

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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Dr. Panchanathan:

Since 2017, the House Committee on Science, Space, and Technology (Committee) has investigated sexual assault, sexual harassment, blacklisting, and retaliation across the scientific research enterprise.¹ Following the release of the Sexual Assault/Harassment Prevention Response (SAHPR) Report in 2022,² the Committee focused its investigative efforts on the United States Antarctic Program (USAP).³ The Committee's investigation concentrated on the reporting structure and investigatory procedures related to sexual assault, sexual harassment, and retaliation within the USAP. Throughout our investigation, the Committee found serious deficiencies in the National Science Foundation's (NSF) management of the USAP program, and these deficiencies reverberated across all levels of the USAP. Over the course of our investigation, NSF did make changes and took concrete steps to improve the culture in the USAP as well as the reporting and support structures for victims of harassment and assault. However, more must be done. We believe the existing draft solicitation released in July 2024 should go further to harmonize sexual harassment and assault reporting structures and protect victims from retaliation.⁴ We strongly recommend several changes to the solicitation based on the Committee's investigative findings.

¹ "SST Committee Opens Bipartisan Investigation into Alleged Sexual Harassment by Boston University Professor," Committee on Science, Space, and Technology, October 26, 2017, accessed here: <https://republicans-science.house.gov/2017/10/sst-committee-opens-bipartisan-investigation-alleged-sexual-harassment-boston>.

² Nat'l Science Found., Off. of Polar Programs, and U.S. Antarctic Program, Sexual Assault/Harassment Prevention and Response (SAHPR), Final Report, (2022), accessed here: <https://www.nsf.gov/geo/opp/documents/USAP%20SAHPR%20Report.pdf>.

³ Letter from Chairman Lucas and Ranking Member Lofgren to Leidos CEO Roger Krone, May 1, 2023, accessed here: <https://republicans-science.house.gov/cache/files/c/b/cbeddfbf-4f53-48b8-ab3b-132cdbec7c0b/86510EF48C4E6F191361495CF4F38071.2023-05-01-house-science-committee-letter-to-leidos.pdf>.

⁴ National Science Foundation, Draft Request for Proposals: Antarctic Science and Engineering Support Contract, Press release, July 26, 2024, https://www.nsf.gov/news/news_summ.jsp?cntn_id=310035&org=OPP

From the first public steps of the Committee’s investigation, it was clear that SAHPR-related situational awareness and information sharing among stakeholders were severely deficient. On December 6, 2022, the Committee held a hearing titled “Building a Safer Antarctic Research Environment.”⁵ During this hearing, the witness representing Leidos, the prime contractor of the USAP, provided inaccurate testimony regarding the number of reported incidents of sexual assault and harassment.⁶ Therefore, on May 1, 2023, the Committee sent a letter to Leidos requesting it formally correct the record for the hearing.⁷ Leidos responded to the Committee on May 12, 2023, and this response raised additional questions and concerns about how different stakeholders within the USAP intake, investigate, and report instances of harassment and assault.⁸ This was the first, but certainly not the last, example of discrepancies among stakeholders when it came to the handling of reports of SAHPR-related issues.

On November 16, 2023, the Committee sent letters to Leidos and NSF, which contained extensive questions and requests for documents. The Committee worked with NSF and Leidos to create production schedules for documents. The Committee considers both entities to have been fully responsive. Since the outset of this investigation, the Committee has reviewed thousands of pages of documents from Leidos and from NSF; staff has had dozens of conversations with victims and witnesses of harassment, assault, and retaliation within the USAP; staff has had frequent conversations with NSF, the Office of Inspector General, Leidos, and all the subcontractors responsible for on-the-ground operations and staffing. These investigative efforts have led us to the conclusion that sexual harassment, assault, and retaliation will not be properly addressed without additional policy changes that are tailored to the unique needs of the USAP.

Our investigation produced the following general findings:

- NSF WAS ABSENT AND UNENGAGED, FAILING TO APPROPRIATELY MANAGE THE USAP CONTRACT.
Throughout our investigation the Committee found that NSF was severely inadequate in its engagement within the USAP. As the sole agency responsible for overseeing the USAP, NSF is responsible for ensuring that its facilities and property are being adequately managed and that the agency’s interests are being met by the various government contractors hired to

⁵ *Building a Safer Antarctic Research Environment Full Comm. Hearing Before the H. Comm. on Science, Space, and Tech.*, 117th Cong. (2022), <https://republicans-science.house.gov/2022/12/full-committee-hearing-building-a-safer-antarctic-research-environment>.

