

Stepping Up the Pressure On Indirect Costs

Auditors charge "systemic" abuse of overhead reimbursements as Dingell widens his net

SO FAR, THE INDIRECT COSTS CONTROVERSY has resembled nothing so much as a boxing match—and one in which universities have virtually been knocked from the ring. Round I ended last summer when Representative John Dingell (D-MI) scored a TKO on Stanford president Donald Kennedy after revealing that the university had charged costs related to a yacht and a campus shopping center to overhead on research grants. Round II had its defining moment last week in a hearing before Dingell's subcommittee, when auditors from the General Accounting Office (GAO), the Defense Contract Audit Agency (DCAA), and the inspector general's office of the Department of Health and Human Services (HHS) testified that abuse of the indirect cost system is "systemic" and has cost the government hundreds of millions of dollars—a figure that earlier investigations had hinted at, but never stated so boldly.

At the hearing, Dingell announced that a broader congressional probe into the overhead costs of contractors to the Department of Energy and the Environmental Protection Agency—call it Round III—will make those findings "look like small potatoes." But researchers and university administrators (who did not have a chance to defend themselves at last week's hearing) may have a hard time believing that, if only because the sums the universities allegedly owe the government are so staggering. DCAA deputy director Fred Newton, for instance, says his agency has uncovered a total of \$389.9 million owed the government. Of that, Stanford accounts for \$231 million, the Massachusetts Institute of Technology for \$19 million, and Pennsylvania State University for \$6.4 million. Meanwhile, HHS auditors report that they have saved the government another \$82.7 million through tough negotiations that removed further charges from recent indirect cost rates (see chart). And these figures include only completed audits—DCAA has yet to finish 3 years of audits for Stanford and MIT, for instance.

One reason the numbers have grown so large is that auditors have shifted their focus away from specifically "unallowable" costs—floral arrangements, limousines, antique furniture—to the system under which universi-

ties allocate a proportion of overhead costs, such as utilities and libraries, to research grants. To date, most of the furor has stemmed from unallowable costs, such as those detailed in recent HHS audits of 14 major research universities: nearly \$3 million worth of travel, entertainment, and public relations charged to the government. But as Dingell himself said last week, "The unallowable and questionable costs are attention-getters, but in reality, the problem is deeper and broader in that the allocation practices significantly alter the costs at hand."

Newton testified that many universities

INDIRECT COST "SCRUB" AT HHS SCHOOLS			
University	Indirect Cost Rate		Savings (millions)
	Proposed	Negotiated	
Dartmouth	78.5%	62.0%	\$1.6
Duke	57.0%	52.0%	2.9
Emory	76.5%	52.0%	6.7
Johns Hopkins	74.0%	65.0%	9.7
Rutgers	88.7%	64.0%	2.7
U Chicago	77.4%	65.0%	4.8
U Miami	69.5%	54.0%	2.8
U Michigan	63.4%	57.0%	4.9
U Pennsylvania	77.7%	65.0%	10.0
U Pittsburgh			
Main Campus	78.5%	47.0%	7.0
Medical Center	93.4%	49.0%	10.0
U Southern CA	85.9%	60.5%	14.0
U Texas SW Med. Ctr.	57.9%	48.5%	2.5
Washington U	63.6%	62.0%	1.3
Yale	71.6%	68.0%	1.8
Total			\$82.7

have negotiated "special studies" and memoranda of understanding (MOUs) that unfairly shifted such allocations in their own favor. For instance, he criticized agreements that allow MIT to charge 49% of its library costs to federal research (DCAA recommends 20.8%, a \$2.3 million difference in 1990) and to spread the costs of tuition support for graduate research assistants across salaries at an off-campus laboratory. (Newton says the practice cost the government \$7 million in 1990.) An MIT spokesman defended both agreements to *Science*, claiming that the library study is sound and that following DCAA's recommendations on tuition reimbursement would actually increase annual federal research costs by \$5.6 million.

As a result of its findings, DCAA has

recommended canceling 74% of all outstanding MOUs and special studies for the 59 schools it oversees, Newton said—a move that would force universities to repay substantial sums to the government. Last spring, after a similar DCAA recommendation, the Office of Naval Research (ONR) canceled all 124 of Stanford's MOUs. Not surprisingly, universities object that the government is reneging on arrangements to which it had long ago agreed. Stanford has led the counterattack: Last November, the university filed an administrative appeal with a contract appeals board in which it claims that MOUs are binding contracts that cannot be unilaterally canceled by the government. But Newton, quoting an opinion offered by DCAA legal counsel, argues that retroactive challenge is entirely legal when "the facts or costs reported to support the MOU are materially different from facts and costs actually in place or incurred in performance of the agreement."

Even more serious repercussions could be

on the horizon. The Naval Investigative Service has already begun criminal fraud investigations at Stanford, MIT, and the University of Hawaii, although at this point it's impossible to say whether indictments are likely. But in Dingell's view, some of the blame has to go to lax federal oversight. "It has become clear that...the federal government had decided it would let anyone steal anything without attention by anyone," he said. Chief of Naval Research William Miller agreed and announced that his office had taken action against six civilian ONR employees who he said had failed in their duties. Four

received letters of caution or reprimand, one was reduced in pay and grade level and removed from university oversight, and one resigned rather than face discipline.

Witnesses from both GAO and DCAA agreed that the blame extends beyond individuals to the indirect cost system itself, which they said must be reformed to reduce the potential for future abuse. "We at least need to have constructive ways to simplify the system with adequate controls to protect the government's interest," said GAO assistant comptroller general J. Dexter Peach. Nobody was offering specifics at last week's hearing. But the call for reform may be one area where the universities and the government can finally reach some agreement. ■ DAVID P. HAMILTON