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## Budget Bill Bittersweet For High-Tech Firms

Biotechnology and other high-tech industries, which had hoped for a pot of gold in the \$490 billion budget deficit bill that Congress passed last week, will have to settle for a pot half-filled with watered-down tax breaks for corporate R&D spending and individual investors. Nevertheless, analysts predict high-tech companies of all sizes will benefit from the legislation.

Perhaps the best news for high-tech firms, particularly mature ones, is an extension of a 12-year-old tax break for companies that increase R&D spending over the previous year. The budget bill bestows another 2 years of life for the provision, which excludes from taxes 20% of the ad-

ditional money that a company spends each year on R&D. "It's a big win for the R&D community," says Michelle Norman, an analyst at the Council on Research and Technology, a Washington think tank funded by industry and academia.

More bittersweet to industry is a provision that grants a tax break for investing in start-up high-tech firms. Under this provision, individuals who buy stock in firms with less than \$50 million in capital or debt and hold it at least 5 years can exclude 50% of capital gains from taxes. The



biotech industry had wanted a limit of \$100 million, based on the enormous cost of developing and testing a new drug, and had wanted the tax break to benefit corporations as well as individuals. "Clearly, it's not everything the biotech industry wanted," says Lisa Raines, vice president of government relations at Cambridge, Massachusetts-based Genzyme Corp. But Raines still expects the provision to help new biotech companies and electronics firms, which generally require less costly R&D to bring a product to market.

## ORI Loses First Appeals Hearing

A year ago, investigators at the Office of Research Integrity (ORI) helped set up an appeals process in the Department of Health and Human Services that gives scientists rights akin to those granted defendants in a criminal investigation. But the first verdict of the appeals board, issued earlier this week, is making ORI officials wonder if the new system is more than they bargained for.

The board's inaugural case involved Rameshwar Sharma, a Cleveland Clinic Foundation researcher who'd been found guilty by ORI of "anticipatory writ-

ing"—touting data not yet collected—in a grant application. This week, however, the board overturned ORI's decision, ruling that it failed to prove Sharma's "intent" to deceive.

The board's view on what constitutes misconduct surprised ORI, but it's based on ORI's own definition, which excludes "honest error." ORI's solution: Change the definition to eliminate the need to prove intent. An official says the office hopes to modify the rules so that scientists would be guilty of misconduct if they "knew or should have known" of misstatements, regardless of motive.

But the new rules have yet to

be issued and could take a year or more to go into effect. In the meantime, officials worry the Sharma decision may imperil two big cases on the docket—those of National Cancer Institute scientist Robert Gallo and his former colleague Mikulas Popovic. ORI has accused both of misconduct relating to their co-discovery of the AIDS virus. Popovic had his hearing in June; a decision is expected in October. The board will hear Gallo's case beginning 8 November. Gallo attorney Joe Onek says the Sharma decision bodes well for his client. "The appeals board isn't just rubber-stamping ORI's reports," he says.

## Army to Test Only MicroGeneSys Vaccine

Snubbing the advice of a blue-ribbon panel organized by the National Institutes of Health (NIH), the Department of Defense (DOD) plans to spend \$20 million on a large-scale clinical trial of a single company's therapeutic AIDS vaccine. That outcome would achieve the goal set by the vaccine's developer, MicroGeneSys Inc., when it first began lobbying Congress 2 years ago, and would foil attempts by AIDS researchers to channel the money into a civilian-led trial of several potential vaccines.

Last fall, Congress earmarked \$20 million for the Army to test MicroGeneSys's gp160 vaccine, which is already being tested by the Army's Robert Redfield, the subject of a recently completed investigation (see p. 824). The NIH panel reviewed the allocation and concluded it would be best spent testing three vaccines.

In April, DOD offered to transfer the money to the Department of Health and Human Services (HHS), NIH's parent agency, as a step toward a multi-drug trial. But in June HHS declined the money, explaining that MicroGeneSys refused to donate vaccine for the trial, as HHS required.

The military's AIDS research chief, Army Colonel Donald Burke, claims \$20 million is sufficient to test only the MicroGeneSys vaccine and that the military, like HHS, will require the firm or its partner, Wyeth-Ayerst, to donate vaccine. MicroGeneSys officials failed to return phone calls.

Why, if MicroGeneSys donates the vaccine, can't the Army test more than one vaccine with \$20 million? DOD hasn't revealed the trial's design, but Anthony Fauci, NIH's top AIDS scientist, says DOD may be planning a more complex test of the MicroGeneSys vaccine rather than the bare-bones multi-drug trial envisioned by the NIH panel. But Fauci says NIH won't contribute any money because "the fundamental reasons for doing the trial are on shaky ground."

## Open Season on Indirect Costs

Just as one furor over research overhead charges is settled, another pops up. University officials reacted with relief to the appearance in the 23 July *Federal Register* of final regulations on "indirect costs" institutions can charge the government for supporting research. The regs impose a 26-cents-per-dollar cap for administrative overhead, a level acceptable to most universities, while leaving negotiable the rate charged for building and operating libraries and other facilities.

The new rules close the book on part of a long-running debate that flared up 3 years ago when several universities were found to have improperly billed the government for millions of dollars in nonresearch-related expenses. But don't expect the issue to die so soon. Two recent examples suggest these expenses

have become an irresistible target for some members of Congress looking for an easy way to cut the deficit.

One, a proposal by Republican legislators for a \$7.5 billion anticrime measure, would be financed in part by a 10% across-the-board reduction in indirect cost rates. Supporters estimate the cuts would generate \$1.5 billion over 5 years. The second is a House-mandated General Accounting Office (GAO) study of variations in indirect cost rates among universities.

Congressional staffers see little chance the crime measure will become law, and National Science Foundation officials hope to head off a GAO inquiry with their own study. But university lobbyists view both as a sign indirect costs will remain fair game for budget-cutters after Clinton's regs take effect 1 January 1994.