⁶ *Building a Safer Antarctic Research Environment Full Comm. Hearing Before the H. Comm. on Science, Space, and Tech.*, 117th Cong. 2 (2022) (Leidos Response to Questions for the Record). <https://science.house.gov/cache/files/8/a/8ad9885a-81b1-4c6f-a3db-6f7315efb360/6AD721B361FF743DA0641D3AAEC31F93.qfr-responses---leidos.pdf>

⁷ U.S. House Science, Space, and Technology Committee, Letter from Chairman Lucas and Ranking Member Lofgren to Roger Krone, May 1, 2023, https://democrats-science.house.gov/imo/media/doc/lofgren_lucas_letter_to_leidos.pdf

⁸ See Leidos Response to U.S. House Science, Space, and Technology Committee letter from Chairman Lucas and Ranking Member Lofgren, May 12, 2023; compared to *Building a Safer Antarctic Research Environment Full Comm. Hearing Before the H. Comm. on Science, Space, and Tech.*, 117th Cong. 2 (2022) (Leidos Response to Questions for the Record). <https://republicans-science.house.gov/cache/files/8/a/8ad9885a-81b1-4c6f-a3db-6f7315efb360/6AD721B361FF743DA0641D3AAEC31F93.qfr-responses---leidos.pdf> ; compared to *Building a Safer Antarctic Research Environment Full Comm. Hearing Before the H. Comm. on Science, Space, and Tech.*, 117th Cong. 2 (2022) (NSF Response to Questions for the Record), [EFF289FEFB1FA103F531C5F145906171.qfr-responses---marrongelle.pdf \(house.gov\)](https://democrats-science.house.gov/imo/media/doc/lofgren_lucas_letter_to_leidos.pdf) .

manage day-to-day operations. The safety and security of the men and women who work in this program depend on NSF maintaining the promises of the mission described in the contract. Unfortunately, NSF consistently failed to maintain an adequate level of situational awareness and deferred far too much of its responsibility to Leidos and its subcontractors.

In managing the nearly 3,000 individuals that deploy to Antarctica each year, it is NSF's responsibility to provide adequate staffing to ensure the safety of these individuals.⁹ Our investigation found that NSF maintains only two employees on a rotating basis each season. Out of the two employees, there is only one administrative staff member, the NSF Station Manager, who is responsible for overseeing the entire program. Additionally, the Station Manager is tasked as the sole law enforcement authority. Through an arrangement with the U.S. Marshals Service, the Station Manager is deputized as a Special Deputy U.S. Marshal.¹⁰ The lack of NSF staff on the ground, especially administrative staff, meant that Leidos and other subcontractors went virtually unsupervised. The Committee is aware that NSF intends to address this issue in the coming season. We expect to see continued attention to this issue, as the Committee does not believe that NSF has maintained a large enough presence on the ground in Antarctica to effectively manage the contract as the parent agency.

NSF, as the agency in charge, is responsible for communicating priorities and expectations to the contractor for successful performance of the contract. Additionally, NSF maintains the responsibility of implementing sexual assault and harassment policies and protocols in order to ensure all USAP participants are equally protected, regardless of their direct employer. Ultimately, NSF failed in this capacity. While NSF had policies in place pertaining to its staff members, it did not have a clear reporting structure in place for the contract employees living and working in the USAP,¹¹ and did not issue minimum standards for Leidos or its subcontractors.¹² NSF, Leidos, and subcontractors each had their own reporting policies, leaving individuals in the USAP confused and overwhelmed by inconsistent policies and insufficient informational resources.¹³ Once reports were made, investigatory processes varied wildly depending on the subcontractor and the circumstance, and many victims never received a closeout report informing them of a final determination. Furthermore, NSF had no required trainings for SAHPR prior to the release of the SAHPR report. As the agency in charge of the contract, it is NSF's responsibility to set the tone for management and to provide the guidance needed for the contract to be successful.

⁹ United States Antarctic Program, Overview, Jobs and Opportunities, (last viewed 10/10/2024),

<https://www.usap.gov/jobsandopportunities/#:~:text=Overview.summer%20from%20October%20through%20February>.

