

What is a Conflict of Interest? (COI)

A Conflict of Interest may arise when personal or imputed interests compromise or appear to compromise one's ability to impartially perform one's duties.

Public interest includes:

- official Government actions
- work on Government-supported activities.



WHO FILES COI DISCLOSURES?*

NSF Employees

- Program Officers
- Experts
- Consultants
- Advisory Committee Members
- Panel Reviewers
- National Science Board Members

*Filed with NSF

Note: NSF obtains financial disclosures from approximately 50% of its employees

Who Files COI Disclosures?*

(continued)

Research Community Members

- Principal Investigators
- Collaborators
- Students
- Others participating in a project

*Filed with institutions

Research institutions should obtain disclosures consistent with their COI policies

COI Requirements (Inside NSF)

Laws and Regulations applying to NSF Employees:

- **18 U.S.C. §208** "Acts Affecting a Personal Financial Interest"
- **5 C.F.R. 2640** "Exemptions and Waiver Guidance Concerning 18 U.S.C. 208"
- **5 C.F.R. 2635** "Standards of Ethical Conduct for Employees of the Executive Branch"
- **5 C.F.R. 2638** "Office of Government Ethics and Executive Agency Ethics Program Responsibilities"
- **5 C.F.R. 5301** "Supplemental Standards of Conduct for Employees of NSF"

(For Guidance see NSF Manual 15 "Conflicts of Interest and Standards of Ethical Conduct")

COI Requirements

(continued)

NSF's Requirements for an Institution's COI Policy*

- Establish and enforce a COI Policy
- Define commitments that must be disclosed
- Designate an individual to review financial disclosures and resolve conflicts
- Manage, reduce, or eliminate all identified conflicts prior to expenditure of NSF funds
- Inform NSF of all unresolved conflicts
- Certify on each NSF proposal that an Institutional COI policy is in place and all disclosures have been made

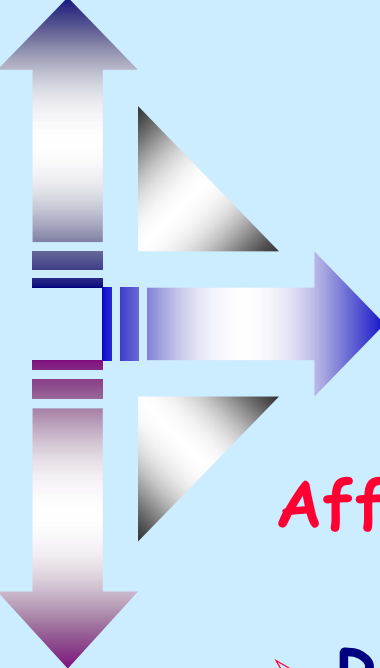
*National Science Foundation's Financial Disclosure Policy (61 Fed. Reg. 34839, July 3, 1996.)



Key COI Considerations

- **Financial** - Stock or other investments, ownership of companies, royalties
- **Commitment** - Board memberships, trusteeships, consulting or contracting arrangements, employment, professional associations
- **Relationships** - Family, friends, collaborators, advisors, mentors

Consequences of COI Issues



Affecting the Integrity of NSF Programs

- Reviewing or recommending a proposal or awarding a grant to a current collaborator, family member, or close personal friend
- Investing in a company and reviewing a proposal submitted by or in collaboration with that company, or that will financially benefit from the award (e.g. subcontractor)
- Participating in a site visit affecting your home institution



CASE STUDY #1

SUBJECT (NSF Program Officer):

- Participated in research and was listed as one of three co-authors on a research article.
- The two other co-authors were PIs on NSF awards.
- Each PI submitted a progress report that listed the research article as progress during the year.
- Program officer approved the continuing grant increment for each PI's award.



Case Study #1

(continued)

Applicable Criminal Statutes and NSF Regulations:

- 18 U.S.C. 208: An employee cannot participate in a decision on an application if (s)he has a financial interest in the matter .
- NSF's Supplemental COI Regulation: An employee cannot be involved in a matter regarding an individual with whom (s)he has collaborated on a project, book, article, report or paper within the last 48 months. 5 CFR 5301.102 a (3) (ii) (c)



Case Study #1

(continued)

OIG's Investigation Found:

- Employee was involved in preparation of paper while serving as a program officer.
- Employee did not seek advice or inform NSF Conflicts Officials of his activities.
- Employee did not gain financially from the activity, but stood to gain prestige.
- Employee was a visiting scientist whose appointment expired during investigation.
- Employee did not violate 18 U.S.C. § 208, but had violated NSF's regulations.



