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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510–6125

WEBSITE: https://commerce.senate.gov

July 1, 2024

The Honorable Sethuraman Panchanathan
Director
National Science Foundation
2415 Eisenhower Ave.
Alexandria, VA 22314

Dear Dr. Panchanathan:

As the Ranking Member of the U.S. Senate Committee on Commerce, Science, and Transportation (Committee), I write to request information about the staffing practices of the National Science Foundation (NSF) in light of President Biden's October 30, 2023 Executive Order 14110 on the "Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence" (AI Executive Order).

The AI Executive Order, whose purported is to protect against the "irresponsible use" of AI that "could exacerbate societal harms," directs federal agencies to engage in over 100 specific actions implementing AI-related guidance across various policy areas.[1] To complete every action, agencies would have had to hire more staff, pause other projects, add additional duties to existing employees' job descriptions, or bring on AI fellows by recruiting temporary—but influential— AI staff from external organizations through the Intergovernmental Personnel Act (IPA) program.[2] Critics, however, have raised reasonable concerns that these influential AI fellows are shaping federal policy to benefit their organizations' funders and not the American people.[3] Moreover, as federal agencies request increased funding for AI hiring, it is important Congress understand the extent to which, and how, agencies have already acquired AI staff in response to the expansive and demanding AI Executive Order.

President Biden's AI Executive Order sets the path for the federal government to preemptively chill AI innovation and protect powerful and established AI companies by directing agencies to

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[1] Exec. Order No. 14110, 88 C.F.R. § 75191 (Nov. 1, 2023) [AI Executive Order].

[2] 5 U.S.C. §3371–3376; OPM, *Intergovernmental Personnel Act*, https://www.opm.gov/policy-data-oversight/hiring-information/intergovernment-personnel-act/#url=Provisions.

[3] Brendan Bordelon, *How a Billionaire-Backed Network of AI Advisers Took Over Washington*, POLITICO (Oct. 13, 2023), https://www.politico.com/news/2023/10/13/open-philanthropy-funding-ai-policy-00121362.

issue expansive regulations and impose burdensome reporting requirements.[4] For instance, it encourages agencies to engage in "rigorous regulation" of AI."[5] Additionally, it requires companies that are "developing or demonstrating an intent to develop dual-use foundation [AI] models to provide the Federal Government, on an ongoing basis, with information, reports, or records regarding" their "ongoing or planned [AI] activities."[6] The AI Executive Order also requires companies that "acquire, develop, or possess a large-scale computing cluster"—groups of computers that can be configured for AI tasks—"to report any such acquisition, development, or possession," and details about those clusters, to the government.[7] Given these expansive, invasive, and novel requirements that Congress never expressly enacted into law, numerous groups have warned that implementation of the AI Executive Order will "stifl[e] new companies and competitors from entering the marketplace."[8] Moreover, some administration officials who are implementing the AI Executive Order and who may be in receipt of AI companies' sensitive proprietary data are closely tied to the companies that already dominate the industry.[9]

In April, the White House announced that federal agencies had successfully completed all the AI Executive Order's 180-day actions yet had only hired a total of 150 people into AI roles.[10] That low figure begs the question: who performed the work necessary to meet the AI Executive Order's fast-paced deadlines?

The answer may be that agencies are utilizing the IPA program, which allows certain non-profit groups, universities, and other organizations to temporarily place their employees at federal agencies and pay their salaries.[11] Agencies are not required to report records of IPA assignments

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[4] Mohar Chatterjee & Brendan Bordelon, *The Campaign to Take Down the Biden AI Executive Order*, POLITICO (Jan. 26, 2024), https://www.politico.com/news/2024/01/25/conservatives-prepare-attack-on-bidens-ai-order-00137935.

[5] AI Executive Order, *supra* note 1, at § 2(d).

[6] *Id.* at § 4.2(a)(i).

[7] *Id.* at § 4.2(a)(ii).

[8] Jeff Mason et al., *Biden Administration Aims to Cut AI Risks with Executive Order*, REUTERS (Oct. 30, 2023), https://www.reuters.com/technology/white-house-unveils-wide-ranging-action-mitigate-ai-risks-2023-10-30; *see also* Cecily Mauran, *OpenAI's Sam Altman Breaks Silence on AI Executive Order*, MASHABLE (Nov. 2, 2023), https://mashable.com/article/openai-response-ai-executive-order-silence.

[9] For example, Paul Christiano, the head of AI Safety Institute at the National Institute of Science and Technology previously ran the language model alignment team at OpenAI. *See* PAUL CHRISTIANO, https://paulfchristiano.com/ (last visited June 7, 2024). Tantum Collins, a staffer on the National Security Council and Co-Chair of the Fast Track Action Subcommittee on Critical and Emerging Technologies, previously worked at Google DeepMind for five years. *See* NAT'L SCI. AND TECH. COUNCIL, CRITICAL AND EMERGING TECHNOLOGIES LIST UPDATE (Feb. 2024); Tantum Collins, LINKEDIN, https://www.linkedin.com/in/tantum-collins-7b916b29/.

[10] Press Release, The White House, Biden-Harris Administration Announces Key AI Actions 180 Days Following President Biden's Landmark Executive Order (Apr. 29, 2024), https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/29/biden-harris-administration-announces-key-ai-actions-180-days-following-president-bidens-landmark-executive-order/; AI AND TECH TALENT TASK FORCE, INCREASING AI CAPACITY ACROSS THE FEDERAL GOVERNMENT 5 (Apr. 2024), https://ai.gov/wp-content/uploads/2024/04/AI-Talent-Surge-Progress-Report.pdf.