¹⁰ US Marshals Service, US Marshals Make Legal Presence in Antarctica, (last viewed 10/1/2024). <https://www.usmarshals.gov/who-we-are/history/historical-reading-room/us-marshals-make-legal-presence-antarctica>

¹¹ Emails and documents on file with Committee.

¹² National Science Foundation Office of Inspector General, "Review of NSF's U.S. Antarctic Program Sexual Harassment Prevention and Response," September 24, 2024, accessed here: <https://oig.nsf.gov/sites/default/files/reports/2024-09/24-3-002-Review-NSFs-US-Antarctic-Program-Sexual-Harassment-Prevention-and-Response-Public-redacted.pdf>.

¹³ Emails on file with Committee, and Nat'l Science Found., Off. of Polar Programs, and U.S. Antarctic Program, Sexual Assault/Harassment Prevention and Response (SAHPR), Final Report, (2022), accessed here: <https://www.nsf.gov/geo/opp/documents/USAP%20SAHPR%20Report.pdf>.

A consequence of NSF's deficient level of engagement is that the agency was often the last to know of reported incidents.¹⁴ When claims were substantiated and final employment decisions made, NSF failed to maintain adequate records to ensure contract violators were not allowed to return to NSF facilities for the designated timeframe.¹⁵ Our investigation found that while NSF has a policy banning contract and Polar Code of Conduct violators from its bases,¹⁶ NSF does not keep track of or actively enforce these policies.¹⁷ Therefore, NSF functionally made Leidos and the subcontracting companies the judges, juries, and enforcers of all contract policies in Antarctica under the USAP. NSF's insufficient engagement with the day-to-day operations of the USAP directly contributed to the mismanagement committed by Leidos and the mishandling of sexual assault and harassment reports received by subcontractors.

The Committee spoke with individuals who have worked under the two previous prime contractors as well as the current contractor, Leidos. From these conversations we found the issues surrounding reporting and investigations, as well as the attitude toward those who report, have been a part of the USAP culture under at least the past three prime contractors.¹⁸ This further indicates the problems stem from the common denominator – the agency in charge of the program. NSF therefore is ultimately to blame for the confusion, inconsistency, and mistreatment experienced by USAP participants who reported harassment, assault, and retaliation.

Following the release of the SAHPR report, NSF did issue a contract modification. Leidos flowed down this modification to its subcontractors.¹⁹ This agreement harmonized the definitions of sexual harassment and assault across the USAP and mandated that Leidos – and by extension, subcontractors – routinely inform NSF of reports of harassment and assault. NSF also established the SAHPR hotline and placed a SAHPR Advocate on the ground in Antarctica.²⁰ The Committee supports these changes and as detailed later in this letter strongly urges NSF to go further in harmonizing policies.

- LEIDOS MISMANAGED THE USAP IN ITS ROLE AS PRIME CONTRACTOR.

As the prime contractor, Leidos has a duty to ensure the USAP operates efficiently and safely. Instead, the Committee found that under Leidos's leadership, there was a confusing reporting structure, virtually no oversight of investigations, and a culture of fear of retaliation.

An aspect of providing a safe and respectful working environment is ensuring that individuals are effectively trained in the expectations of their employment. During our investigation, the Committee learned there were no trainings on bystander procedures required by Leidos for

¹⁴ Emails and documents on file with Committee.

¹⁵ Conversations with NSF and Leidos.

¹⁶ NSF policy within previous contract.

¹⁷ Conversations with NSF.

¹⁸ Conversation notes on file with Committee.

¹⁹ Modification of Contract, National Science Foundation, September 22, 2022, on file with the Committee.

²⁰ "Opportunities to Engage with NSF's SAHPR Office During the 2023 – 2024 Antarctic Summer Season," National Science Foundation, October 17, 2023, accessed here: https://www.nsf.gov/news/news_summ.jsp?cntn_id=308402&org=OPP.

employees in the USAP. The individuals who received reports were also often not properly trained on the correct process of handling sensitive issues like sexual assault and harassment. While Leidos repeatedly told the Committee of its numerous corporate awards,²¹ we found that it failed to hold itself or its subcontractors to an adequate standard. As the prime contractor, it is Leidos's duty to provide clear expectations for employees working in the program. With no specified training requirements, contractors cannot be held to unified standards.

