From: OC GCP Questions
To: [redacted]
Subject: RE: Informed Consent
Date: Tuesday, March 04, 2014 11:38:00 AM

Dear [Redacted]-

Thank you for your question. I'm not sure I am clear about what you are asking for with regard to recommendations, but I will provide some considerations for you that may be helpful to you in assessing your situation.

Based on the limited information provided, it sounds like you may have encountered a situation where study subjects were not provided the most current IRB-approved informed consent document to sign when they made the decision to participate in a study. Here are a few questions you may want to consider:

- Why did the ICF expire? Was this expiration tied to a continuing review? If so, did the reviewing IRB issue a new ICF to the investigator?
- Did the investigator and study coordinator have the current IRB-approved informed consent form at the time they enrolled subjects into the study?
- Is the site (investigator and study coordinator) aware of the issue?
- What were the circumstances that led to the investigator and study coordinator using an expired ICF?
- What are the differences in the ICF that expired vs. the ICF the investigator and study coordinator should have used to get consent from prospective subjects?
- Has the site implemented a corrective action plan to ensure this does not happen again?
- Have you consulted your IRB on this issue?
- Have you consulted your sponsor on this issue?
- Have you determined other stakeholders who you may need to inform (e.g., in addition to the IRB and the sponsor, any CRO, any institutional representative, etc.)?

It also sounds like you encountered a situation where an investigator signed an ICF one year after a subject signed that ICF. With regard to who signs an informed consent form, the FDA regulations require that the subject or the subject's legally authorized representative sign the informed consent form (see 21 CFR 50.20). If a short form ICF is used, additional signatures are required (see 21 CFR 50.27).

The ICH GCP E6 Good Clinical Practice: Consolidated Guidance, (which is recognized as official FDA guidance) section 4.8.8 recommends:

> 4.8.8 Prior to a subject's participation in the trial, the written informed consent form should be signed and personally dated by the subject or by the subject's legally acceptable representative, and by the person who conducted the informed consent discussion.

You can access the ICH E6 guidance at http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm073122.pdf.

With regard to the investigator signing an ICF one year after the subject, here are a few questions you may want to consider:

- Who is requiring that the investigator sign the ICF? Is it an IRB or sponsor requirement that the investigator sign the IRB-approved informed consent form?
- If it is an IRB or sponsor requirement that the investigator sign the IRB-approved ICF, what is the timeframe under which the investigator is expected to sign the ICF?
- Is the investigator aware of the timeframe required for his/her signature?
- Why did the investigator sign the ICF a year after the subject signed?
- Is the investigator aware of the issue?
- What were the circumstances that led to the investigator signing the ICF a year later?
- Has the site implemented a corrective action plan to ensure this does not happen again?
- Have you consulted your IRB on this issue?
- Have you consulted your sponsor on this issue?
- Have you determined other stakeholders who you may need to inform (e.g., in addition to the IRB and the sponsor, any CRO, any institutional representative, etc.)?

I hope this information is useful. If you need further information and/or have additional questions, please feel free to contact us at the official GCP mailbox, gcp.questions@fda.hhs.gov. You may also find it useful to access the set of redacted GCP e-mails found at http://www.fda.gov/ScienceResearch/SpecialTopics/RunningClinicalTrials/RepliestoInquiriestoFDAonGoodClinicalPractice/default.htm since we find that many questions and concerns are repeated over time.

Best Regards,

Janet

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This communication does not constitute a written advisory opinion under 21 CFR 10.85, but rather is an informal communication under 21 CFR 10.85(k) which represents the best judgment of the employee providing it. This information does not necessarily represent the formal position of FDA, and does not bind or otherwise obligate or commit the agency to the views expressed.

-----Original Message-----
From: [Redacted]
Sent: Thursday, February 27, 2014 10:49 AM
To: OC GCP Questions
Subject: Informed Consent

What would be the agency recommendations when an investigator and study coordinator consented subjects on expired ICFs and the investigator signed the correct ICF a year later than the subject?