[11] *See Intergovernmental Personnel Act*, *supra* note 2.

to the Office of Personnel Management,[12] making the program an attractive option for federal agencies to obtain talent at no cost while avoiding oversight and transparency. Indeed, the White House's AI and Tech Talent Task Force's April 2024 Report to the President recommends that he "call[] on institutions across the tech ecosystem and agencies to consider expanding their use of and funding for these valuable talent exchange programs," including the IPA.[13]

The administration's reported use of the IPA program to obtain AI staff, however, raises the question whether outside AI groups are improperly influencing federal AI policy. For instance, in March 2022, *Politico* reported that Google's former CEO, Eric Schmidt, was using the IPA program to fund his associates' placement at the Office of Science and Technology Policy in the White House, which "is executing on an aggressive agenda" regarding "algorithmic discrimination in the use of artificial intelligence"—an alarmist phrase meant to justify the unelected bureaucracy's policing and potential censorship of AI algorithms.[14] And a March 2024 report revealed that through the IPA program, Facebook billionaire Dustin Moskovitz—a leader of the "Effective Altruism" movement—is paying the salaries of his fellows serving in AI roles at the National Security Council, the Department of Defense, and the Department of Commerce.[15] In effect, large AI technology companies are influencing the Biden administration's AI policy from the inside and advancing their own anti-competitive agenda to shape the future of the AI industry.

NSF has asked Congress for an additional $66 million in funding for AI-related work, but its budget request does not disclose how many staff it will need to hire to complete this work.[16] NSF has also asked for an additional 90 FTE across NSF, but its budget request does not disclose which of those employees will work on AI-related projects, or how many AI employees NSF has already retained or assigned to work on AI-related projects.[17] And has asked for funding to help support 1,630 IPA positions, but its budget request does not disclose what organizations these

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[12] U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-22-104414, Personnel Mobility Program: Improved Guidance Could Help Federal Agencies Address Skills Gaps and Maximize Other Benefits (2022).

[13] AI and Tech Talent Task Force, *supra* note 10, at 10.

[14] Alex Thompson, *A Google Billionaire's Fingerprints Are All Over Biden's Science Office*, POLITICO (Mar. 28, 2022), https://www.politico.com/news/2022/03/28/google-billionaire-joe-biden-science-office-00020712; *see also* Alex Thompson, *Ex-Google Boss Helps Fund Dozens of Jobs in Biden's Administration*, POLITICO (Dec. 22, 2022), https://www.politico.com/news/2022/12/22/eric-schmidt-joe-biden-administration-00074160; Neil Chilson & Adam Thierer, *The Coming Onslaught of "Algorithmic Fairness" Regulations*, Regulatory Transparency Project, THE FEDERALIST SOC'Y (Nov. 2, 2022), https://rtp.fedsoc.org/paper/the-coming-onslaught-of-algorithmic-fairness-regulations/.

[15] Dana Kennedy, *Revealed: 'Effective Altruism' Movement Secretly Placing Followers at Heart of Biden's White House*, N.Y. POST (Mar. 8, 2024), https://nypost.com/2024/03/08/us-news/effective-altruism-placing-followers-in-biden-white-house/.

[16] NAT'L SCI. FOUND., FY 2025 BUDGET REQUEST TO CONGRESS, Emerging Industries - 15 (Mar. 11, 2024), https://nsf-gov-resources.nsf.gov/files/00_NSF_FY25_CJ_Entire%20Rollup_web.pdf?VersionId=cbkdqD_UMweHEIsZwPjtVgcQRwMccgvu.

[17] *Id.* at Organizational Excellence – 3.

IPAs are from or what projects they will work on.[18] That lack of information makes it difficult for the Committee to evaluate NSF's requests.

The Standing Rules of the Senate provide the Committee with jurisdiction over NSF, as well as matters concerning "science, engineering, and technology research and development."[19] Committee staff previously reached out to the NSF regarding these issues but have not yet received a response. Please provide the documents requested below and written responses to the questions below no later than July 15, 2024:

1. Please provide a list of all persons, if any, who are working for NSF pursuant to the IPA program; the Visiting Scientist, Engineer, and Educator Program; the Special Government Employees program; or any other similar program. For each person working for NSF pursuant to one of those programs, please identify:
   a. Their current title;
   b. The office(s) to which they are assigned;
   c. The work they are performing, specifically any AI-related work;
   d. The program through which they are working for NSF, *e.g.*, the IPA program; and
   e. Provide a copy of the written agreement required under the program, if applicable.[20]

2. Please provide the number of NSF employees who have been hired since October 2023 to conduct work related to AI. For each employee hired, please identify:
   a. Their current title;
   b. The office(s) to which they are assigned;
   c. The AI-related responsibilities or duties assigned to them;
   d. The other responsibilities or duties assigned to them (as applicable); and
   e. An approximate percentage of their time that is dedicated to AI-related work.

3. Please provide the number of NSF employees, if any, who have been assigned AI-related work in addition to their other duties. For each employee who has been assigned AI work in addition to their other duties, please identify:
   a. Their current title;
   b. The office(s) to which they are assigned;
   c. The AI-related responsibilities or duties assigned to them; and
   d. An approximate percentage of their time that is dedicated to AI-related work.

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[18] *Id.*
[19] S. Rules XXV(1)(f), XXVI(8)(a)(2).
[20] *See, e.g.*, 5 C.F.R. § 334.106.

4. Please provide the number of NSF employees, if any, who have been assigned from their previous duties to full-time AI-related work. For each employee that has been assigned to full-time AI-related work, please identify:
    a. Their previous title (before re-assignment to AI-related work);
    b. Their current title;
    c. The office(s) to which they are assigned; and
    d. The AI-related responsibilities or duties assigned to them.

Thank you for your attention to this matter.

Sincerely,

Ted Cruz
Ranking Member