Furthermore, Leidos provided no clear or consistent reporting structure or guidance for investigative procedures to its employees, nor were such procedures required of its subcontractors. In most cases, subcontractors conducted their own investigations into SAHPR-related reports, and Leidos exercised no authority to ensure the subcontractors followed their own policies. This caused inconsistency in the standards of case management, and reports and findings often were not communicated up the chain. The Committee found that the communication among NSF, Leidos, and the subcontractors was broken and disjointed creating this unclear reporting and investigation structure.²² As the prime contractor, Leidos should have standardized communication and taken responsibility to maintain awareness of the situation in the program. Failing to hold subcontractors accountable for effective communication is ultimately a failure to ensure employees are protected from harassment, assault, and retaliation.

Leidos did flow down the contract modifications issued by NSF in September 2022. Despite these changes, the issues surrounding how reports were handled, the lack of training provided to contract employees in the program, and the inconsistency in methodologies of process and record keeping remain in need of improvement. As an experienced government contractor, there is no justification for Leidos's abject failure to hold its subcontractors to adequate standards befitting such an important contract. For these reasons, the Committee finds that Leidos mismanaged the program as prime contractor.

▪ SUBCONTRACTORS IMPLEMENTED VASTLY DIFFERENT POLICIES AND PROCEDURES, LEADING TO DISPARATE OUTCOMES FOR VICTIMS.

As the prime contractor, Leidos has a duty to communicate expectations to its subcontractors. Because Leidos failed in providing these standards, each subcontractor maintained different processes and protocols for handling sexual assault and harassment reports. This ultimately creates an unsafe environment and leaves room for discrepancies in findings at the conclusion of investigations. The Committee contacted every subcontractor currently operating with Leidos in Antarctica for the USAP.²³ During those conversations, the Committee found that

²¹ Letter from Leidos to Chairman Frank Lucas and Representative Zoe Lofgren, May 12, 2023, accessed here: https://republicans-science.house.gov/_cache/files/9/8/98be50e4-386a-4bfc-b8c4-ed9bffbaf86f/F55169C206211288C386C63C7DC0430B.12-may-2023-leidos-response-redacted.pdf

²² Conversation notes and documents on file with the Committee.

²³ Email records and notes on file with Committee.

each company had its own policies on sexual assault and harassment and retaliation.²⁴ Some of the companies had developed detailed structures and training for how to handle these reports, who was to be notified, how to conduct investigations, and what would happen based on the determination. These companies were operating at these standards of their own accord – not as a contract requirement.

Other companies, however, were not as articulate and detailed. We spoke with several companies that failed to have clear definitions and procedures, a clear reporting process, clear guidance, or trained personnel. Several subcontractors did not require those conducting the investigations to have had prior knowledge or experience in investigative work. These failures resulted in determinations and employment reprimands that were not only inconsistent, but they were also often issued by the same staffer who received the report and investigated the claim.²⁵ This led to biased and inconsistent outcomes.

The ad hoc nature of how subcontractors handled reports and conducted investigations led to the creation of what became known as a “whisper-culture.” Throughout our conversations the Committee heard many reports of contract employees enduring reputational harm due to either reporting incidents or being involved in them as the alleged aggressor, victim, or witness.²⁶ An informal, seasonal, whisper-network-based hiring culture allowed a fear of retaliation to flourish under the radar. Investigating and adjudicating reports of harassment and assault became an exercise in passing the buck, and subcontractors – whom the Committee often found to be untrained and unprofessional²⁷ – were able to make final decisions with absolutely no oversight or consistency. In conclusion, the inconsistency in company policies, the lack of oversight by Leidos and NSF, and poor communication among all entities operating in the USAP created an unsafe environment and led to vast discrepancies in the outcomes of sexual assault and harassment investigations.

In July of this year, NSF released the draft solicitation language for the new contract for the USAP. The draft solicitation includes many positive changes that reflect the improvements made within the USAP since the publication of the SAHPR report and the start of the Committee’s investigation. The Committee expects these efforts to remain in the final draft of the solicitation, including:

- The establishment and maintenance of the NSF Antarctic 24/7 helpline;
- Establishing and maintaining the SaferScience@nsf.gov resource;
- Ensuring broad dissemination of SAHPR resources and bystander intervention training for all participants;
- Developing centralized definitions of sexual harassment and sexual assault and flowing down to all contracted and subcontracted entities within the USAP;
- Holding biweekly meetings between the prime contractor and the NSF SAHPR Office;

²⁴ Documents on file with Committee.

