From: Donnelly, Janet
To: [redacted] Bartlett, Edward E (OS); Less, Joanne
Subject: RE: IRB membership list question
Date: Friday, January 23, 2015 9:38:00 AM

Dear [redacted]-

Thank you for your question and thanks to Dr. Bartlett for forwarding it on to FDA's Office of Good Clinical Practice. I volunteered to respond to your question in collaboration with Doreen Kezer of our office so I have copied both Dr. Less and Doreen on this response.

As Dr. Bartlett mentioned, FDA adopted the ICH GCP E6 Good Clinical Practice: Consolidated Guidance (which can be found at http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm073122.pdf). As you mentioned, section 8.2.8 recommends that documentation of IRB/IEC composition be filed in the investigator/institution files, and sponsor files (where required). Your investigators are asking whether the document to be maintained in their files must have specific names and credentials of the IRB/IEC members, or whether titles of the IRB/IEC members would suffice (i.e., 2 HIV specialists, 1 prison rep, etc.).

For purposes of the investigator files, section 8.2.8 of the guidance is not specific as to what information should be included in the documentation regarding IRB/IEC composition. As stated in section 8.2.8, the purpose of having such information on file is to document that the IRB/IEC is constituted in agreement with GCP. So, to answer your question, the documentation on file with the investigator should satisfy the intent of such documentation, but there is flexibility in how this can be accomplished. With that said, there may be some institutions or sponsors that may have specific requirements for what they expect to see in such documentation so it is advisable to check with them just in case. We are aware that many times the documentation kept in the investigator file is a copy of the same IRB/IEC roster the IRB/IEC maintains in their files. However, as stated above, since the ICH GCP E6 guidance is not specific in section 8.2.8, there is flexibility in how to prepare this documentation.

As you pointed out, section 3 of the ICH GCP E6 guidance is different because it is specific to the IRB/IEC and the records they should prepare and maintain. Section 3.2.1 includes a recommendation that a list of IRB/IEC members and their qualifications be kept in the IRB/IEC files. Section 3.4 addresses IRB/IEC record retention and mentions the IRB/IEC membership lists and lists of occupations/affiliations of members as part of the IRB/IEC records to be retained by the IRB/IEC.

In discussing your question internally, and given your global responsibilities, we wanted to share that FDA is aware that some sponsors and investigators located outside of the United States (US) may have concerns about sharing the names of IEC members. In 2008 FDA amended its regulations on the acceptance of foreign clinical studies not conducted under an IND ("non-IND foreign clinical studies") as support for an IND or an NDA, ANDA, or a BLA (collectively known as "marketing applications" or "applications for marketing approval"). The final rule requires that such studies be conducted in accordance with GCP, including review and approval by an IEC and informed consent from subjects. The GCP requirements in the final rule encompass both ethical and data integrity standards for clinical studies. This final rule, which took effect on October 27, 2008, is codified at 21 CFR 312.120 and is intended to help ensure the protection of human subjects enrolled in non-IND foreign clinical studies as well as the quality and integrity of the resulting data.

FDA has Guidance for Industry and FDA Staff titled, "*FDA Acceptance of Foreign Clinical Studies Not Conducted Under an IND Frequently Asked Questions*" (which can be found at http://www.fda.gov/downloads/RegulatoryInformation/Guidances/UCM294729.pdf). This guidance document is intended to clarify for sponsors and applicants how they can demonstrate compliance with the requirements of 21 CFR 312.120. It provides recommendations for the submission of information, whether in an IND or application for marketing approval for a drug or biological drug product, to demonstrate that a non-IND foreign clinical study was conducted in accordance with GCP.