Case Study #1

(continued)

NSF and OIG Actions:

- OIG sent ex-employee letter admonishing him for his actions and warning him to observe COI rules.
- NSF's Designated Agency Ethics Official independently reviewed matter and concurred with resolution.
- If financial gain had been established, (s)he potentially faced criminal prosecution.
- If individual were still employed by NSF, (s)he potentially faced sanctions under NSF supplemental regulations.

CAUTION

You **CANNOT** determine for yourself whether your outside activities create a conflict of interest. Such assessment requires objective review and evaluation.

COI Remedies



- Require disclosure of related financial ties in presentations, publications, and consent forms
- Grant a waiver
 - Interest is not so substantial as to affect the integrity of decisions that must be made
 - Benefit of participation outweighs the potential for a conflict of interest

COI Remedies

(continued)

- Divestiture
- Modify or decline to fund proposal
- Disqualification
- Modification of research plan
- Provide independent oversight
- Require resignation or recusal



Failure to Safeguard System

- Instances where organizations have falsely certified that
 - They required and reviewed disclosures
 - They had COI policies
 - They managed COIs
- Consequences for those organizations:
 - Criminal Prosecution of individual involved in COI
 - Administrative Action by NSF (suspension or termination of awards)



Consequences COI Issues

Reporting Biased Research Results

Delaying Results Dissemination

- Owning significant amounts of stock in the company
- Serving as an investigator on a project evaluating a product produced by a firm in which the investigator is invested
- Accepting research support from an organization under conditions that will stifle sharing and publication of results

Consequences COI Issues

(continued)

Using NSF Grant Funds Improperly

- Consulting for a vendor of equipment purchased with NSF grant funds
- Forming a company to produce materials you purchase as part of your NSF-funded project
- Using NSF grant funds to subsidize your travel for a company engaged in work similar to that described in your grant



Case Study #2

Subject:

- PI sought to hire wife as a permanent part-time secretary for his NSF grants
- University denied request because it violated COI policies
- PI's wife and brother incorporated a company
- For 8 years the company submitted 119 invoices totaling \$80,237.50, charging \$61,186 to the PI's NSF grants



Case Study #2

(continued)

Applicable Regulations:

- University's COI policy
- OMB Circular A-110
- Grant Conditions (GC-1)

OIG's Investigation Found:

- Company submitted invoices based primarily on the secretarial work done by PI's wife
- PI's NSF grants did not allow for secretarial or administrative work



Case Study #2

(continued)

- PI charged his NSF grants for expenses that were not related to them
- PI did not accurately allocate charges to NSF grants
- I failed to disclose his financial interest in the company to the University, thus violating the University's COI policy
- PI circumvented University's personnel policy



Case Study #2

(continued)

➤ All payments to the company by NSF were inappropriate under OMB regulations and university policy.

University's response to OIG's recommendations:

- University repaid \$61,186 to NSF
- For five years from date of final report, PI to have no authority to sign charges over \$100
- University implemented safeguards



How are Disclosures Made?

- **Federal Employees:** Complete disclosure forms that are reviewed by designated officials
- **Research Community:** Follow your institution's policy and NSF policy about reviewer and collaborator disclosures



Tools for Managing COI Issues

- Distribute and implement official policy
- Provide responsibility warning
- Ensure financial disclosures are filed as required
- Brief and train employees at mandatory annual training
- Provide accessible legal advice from ethics officials
- Require filer to sign and date disclosures
- Cross-check general disclosures against proposal-specific disclosures
- Review disclosures and track compliance



AOR Certification on NSF Proposal

The authorized official signs and submits a proposal. If the institution employs more than 50 people, the AOR certifies that:

- The institution enforces a COI policy consistent with the provisions of Grant Policy Manual Section 510;
- All financial disclosures required the COI policy have been made;
- All identified COI will have been satisfactorily managed, reduced or eliminated prior to the institution's expenditure of any funds under the award, in accordance with the institution's COI; and
- COI's not satisfactorily managed, reduced or eliminated are disclosed to NSF

Knowingly providing false information is a criminal offense (18 U.S.C. §1001).



Structure of Proposal Routing Form

- What information do AORs require on the form to assure themselves that the appropriate warnings and disclosures have been made?
- Which of the Forms below would work best?