²⁵ Documents on file with Committee.

²⁶ Emails on file with Committee.

²⁷ Conversations on file with Committee. An example of such behavior is shown in Exhibit 1 in the Appendix.

- Collaborating with OIG on law enforcement response; and
- Coordinating agency response to address safety concerns and victim needs.

Additional programmatic changes have been made outside the draft solicitation, which we also expect to continue, including:

- Providing a confidential victim advocate on the ground for summer seasons and remote for winter seasons;
- Conducting the first USAP sexual assault/sexual harassment climate survey launched in May – July 2024; and
- Establishing the SAHPR program office within the office of the director.

The Committee supports NSF's commitment to these changes and continued efforts to stand up resources for victims improving the program environment. However, the Committee believes these steps do not go far enough to ensure the safety and security of individuals in Antarctica within the USAP. On Wednesday, September 3, 2024, Committee staff met with NSF on a bipartisan basis to discuss the details of the draft solicitation language for the USAP contract.²⁸ While the Committee recognizes the numerous improvements made to the language, there are several areas that require additional changes in order to properly address the issues identified in the Committee's investigation. The Committee is not convinced that the changes to the contract language go far enough to establish sexual assault and harassment prevention as a priority of NSF. Nor does the Committee believe the contract language effectively communicates these priorities to prospective applicants.

Therefore, the Committee strongly recommends that as NSF moves towards the release of the final solicitation, the agency incorporate the following recommendations:

NSF should ensure that investigators are properly trained and consider coordinating with an independent investigation entity. To ensure the maximum level of independence, NSF should consider requiring all contracting companies to contract with a third-party investigative agent. This third-party would be responsible for conducting all investigations of sexual assault, harassment, and retaliation for all companies in the USAP. Of course, the OIG must maintain the ability to take the lead and exclude other investigatory bodies in order to maintain the integrity of the investigation. All reports of incidents made to the OIG, pursuant to its role in investigating criminal matters, would also be provided to this third party so each respective body can determine whether the matter falls within its purview. The investigative agency would be required to report the findings of its investigations to the employing company of individuals implicated and involved as well as to NSF and the NSF OIG. Alternatively, and at a minimum, all contract employees responsible for conducting investigations into reports of sexual harassment, sexual assault, and retaliation should be required to take an investigative training course. This requirement should be explicit in the solicitation. The course should include basic requirements and procedures for all investigations to be conducted in the USAP. This training can be provided by the NSF OIG or some other third-party entity to ensure that contract

²⁸ Antarctic Science and Engineering Support Contract, Draft Solicitation Release, July 26, 2024, accessed here: <https://sam.gov/opp/ab07c30a368f464e980c97accb9489b2/view>

staff are properly educated on general principles and guidelines for conducting an investigation. The training should apply to supervisors and managers as well as the employees conducting the investigations.

NSF should provide a concrete oversight mechanism of the subcontractors' SAHPR policies and investigatory procedures. The Statement of Work states that “The Contractor must develop and maintain a robust sexual harassment prevention program that includes independent and demonstrable oversight of each of its members.”²⁹ However, no clear mechanism is detailed to ensure that NSF or the prime contractor has the authority to conduct a proper audit of subcontractors' SAHPR policies. All USAP participants, regardless of their direct employer, are entitled to the same level of safety and protection from harassment, assault, and retaliation. This necessitates empowering NSF and/or the prime contractor to review all SAHPR-related policies and issue recommendations for improvement. Such an assessment should occur at the outset of any contractual relationship between the prime contractor and the subcontractor. The draft solicitation establishes a procedural assessment protocol for the prime contractor's training outline, and the final solicitation should do the same for investigatory policies and procedures.³⁰

NSF should provide a concrete oversight mechanism for the agency to audit any investigation. NSF and/or the prime contractor should have the explicit authority to conduct audits of a subcontractor's handling of any particular report of sexual harassment, assault, or retaliation. In documents reviewed by the Committee, both Leidos and NSF express frustration about the lack of concrete oversight procedures. In Exhibit 2, NSF rightfully holds Leidos responsible for its apparent failure to ensure a subcontractor conducted a full investigation.³¹ On the other hand, Leidos was also right to complain that there were insufficient reporting channels to ensure all subcontractors have enough information to evaluate the performance of those conducting the investigations. There is no language in the draft solicitation that grants explicit oversight authority to NSF or the prime contractor. The Committee recommends adding a functional audit authority for NSF to ensure all subcontracted entities conducting investigations are adhering to proper procedures.

