INVESTIGATIONAL NEW DRUG APPLICATION (IND) CASE STUDY

SHOULD AN INSTITUTION AGREE TO BE THE IND SPONSOR FOR AN INVESTIGATOR-INITIATED STUDY?

By Leigh Read, CIP
with the IND/IDE Subcommittee of Harvard Catalyst's Regulatory Foundations, Ethics, and Law Program

OVERVIEW

The Investigational New Drug/Investigational Device Exemption (IND/IDE) case studies provide education and guidance on regulatory and ethical issues associated with IND/IDE research and submissions to the Food and Drug Administration (FDA). These case studies may be used by IRB administrators and Human Research Protection Program (HRPP) staff as well as investigators when reviewing and conducting IND and IDE research.

Case studies follow a standard format that includes: 1) a fact pattern 2) regulatory issues, and 3) a risk/benefit analysis and risk management options. This format was created to allow for flexibility in applying the case studies.

By identifying common challenges, linking them directly to federal regulations and guidance, and outlining risk mitigation options, the case studies can be used in a variety of ways, which include: 1) as an educational tool for training individuals in research involving the use of investigational drugs/devices, 2) as a basis for developing reviewer checklists/worksheets, and 3) as a tool in designing research projects.

CASE STUDY

SCENARIO/FACT PATTERN:

Dr. Johnson is an investigator at a world-renowned diabetes center. His research focus has been the prevention of the cardiovascular risks associated with type 2 diabetes. Through his recent studies he has found that treatment with a current FDA-approved drug for MS may help prevent the damages to the structure of the heart caused by diabetic cardiomyopathy. Dr. Johnson wants to conduct a small clinical trial using institutional funding to gather pilot data to support his findings. He then plans to submit a grant for a larger clinical trial.

After reviewing the IND application process and the responsibilities of an IND sponsor-investigator, Dr. Johnson asked his institution to be the sponsor of the IND, which is required to use the drug in this study, and to bear the IND sponsor's responsibilities. There is no precedent at the institution for this request and the Institutional Official (IO) has reservations about being the IND sponsor and taking on the sponsor's responsibilities. The IO is also concerned about setting a precedent for future requests.

What issues might be causing the IO to have reservations about being the IND sponsor for this study, and thereby setting a precedent for future studies?

REGULATORY ISSUES:

- **Is it appropriate for the institution to be the IND sponsor?**

  Per 21 CFR 312.3 (b), "Sponsor" means a person who takes responsibility for, and initiates, a clinical investigation. The sponsor may be an individual or pharmaceutical company, governmental agency, academic institution, private organization, or other organization. The sponsor does not actually conduct the investigation unless the sponsor is a sponsor-investigator. A person other than an individual that uses one or more of its own employees to conduct an investigation that it has initiated is a sponsor, not a sponsor-investigator, and the employees are investigators."

- **Does the institution have the appropriate resources to meet the responsibilities of an IND sponsor?**

  Per 21 CFR 312.50, "Sponsors are responsible for selecting qualified investigators, providing them with the information they need to conduct an investigation properly, ensuring proper monitoring of the investigation(s), ensuring that the investigation(s) is conducted in accordance with the general investigational plan and protocols contained in the IND, maintaining an effective IND with respect to the investigations, and ensuring that FDA and all participating investigators are promptly informed of significant new adverse effects or risks with respect to the drug," as well as any significant new findings or modifications to the protocol.

RESOLUTION & DISCUSSION:

- **Why does the investigator not want to be the sponsor-investigator?**

  Per 21 CFR 312.3 (b) "*Sponsor-Investigator* means an individual who both initiates and conducts an investigation, and under whose immediate direction the investigational drug is administered or dispensed. The term does not include any person other than an individual. The requirements applicable to a sponsor-investigator under this part include both those applicable to an investigator and a sponsor."

  The investigator may not want to take on the administrative burden of acting in the role of sponsor-investigator if there is another office within the institution (IND/IDE Office) that is willing to take on the role. The investigator may be on a shoestring budget and not want to deal with the possible legal ramifications of being an IND sponsor.

- **What are the risks to the institution if it becomes the IND sponsor?**

  If the institution does not have the appropriate resources to meet the responsibilities of a sponsor-investigator, it runs the risk of mismanaging the study and failing to fulfill the regulatory obligations of a sponsor-investigator.

  If by setting a precedent, the institution must then manage being the holder of the INDs/IDEs of multiple studies, there may also be a financial risk to consider (e.g. hiring qualified staff,

handling drug/device accountability for multiple protocols, and related administrative burdens).

- **How can the institution fully assess its potential liability risk?**

  The institution's legal council may consider direct communication with the FDA regarding the INDs/IDEs as a potential liability risk, especially if inadequate resources for maintaining the IND/IDE are of a concern for the institution.

CONCLUSION:

Filing and maintaining an IND may seem overwhelming; however, meeting the regulatory requirements for conducting studies with an IND is a vital component of clinical research and should not be seen as a roadblock in conducting drug studies. Lack of knowledge of the process and/or resources should not hold an investigator or institution from moving forward as the sponsor of an IND. The FDA makes it easy to contact officers for assistance in meeting the responsibilities for maintaining an IND, and provides comprehensive guidance on their website. By working with the FDA, an investigator or institution can meet the regulatory obligations without causing major delays in the research.

REFERENCES:

21 CFR 312.3 (b): Definitions and interpretations.
https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?fr=312.3

21 CFR 312.50: General responsibilities of sponsors.
http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=312.50