



THE CHRONICLE OF HIGHER EDUCATION

Government & Politics

From the issue dated July 16, 2004

Accounting for Researchers' Time**Recent legal settlements are highlighting a longstanding conflict between universities and the federal government**

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A multimillion-dollar legal settlement with the government tends to grab the attention of university officials. So academic officials have been watching closely as three major research institutions all reached deals during the past 18 months over alleged improper accounting on federal research grants.

For the three institutions -- Northwestern University, the Johns Hopkins University, and, last month, Harvard University -- all or part of the settlements involved accusations that medical researchers had spent less time working on studies financed by the National Institutes of Health than the institutions had promised the agency.

First came Northwestern's settlement with the U.S. Department of Justice, totaling \$5.5-million, in February 2003. In February of this year, Johns Hopkins agreed to pay \$2.6-million. Harvard's settlement amounts to \$3.3-million.

All three institutions settled the complaints without admitting liability but said they have worked to improve their accounting systems.

Under federal policy, when academic scientists apply for federal grants, their institutions must promise what percentage of their university salaries will pay for time devoted to that study. Although research grants are different from contracts, the federal government expects to get its money's worth and requires institutions to abide by commitments made in grant applications.

Documenting the time spent on research work is referred to as "effort reporting" or "salary accounting," and the governing federal policy is referred to as Circular A-21.

College officials say the recent settlements have provided incentives to re-examine their own management to avoid costly audits. Their attention intensified after the Inspector General's Office of the Department of Health and Human Services announced in 2003, soon after the Northwestern settlement, that it would be taking a closer look at academic institutions' accounting of researchers' time.

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"Everyone's very aware of it and sensitive to it now," says Robert A. Killoren Jr., associate vice president for research at Pennsylvania State University at University Park. Thirteen sessions are scheduled on effort reporting at the fall meeting of the National Council of University Research Administrators.

Pending Audits?

Even so, officials at universities and in the federal government say there does not appear to be a concerted effort by the inspector general's office or the Justice Department to crack down on universities. The settlements at Northwestern and Johns Hopkins originated from whistle-blowers, and Harvard voluntarily disclosed its problem to the National Institutes of Health.

The Inspector General's Office is planning to release a report on the issue later this year, said a spokesman, Ben A. St. John. He declined to comment on whether the report will focus on specific institutions.

While the settlements and the inspector general's announcement have brought increased attention to effort reporting, university officials have voiced complaints for years about the federal requirements. Critics say that effort reporting is time-consuming, and the federal policy lacks flexibility to fit the diverse activities of university researchers.

The reporting can be especially complicated for universities with faculty members who work in academic medical centers and conduct federally sponsored research. Many of these scientists, including some at Northwestern and Johns Hopkins, have gotten salaries from both their universities and medical-practice groups, which are legally separate.

In 2000 nearly half of medical schools in the United States held affiliations with separate clinical groups, according to a survey by the Association of American Medical Colleges.

These arrangements can create accounting problems. In Northwestern's case, the university was accused of overbilling the government for researchers' salaries by including time they spent treating patients.

When physicians' salaries come from outside a university, the college's administrators can miss such discrepancies. But existing policies of the National Institutes of Health discourage universities from establishing systems that might catch such discrepancies, since universities are not supposed to track faculty members' salaries from multiple sources and the time related to all their activities, including patient care and teaching, according to Robert J. Kenney Jr., a lawyer with the firm Hogan & Hartson, in Washington, who represents universities on audit issues.

Federal officials say that the government does not have the authority to audit salaries paid by groups separate from universities receiving federal grants.

Since the federal government introduced the A-21 policy in 1979, the number of separate clinical-practice organizations has increased significantly for a variety of administrative reasons unrelated to effort reporting, says Susan H. Ehringhaus, associate general counsel for the medical-colleges association.

"A-21 as interpreted by NIH really doesn't accommodate what's happened in the past decade in terms of organizational arrangements and compensation agreements," she says.