NSF should maintain the list of contractor employees banned from working in the USAP. The Committee has been informed by NSF that it cannot maintain a list of contractor employees that have, per the draft solicitation language, been “prohibited from deployment to Antarctica for a period of three (3) years” as a consequence of violating the terms of the contract.³² The Committee disagrees and holds the position that NSF has the authority to establish a policy that terminates property access rights from contract employees that breach the terms of the contract, maintain a list of those employees who are currently without access to NSF property, and enforce said prohibition for the appropriate term and at all facilities operated by NSF. Removing an employee from USAP and NSF-controlled facilities does not infringe on an alleged perpetrator's employment rights, nor does it force a contractor to terminate that employee. NSF, like any other government agency, is responsible for

²⁹ Antarctic Science and Engineering Support Contract, Statement of Work, Provision 6.8.3.

³⁰ Draft Solicitation, Clause H.3 2552.222-70 Sexual Assault and Sexual Harassment Prevention and Response, Provision (e).

³¹ Exhibit 2, Appendix.

³² Draft Solicitation, Clause H.4 NSF 070 Replacement of Personnel – Contractor Personnel Conduct (Deviation), Provision (c).

the safety and security of its installations. NSF should not limit the information available to itself when that information is necessary to keep its facilities safe and free of harassment and assault. Therefore, the Committee recommends that NSF alter the language in the draft solicitation however necessary to reflect its right to such information and to ensure it can and will avail itself of the lists of individuals barred from NSF facilities.

NSF should clarify the language describing the conditions for a three-year prohibition from deployment. The aforementioned language regarding the three-year prohibition states that this is a consequence for anyone who has been “removed from the Antarctic for sexual assault or sexual harassment.”³³ While there have currently been no known instances of a victim being added to the ban list for availing themselves of the option to leave the USAP for safety purposes, there have been publicly reported incidents of victims of assault in the USAP being fired for having reported to their employing company.³⁴ While we trust that NSF does not intend this provision to apply to victims of assault or harassment who leave the USAP for safety purposes, we urge NSF to clarify this language to ensure that the three-year prohibition applies only to the individuals found to have violated SAHPR policy or other terms of the contract, and not to those who filed reports and may have been “removed from the Antarctic for sexual assault or sexual harassment” by taking up a subcontractor’s offer to leave the program after being harassed or assaulted.

NSF should ensure the Prime Contractor maintains the same authority to remove individuals from the USAP under the three-year ban provision. The Committee believes that the prime contractor and NSF should both have the clearly defined and articulated ability to take action to remove an individual from the USAP, or to prohibit an individual’s future ability to serve within the USAP, if that individual is found to have violated SAHPR policies, terms of the contract, or the Polar Code of Conduct. The contract should clearly explain what actions can be taken by NSF and by the prime contractor following a determination, and in what circumstances they can and should take those actions. Throughout our investigation the Committee received reports and reviewed documents detailing inconsistent actions by Leidos when contract violations occurred.³⁵ Therefore, the contract should clearly articulate the prime contractor’s authority to issue directives denying assignment to the Antarctic Support Contract to prevent inconsistent disciplinary actions when contract employees are found to have violated the terms of the contract.

NSF should reference the OIG’s right of first refusal in the contract language and the statement of work. The Committee was informed by NSF OIG and NSF that the OIG has the right of first refusal for all reported incidents in the USAP. The Committee recommends that this language be explicitly laid out in the terms of the contract. Additionally, further elaboration should be included to outline how each company is obliged to cooperate with the OIG. The OIG should be notified of all reports even if it determines that it does not have the jurisdiction to investigate, and it should have the explicit right to avail itself of any information it deems necessary to make such a determination. The OIG

³³ Draft Solicitation, Clause H.4 NSF 070 Replacement of Personnel – Contractor Personnel Conduct (Deviation), Provision (c).

