

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY**

HEARING CHARTER

*NEON Warning Signs: Examining the Management of the
National Ecological Observatory Network.*

Friday, September 18, 2015
9:00 a.m. –11:00 a.m.
2318 Rayburn House Office Building

Purpose

On Friday, September 18, 2015, the Research & Technology and Oversight Subcommittees will hold a joint hearing on the National Science Foundation’s (NSF) recent report that the National Ecological Observatory Network (NEON) project would be \$80 million over budget and 18 months behind its construction schedule.¹ The hearing will review NSF’s proposed plans for de-scoping the project and other corrective actions to keep it on budget, examine NSF’s oversight and internal project management controls, and look at the capability of NEON Inc.’s leadership to continue managing the project.

Witnesses

- **Dr. James L. Olds**, Assistant Director, Directorate for Biological Sciences, National Science Foundation
- **Dr. James P. Collins**, Chairman of the Board, National Ecological Observatory Network, Inc.

Background

Funded by the NSF, NEON is a continental-scale ecological observation facility with 62 planned sites across the United States to gather and synthesize data on the impacts of climate change, land use change and invasive species on natural resources and biodiversity over 30 years.² NEON is the largest NSF Major Research Equipment and Facilities Construction (MREFC) project in its FY2016 budget request of \$80.64 million, the last year of funding in the six-year construction schedule that totals an estimated \$433.72 million.³

¹ <http://news.sciencemag.org/environment/2015/08/nsf-shrinks-neon-major-blow-high-profile-u-s-ecological-science-project>

² <http://www.neoninc.org/about>

³ http://www.nsf.gov/about/budget/fy2016/pdf/01_fy2016.pdf

On July 30, 2015, NSF notified the Committee that the Foundation had received a June 2015 update from NEON Inc. of costs expended to date and the remaining costs needed to complete the project as originally designed. The report revealed the project would be approximately \$80 million over the \$433.72 million budget and 18 months behind schedule on its current trajectory. The original project budget had already included over \$60 million for contingency costs.

National Ecological Observatory Network Inc. (NEON) is the independent 501(c) (3) corporation created to build, operate, and manage the network. On August 2, 2015, NEON Inc. announced that NSF had convened a panel of experts that included the NSF, NEON Inc. staff, members of the NEON Inc. Board of Directors, and science community experts involved in the original NEON design to determine the best way to move forward with the project within the existing budget.⁴ The panel came up with a plan to reduce corporate and project management costs for NEON Inc., and reduce the scope of the project by eliminating several elements, including some urban sites and the Stream Ecology Observatory Network (STREON) portion of the project.⁵

On September 8, 2015, NEON Inc. announced that the Board would initiate a search for a new CEO and named an interim CEO. Dr. Russ Lea, had led NEON Inc. since early 2012.⁶

NEON Audits

On December 3, 2014, the Committee held a hearing on the findings of two financial audits of the NEON project conducted by the NSF Office of Inspector General (OIG) and the Defense Contract Audit Agency (DCAA).⁷ Two audits have been completed on the NEON project. The NSF OIG initiated these audits due to concerns identified with NSF's lack of monitoring of several high-risk projects prior to entering into cooperative agreements and its failure to review the awardee's costs submitted on a regular basis.

In June 2011, the OIG contracted with DCAA to audit NEON Inc.'s construction cost proposal. After several weeks of work, DCAA advised the OIG that it was cancelling the audit because information supplied by NEON Inc. was inadequate to complete the necessary financial analyses. NSF and the OIG then intervened, enabling DCAA to complete its audit. However, before the audit was completed, NSF accepted NEON Inc.'s cost proposal and authorized the award of \$433.72 million. In September 2012, the audit was finalized. DCAA concluded that NEON Inc.'s proposal was not acceptable as a basis for negotiation of a fair and reasonable cooperative agreement price. Of the proposed \$433.72 million project cost, DCAA described

⁴ <http://www.neoninc.org/updates-events/update/neon-adjust-scope-construction-project>

⁵ <http://www.neoninc.org/updates-events/update/special-report-recommendations-response-nsf-scope-management-directives>

⁶ <http://www.neoninc.org/updates-events/update/leadership-transition-announced-neon-inc>

⁷ <https://science.house.gov/legislation/hearings/full-committee-hearing-review-results-two-audits-national-ecological>

approximately \$102 million as “questionable” and described an additional \$52 million of proposed costs as “unsupportable.” This audit was transmitted to NSF, accompanied by an OIG written alert about excessive costs and accounting deficiencies for major research facilities. This alert included a series of recommendations to NSF. The OIG subsequently commissioned a second DCAA audit of NEON Inc.’s accounting systems. DCAA completed a draft of this audit in May 2013, but it was not forwarded to the OIG for review until October 2014, due to internal disagreements within DCAA about the scope of the audit.⁸

A second audit of NEON Inc.’s accounting system was then conducted by the NSF OIG and DCAA. This audit included NSF’s approval of management fees for non-profit corporations like NEON Inc. DCAA auditors found that NEON Inc. used the management fee to pay for such items as \$112,000 lobbying contracts, \$25,000 for a holiday party, and \$11,000 per year for coffee services.⁹

Cooperative Agreements

On February 3, 2015, the Committee held a hearing on NSF’s oversight of the NEON project and other Major Research Facilities developed under cooperative agreements.¹⁰ Under a cooperative agreement, NEON Inc. is responsible for managing the construction of the NEON observatory and its transition to operations, including the hiring of management and staff, procurements, contracts, permitting of sites, financial reporting, requesting and receiving approvals from NSF for actions, education and outreach, and communications with the community. NSF, as the sole funding agency, is responsible for award oversight, including monitoring of progress towards the goals of the cooperative agreement, provision of periodic reports, financial oversight and managerial oversight.¹¹

No-Cost Overrun Policy

In order to keep MREFC project costs from escalating during construction, NSF instituted a no-cost overrun policy for MREFC-funded projects. “This policy requires that the total project cost estimate developed at the Preliminary Design stage have adequate contingency to cover all foreseeable risks, and that any cost increases not covered by contingency be accommodated by reductions in scope.”¹² Program managers are required to maintain a contingency control log in order to notify NSF of all proposed uses of contingency funds.

⁸ <http://www.nsf.gov/oig/pdf/12-1-008-neon.pdf>

⁹ <http://www.nsf.gov/oig/pdf/15-6-001-neon.pdf>

¹⁰ <https://science.house.gov/sites/repUBLICans.science.house.gov/files/documents/HHRG-114-SY21-20150203-SD001.pdf>

¹¹ <https://science.house.gov/legislation/hearings/subcommittee-oversight-and-subcommittee-research-and-technology-joint-hearing>

¹² National Science Foundation Large Facilities Manual, March 31, 2011, p. 18. Available at: http://www.nsf.gov/bfa/lfo/lfo_documents.jsp

According to a NSF OIG and DCAA audit, NEON Inc. included over \$150 million of questionable or unsupported contingency costs in their proposal.