Tough Time Sheets

University officials also complain that it can be difficult and ambiguous for institutions to account for time spent by scientists specifically on research versus other activities like teaching and patient care. The graduate students they teach may assist in the research.

"The lines between these activities are very blurred," Mr. Killoren says. "Our faculty members find it very difficult to make distinctions among their various activities."

Keeping up with the required paperwork on effort reporting represents a big burden for scientists, says Patrick W. Fitzgerald, director of cost analysis at the Massachusetts Institute of Technology. The rules require that paper reports be filed regularly for all members of a research team, including postdoctorate researchers and technicians. He says the government should allow institutions to use electronic reporting systems.

Even with such a change, tracking time worked would remain difficult because researchers' hours often vary from week to week, and researchers don't punch timecards, Mr. Fitzgerald says. Moreover, some research groups at large universities like his are financed by multiple federal grants with overlapping purposes.

He hopes that he and other university officials can persuade the government to streamline the policy so as to preserve accountability for time spent on federally sponsored projects while easing the requirement for precise accounting of all of faculty members' other activities. That way "faculty could spend less time on administration and more on what we really want them to do, which is teaching and research," says Mr. Fitzgerald, who is president of the National Council of University Research Administrators.

Federal officials are willing to listen to suggestions from university officials, but institutions need to be specific about why policies on effort reporting are difficult to carry out, says Jean Augustine, who directs the office on accounting policy in the Department of Health and Human Services.

"My position has been that given the number of entities that A-21 impacts, and given the diversity in their administrative systems, the

government is in a difficult position to come up with systems that everyone will be happy with," says Ms. Augustine of the Office of Audit Resolution and Cost Policy. "It's the responsibility of the universities to more clearly communicate what the problem is."

She agrees with Mr. Fitzgerald that universities could propose revisions that provide greater flexibility and maintain accountability.

With the growing attention to effort reporting, academic officials are primed to engage in that conversation. The Federal Demonstration Partnership, a group including more than 90 universities that works with government agencies to streamline policies affecting academe, is planning a daylong discussion about the topic with federal officials sometime this year.

3 SETTLEMENTS INVOLVING TIME SPENT ON RESEARCH

Three universities have reached settlements with the federal government over allegations that they misrepresented the amount of time scientists spent on federally sponsored research.

Harvard University

The settlement: The university and an affiliated teaching hospital agreed in June to pay a total of \$3.3-million to resolve accusations that a researcher worked fewer hours than promised on a project to study aging. The accusations included other accounting and management issues, including salaries paid to scientists who did not meet one of the grant's citizenship requirements.

The response: After discovering the accounting problems in 1999 and reporting them to the National Institutes of Health, Harvard created a new Office of Research Compliance to monitor accounting and also increased efforts to train its grant administrators.

Johns Hopkins University

The settlement: The university agreed in February to pay \$2.6-million to settle claims that scientists there had knowingly overstated how much time they had spent on addiction research in the mid-1990s. The charges were brought by a whistle-blower who said that a researcher had billed the granting agency more than 100 percent of his available work time and had promised that the grant would support work by other employees, work that was never performed.

The response: The university noted that during the years in question, researchers with faculty appointments who worked on the studies were employed by a corporation, Bayview Physicians, whose financial accounts were not part of the university's central payroll system. The corporation has since merged with the

university.

Northwestern University

The settlement: The university agreed in February 2003 to a settlement of \$5.5-million over charges brought by a whistleblower that medical researchers at the university had reported spending more time on federally sponsored projects from 1995 to 2001 than they actually did.

The response: The university said it had taken steps to improve its regulatory compliance. The government's complaint followed a period of rapid growth in the amount of federal research money the university received, and the university's management systems did not keep pace, said Alan K. Cabbage, a university spokesman.

SOURCE: *Chronicle* reporting

<http://chronicle.com>
Section: Government & Politics
Volume 50, Issue 45, Page A20

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