DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of Public Health and Science

Office for Human Research Protections
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February 17, 2006

Carlos F. Perez
Sr. Vice President / Executive Director
Bellevue Hospital Center
462 First Avenue
New York, NY 10116

RE: Human Research Subject Protections Under Federalwide Assurance FWA-4966

Research Project: Phase I Trial: Safety and Effectiveness of Four Anti-HIV Drug Combinations in HIV-Infected Children and Teens
Project Number: ACTG #377
Principal Investigator: William Borkowsky, M.D.

Dear Mr. Perez:

The Office for Human Research Protections (OHRP) has reviewed the Bellevue Hospital Center's (BHC) July 12, 2005 response to OHRP's June 10, 2005 letter regarding indications of possible noncompliance with Department of Health and Human Services (HHS) regulations for the protection of human research subjects (45 CFR part 46) involving the above-referenced research.

OHRP notes that your reports indicated that ACTG #218, #265, and #345 did not include wards of the state. In addition, your reports indicated that ACTG #377 included wards of the state but were determined by the BHC institutional review board (IRB) to fall under HHS regulations at 45 CFR 46.405.

Based upon its review, OHRP makes the following determinations regarding the above-referenced research:

(1) HHS regulations at 45 CFR 46.404-409 require specific findings on the part of the IRB for approval of research involving children. OHRP acknowledges BHC's statement in your June 10, 2005 letter that the research was approved under "Category 46.405, though there was no documentation in the minutes of the IRB meeting of an IRB Subpart D determination." OHRP's review of BHC IRB documents for the above-referenced

research revealed no other evidence that the BHC IRB considered and made the required findings when reviewing this research involving children.

Required Action: Please provide a corrective action plan that adequately addresses the above finding.

OHRP has the following additional concerns regarding the above-referenced research:

(2) [Redacted]

Please forward your responses to the above required action, questions, and concerns so that OHRP receives them no later than March 31, 2006.

OHRP appreciates the continued commitment of your institution to the protection of human research subjects. Please do not hesitate to contact me should you have any questions.

Sincerely,

Kristina C. Borror, Ph.D.
Director, Division of Compliance Oversight

cc: Pierre Dubose, Chair, Research Protocol Review Group, Bellevue Hospital Center
Commissioner, FDA
Dr. David Lepay, FDA
Dr. Lana Skirboll, NIH
Dr. Anthony Fauci, NIH
Dr. Edmund C. Tramont, NIH
Ms. Donna Marchigiani, NIH
Dr. Robinsue Frohboese, OCR
Dr. Bernard Schwetz, OHRP
Dr. Melody H. Lin, OHRP
Dr. Michael Carome, OHRP
Ms. Shirley Hicks, OHRP
Dr. Irene Stith-Coleman, OHRP
Dr. Kristina Borror, OHRP
Ms. Patricia El-Hinnawy, OHRP
Ms. Janet Fant, OHRP