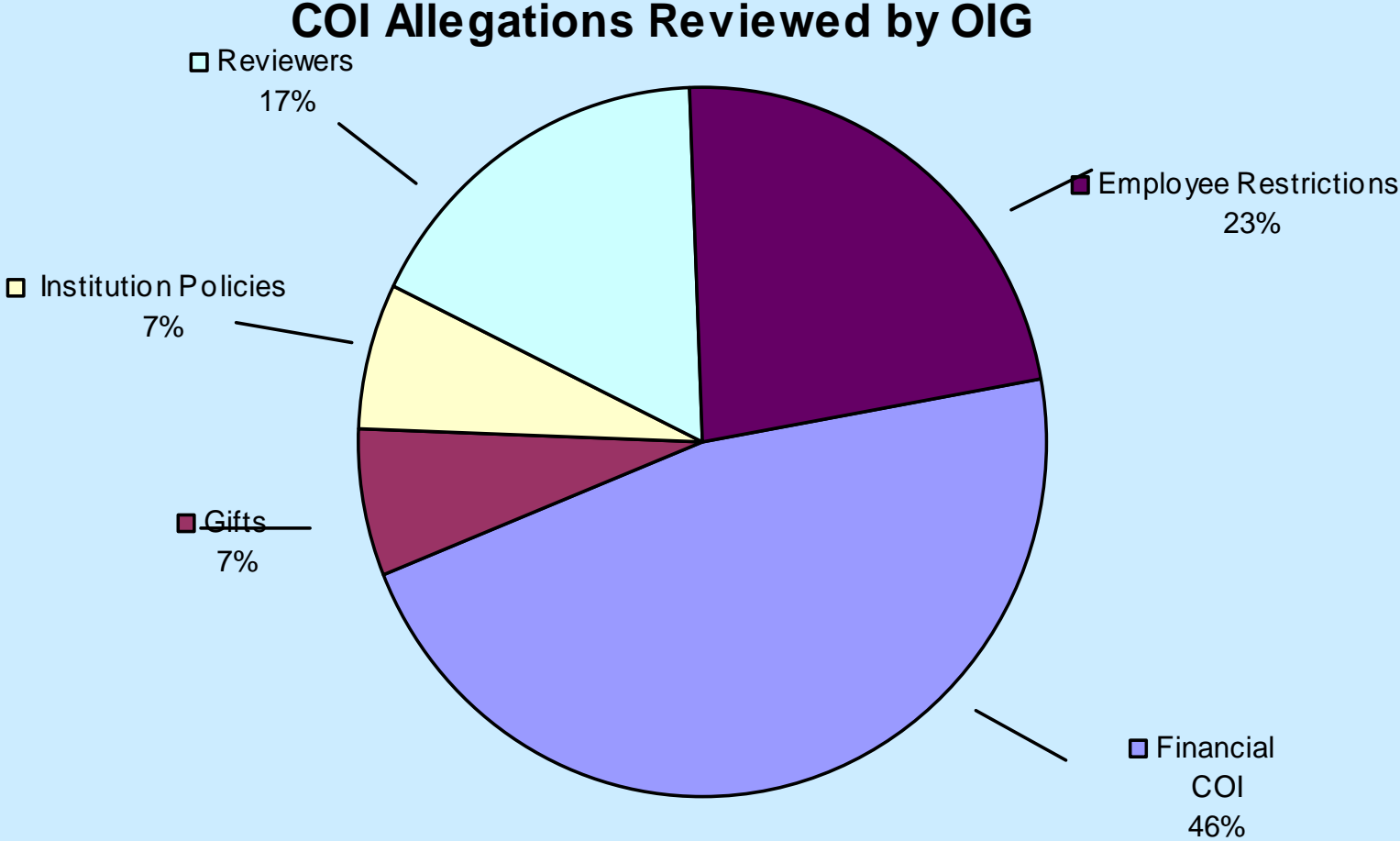
<http://www.nsf.gov/oig/form/form.doc>



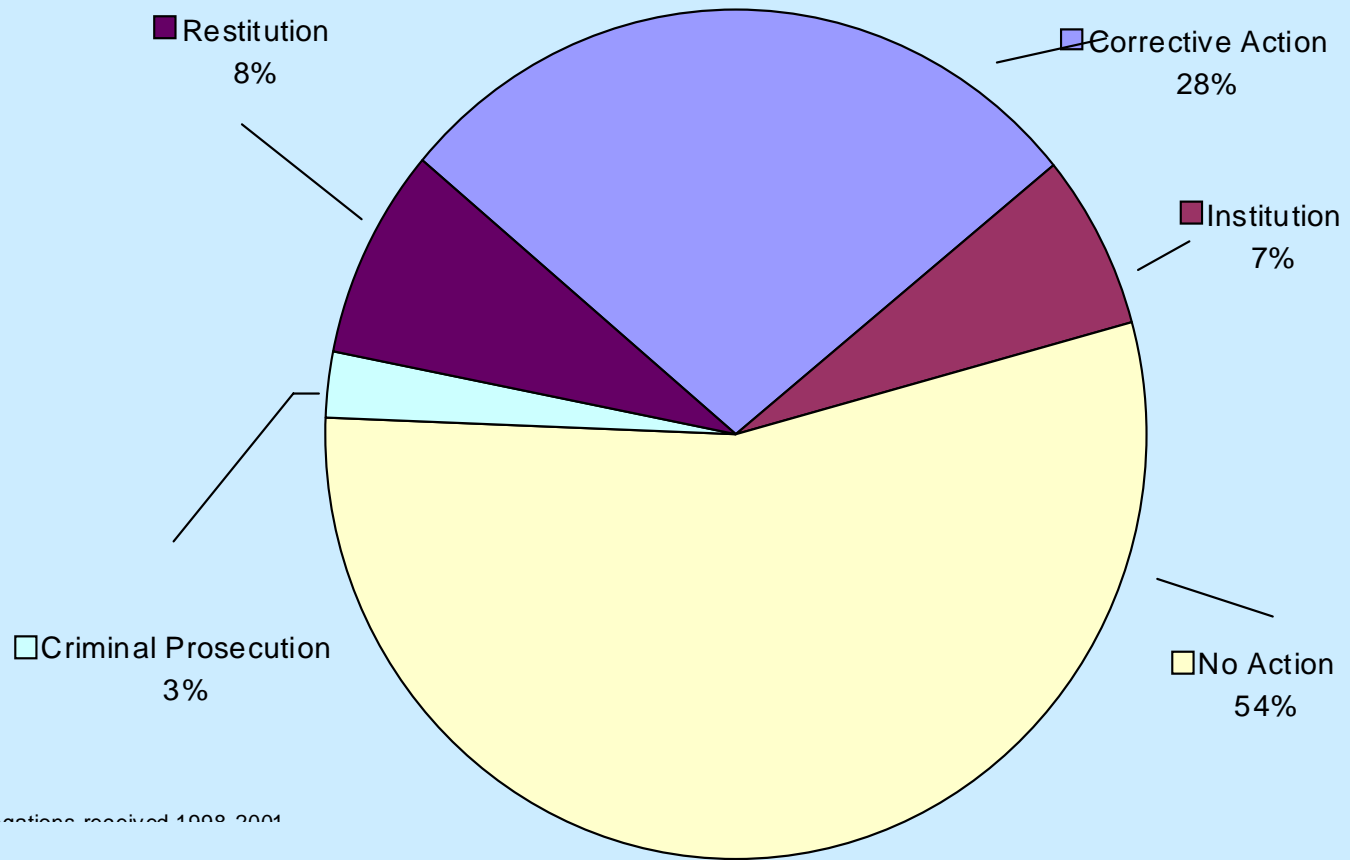
How are COI issues handled at NSF?

- Agency ethics officials available to provide advice
- OIG receives and evaluates all COI allegations
- OIG collects and reviews information to determine if there is substance to the allegation
- OIG investigates substantive allegations
- As required, OIG informs NSF, Department of Justice (and Office of Government Ethics), or home institution
- OIG works with NSF, DOJ or institution to develop adequate resolution