As mentioned in the guidance, there may be governing laws relating to privacy concerns in some countries that may prevent disclosure of IEC information, including names of IEC members. The FAQ guidance (see page 10, and text copied below for reference) provides some guidance on this:

> *b. What information must the sponsor or applicant provide to FDA and what information must the sponsor or applicant maintain with respect to the names and qualifications of all IEC members?*
>
> Answer: The sponsor or applicant is required by 21 CFR 312.120(b)(6) to provide only the name and address of the IEC that reviewed the study and a statement that the IEC meets the definition of an IEC in 21 CFR 312.3(b). However, as provided in 21 CFR 312.120(b)(6), the sponsor or applicant must maintain records supporting the

> statement, including the names and qualifications (e.g., occupation, training, and experience) of all IEC members, and must make these records available for Agency review upon request. If that is not possible because of governing law relating to privacy concerns, FDA recommends that sponsors and applicants clearly document the attempts made to obtain IEC member names along with an explanation as to why the IEC member names cannot be obtained or disclosed. Such information can then be submitted to FDA in a waiver request, as described below in Section III.C.

However, if a given study is required to be conducted in accordance with FDA regulations, the FDA IRB regulations at 21 CFR 56.115(a)(5) apply, and these regulations are specific as to what must be included in the list of IRB members required as a part of the IRB records. This includes:

> Sec. 56.115 IRB records.
>
> (a) An institution, or where appropriate an IRB, shall prepare and maintain adequate documentation of IRB activities, including the following:
> ---
> (5) A list of IRB members **identified by name; earned degrees; representative capacity; indications of experience such as board certifications, licenses, etc., sufficient to describe each member's chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the institution [emphasis added]**; for example: full-time employee, part-time employee, a member of governing panel or board, stockholder, paid or unpaid consultant.

While there is no specific FDA regulatory requirement for investigators or sponsors to keep a copy of the IRB list of members in their respective files for FDA-regulated studies, some institutions or sponsors may have their own expectations or SOPs for this documentation to be included in the files, so it may be a good idea to check with them.

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

Janet Donnelly, RAC, CIP
Policy Analyst, Office of Good Clinical Practice
Office of Special Medical Programs, Food and Drug Administration

From: Less, Joanne (FDA/OC)
Sent: Thursday, January 22, 2015 11:04 AM
To: Bartlett, Edward E (HHS/OASH); [redacted]
Cc: [redacted]; Kezer, Doreen M (FDA/OC)
Subject: RE: IRB membership list question

Hi, Ed and[redacted]

Thank you for sharing this inquiry with us. I apologize for the delay in getting back to you. Doreen kindly offered to respond and, in fact, you may have already gotten back to you. If not, you will be hearing from her shortly.

Joanne

From: Bartlett, Edward E (HHS/OASH) [mailto:Edward.Bartlett@hhs.gov]
Sent: Thursday, January 15, 2015 12:02 PM
To: [redacted]
Cc: [redacted]; Less, Joanne
Subject: RE: IRB membership list question

Hello, [redacted] –

Good to hear from you. As you know, the ICH-GCP-E6 has been adopted as guidance by the FDA, but not by OHRP.

So I'm forwarding your question to Joanne Less, who likely has had more experience in interpreting the ICH document. Joanne, what is your take?

Thanks
Ed

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From [redacted]
Sent: Thursday, January 15, 2015 10:55 AM
To: Bartlett, Edward E (HHS/OASH)
Cc: [redacted]
Subject: IRB membership list question

Dear Dr. Bartlett,
My name is [redacted] and I'm a human subjects reviewer for [redacted]. I've had the pleasure of interacting with you briefly over some meetings that you facilitated, [redacted] meeting regarding the research use of biospecimens. I am hoping that as a HHS/OHRP person you could advise me on the following guidance for investigators about the GCP essential document requirements for IRB-related materials:

Section 8.2.8 of GCP has the title of the document called "Institutional Review Board/Independent Ethics Committee Composition". The purpose of it is "to document that the IRB/IEC is constituted in agreement with GCP."
The requirement of maintaining a list of IRB/IEC members and their qualifications is also mentioned in section 3.2.1, but this may be referring to what documentation the IRB must keep.

The question we are getting from investigators is whether the investigator-maintained document must have specific names and credentials or whether, for the investigator, titles (ie. 2 HIV specialists, 1 prison rep, etc…) will suffice.

Any thoughts you have would be very appreciated as my colleague and I navigate these waters!

Thank you,
[redacted]