases and that OIG does not have the resources to investigate all the allegations. What actions has NSF taken since 2021 to ensure that all allegations of foreign influence are investigated?
 - a. How does NSF help universities and researchers identify possible threats to research security?
6. Detail the type of data analytics system NSF uses (i.e., artificial intelligence technology or other data collection system) to identify scientists' affiliations.
7. Where is NSF in the process of establishing each of the recommended policies and procedures included in OSTP's January 2022 Implementation Guidance for full compliance with NSPM-33?
 - a. What barriers, if any, have you encountered to implementing each of the policies included in OSTP's guidance?
8. Based on your engagement with the research community, where is the research community in implementing OSTP's January 2022 Implementation Guidance?

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. The Committee on Science, Space, and Technology has jurisdiction over the National Science Foundation; science scholarships; Scientific research, development, and demonstration, and projects therefor; and is tasked with special oversight responsibility to "review and study on a continuing basis laws, programs, and Government activities relating to nonmilitary research and development" under House Rule X. Thank you in advance for your cooperation with this inquiry.

Mr. Sethuraman Panchanathan

October 31, 2023

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Sincerely,



James Comer

Chairman

Committee on Oversight and Accountability



Frank D. Lucas

Chairman

Committee on Science, Space, and
Technology

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Zoe Lofgren, Ranking Member
Committee on Science, Space, and Technology