Guidance for Industry

Independent Consultants for Biotechnology Clinical Trial Protocols

DRAFT GUIDANCE

This guidance document is being distributed for comment purposes only.

Submit comments and suggestions regarding this draft document by the date provided in the *Federal Register* notice announcing the availability of the draft guidance. Submit comments to Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. You should identify all comments with the docket number listed in the notice of availability that published in the *Federal Register*.

For questions on the content of this draft document contact Robert A. Yetter, CBER at 301-827-0373 or John Jenkins, CDER at 301-594-5421.

U.S. Department of Health and Human Services
Food and Drug Administration
Center for Biologics Evaluation and Research (CBER)
Center for Drug Evaluation and Research (CDER)
May 2003

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Additional copies of this guidance are available from

Office of Communication, Training, and
Manufacturers Assistance, HFM-40
Center for Biologics Evaluation and Research
Food and Drug Administration
1401 Rockville Pike, Rockville, MD 20852-1448
Internet: http://www.fda.gov/cber/guidelines.htm
Mail: The Voice Information System at 800-835-4709 or 301-827-1800
or
Office of Training and Communication
Division of Communications Management
Drug Information Branch, HFD-210
Center for Drug Evaluation and Research
Food and Drug Administration
5600 Fishers Lane, Rockville, MD 20857
(Phone: 301-827-4573),
Internet: http://www.fda.gov/cder/guidance/index.htm

U.S. Department of Health and Human Services
Food and Drug Administration
Center for Biologics Evaluation and Research (CBER)
Center for Drug Evaluation and Research (CDER)
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Guidance for Industry[1]

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This draft guidance document represents the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

I. WHY IS FDA ISSUING THIS GUIDANCE?

On June 12, 2002, the President signed the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, which included the Prescription Drug User Fee Amendments of 2002 (PDUFA III). Secretary Thompson's letter to Congress concerning PDUFA III included an addendum containing the performance goals and programs intended to facilitate the development and review of human drugs to which the Food and Drug Administration (FDA) had committed. The letter and addendum can be found on the internet at http://www.fda.gov/oc/pdufa/default.htm.

One commitment was the establishment of a program that allows you, the sponsor of clinical trials for certain products, to request that we, FDA, engage an independent consultant to participate in the review of your protocol for a clinical study that is intended to serve as the primary basis of a claim of efficacy. We are publishing this guidance to explain when and how you may take advantage of this program.

II. WHAT PRODUCTS ARE ELIGIBLE FOR THIS PROGRAM?

This program is available for a subset of products covered by PDUFA III. Your product qualifies for this program if it:

- Is biotechnology-derived (for example, DNA plasmid products, synthetic peptides of fewer than 40 amino acids, monoclonal antibodies for in vivo use, and recombinant DNA-derived products), and

[1] This draft guidance has been prepared by the Center for Biologics Evaluation and Research (CBER) and the Center for Drug Evaluation and Research (CDER) at the Food and Drug Administration.

- Has the potential to represent a significant advance in the treatment, diagnosis, or prevention of a disease or condition, or to address an unmet medical need.

III. HOW DO YOU REQUEST THAT FDA ENGAGE AN INDEPENDENT CONSULTANT?

We recommend that you submit a written request to us asking that we engage a consultant as part of your request for a formal meeting, (e.g., an End of Phase 2 meeting.) You should clearly designate this as a "Request for Appointment of Expert Consultant." The request should include the information needed for the meeting as explained in FDA's *"Guidance for Industry: Formal Meetings With Sponsors and Applicants for PDUFA Products"*[2] and the reasons that you believe an expert consultant should be engaged. These reasons might include preliminary discussions with FDA that resulted in disagreement over the protocol or a novel or unorthodox approach to the clinical trial or its analysis.

IV. DOES YOUR REQUEST AFFECT THE PDUFA MEETING MANAGEMENT GOALS?

Yes. We will need time to select and screen the consultant for potential conflicts of interest and the consultant will need sufficient time to review the scientific issues involved. Therefore, we will extend the performance goals for scheduling and holding the formal meeting an additional sixty (60) days. Similarly, if you wish the independent consultant to participate in other protocol assessment activities, such as a Special Protocol Question Assessment and Agreement, we will extend PDUFA performance goals related to those activities by sixty (60) days, in order to take into account the time necessary to select and screen the consultant.

V. HOW MANY TIMES CAN YOU USE THIS PROGRAM DURING THE DEVELOPMENT OF YOUR PRODUCT?

We will engage an independent consultant under this program only once during the development of your product. This restriction does not limit your ability to request that we take an issue pertaining to the product's marketing application review to an Advisory Committee. It also does not limit our ability to either take an issue to an Advisory Committee or otherwise seek advice on an issue.

VI. CAN YOU RECOMMEND CONSULTANTS FOR THE FDA TO ENGAGE?

You can submit a list of recommended consultants, their qualifications, and contact information for us to consider. Prospective consultants will be screened for conflicts of interest. We suggest that you not recommend consultants who:

[2] www.fda.gov/cber/guidelines.htm

- You know to have financial conflicts,
- Have been involved in the design or planning of the clinical trial, or
- You intend to ask to be an investigator.

We may or may not select the consultant from your list of recommendations.

VII. WHAT IS THE STATUS AND ROLE OF THE CONSULTANT?

Prospective consultants will be screened for potential conflicts of interest and be subject to confidentiality requirements. The consultant we select may be a special government employee or retained by us under contract. The consultant may:

- Review the clinical protocol and appropriate background material,
- Participate in our meeting with you, and
- Provide us with advice on your clinical protocol and product development plan.

We will remain responsible for making scientific and regulatory decisions regarding the clinical protocol, taking into account the consultant's advice.

VIII. WILL WE ALWAYS GRANT YOUR REQUEST?

We will grant the request unless we determine that engaging an expert consultant would not serve a useful purpose (e.g., it is clearly premature). If we grant the request, we will engage an independent consultant, of our choosing. If we deny the request, we will provide you with a written rationale for the denial within 14 days of receipt of your request.