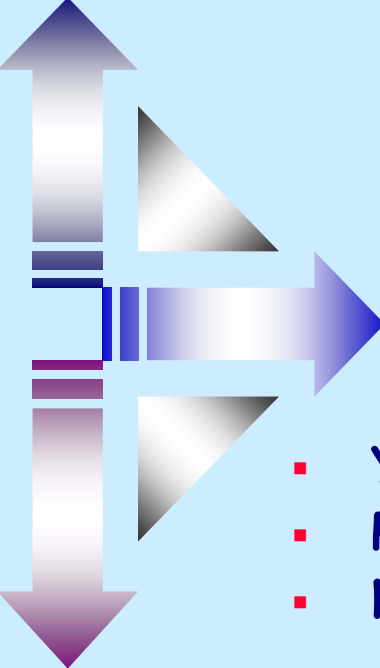
All COI allegations received 1989-2001



Outcome of COI Allegations Reviewed by OIG



All COI allegations received 100% 2004



Where can you get additional Information?

- YOUR HOME INSTITUTION
- PROFESSIONAL SOCIETIES
- NSF'S OFFICE OF GENERAL COUNSEL
TELEPHONE 703-292-8060
- NSF'S OFFICE OF INSPECTOR GENERAL
INTERNET: <http://www.oig.nsf.gov>
E-MAIL: [oig @ nsf.gov](mailto:oig@nsf.gov)
TOLL FREE HOTLINE: 1-800-428-2189
TELEPHONE: 703-292-7100

CALL FOR INFORMATION, TO CLARIFY ISSUES, TO REPORT ALLEGATIONS