³⁴ Jeffrey Mervis, “Advocates challenge Antarctic contractor’s claim of zero sexual assaults on its watch,” Science, April 6, 2023, accessed here: <https://science.org/content/article/antarctic-research-contractor-tells-congress-it-knows-no-sexual-assaults-2016>.

³⁵ Exhibits 3, 4, and 5, Appendix.

should be deemed the mandatory reporting entity for reports that require notification of law enforcement.

NSF should clearly inform all contractors of the federal retaliation remedies and ensure that anti-retaliation training policies are provided to ensure protections to employees in the USAP. We recognize that NSF clearly defined “sexual assault” and “sexual harassment” in the draft solicitation and required the prime contractor to adopt these definitions and flow these down to the subcontractors. This is extremely important to correct serious shortcomings the Committee observed when speaking with subcontractor employees responsible for investigating reports – many were demonstrably poorly informed about their own policies and described definitions of harassment and assault that did not meet an acceptable standard. Similarly, there must be a clear and consistent articulation of what retaliation is and what it may look like in the unique structure of the USAP. The Committee reviewed documents that corroborate the impression former USAP employees had – that hiring officials across subcontractor companies communicate informally about applicants in order to make hiring decisions. This whisper network – which, according to individuals familiar with subcontractor hiring practices, more often takes place via phone calls or in person, rather than documented via email – is ripe for retaliatory practices that can lead to hiring decisions based not on an individual’s past documented performance but rather on rumors and prejudice. Therefore, all contract employees within the USAP must be trained on anti-retaliation hiring practices. In addition, all contract employees within the USAP should be made aware of the option to file an Equal Employment Opportunity Commission (EEOC) complaint for noncriminal issues and reports of retaliation by employers. All USAP contract employees should be effectively informed of all whistleblower protections available and the proper federal mechanisms available to them for reporting. At a minimum, the solicitation language should adopt the NSF OIG’s recent recommendation to incorporate the EEOC-recommended element regarding retaliation.³⁶ All subcontracting companies must communicate all federal options to their employees upon initiating their work on the contract. As the vast majority of employment actions taken within the USAP happen outside of U.S. soil, NSF must be absolutely clear about the limits of Department of Labor jurisdiction and must communicate any such limitations to USAP participants.

NSF should include SAHPR in the scoring criteria and performance evaluation metrics, and NSF should elaborate on the SAHPR-related deliverables in the Statement of Work. All applicants should be required to articulate their SAHPR policies, procedures, and plans for establishing and maintaining a culture intolerant of sexual harassment and assault. Showing the importance of these issues and providing better elaboration on the role of the SAHPR office emphasizes its importance to the new contractors. Companies and contractors should also be provided details on how they will be expected to interact and coordinate with the SAHPR office. A prospective prime contract applicant’s SAHPR policies and procedures should be evaluated as part of its proposal, and the prime contractor’s performance on SAHPR-related issues should be evaluated as a deliverable.

³⁶ National Science Foundation Office of Inspector General, “Review of NSF’s U.S. Antarctic Program Sexual Harassment Prevention and Response,” September 27, 2024, accessed here: <https://oig.nsf.gov/reports/inspection-evaluation/review-nsf-us-antarctic-program-sexual-harassment-prevention-and->

NSF should make clear the “flow down” policies within the contract that apply to each subcontractor.

The solicitation should make clear the provisions that the prime contractor must flow down to each subcontractor. NSF should flow down as many policies and procedures as it deems practicable and legal, so as to ensure equal protection of contract and subcontract employees across the USAP.

The Committee is committed to addressing this issue and we believe that these recommendations will help to bring forth the necessary changes to the USAP if implemented effectively. We will review the final solicitation once released later this fall and look forward to seeing the changes incorporated. If you have any questions, please contact Victoria Lombardo of the Committee’s Majority staff at (202) 225-6371 or Sara Palasits of the Committee’s Minority staff at (202) 225-6375. Thank you for your time and consideration regarding this important matter.

Sincerely,



Frank Lucas
Chairman
House Committee on Science, Space,
and Technology



Zoe Lofgren
Ranking Member
House Committee on Science, Space,
and Technology

cc: Inspector General Allison C. Lerner, National Science Foundation, Office of the Inspector General

Mr. Tom Bell, Chief Executive Officer, Leidos