

§ 54.3

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sites, treatment protocols, and parallel track protocols. An applicant may consult with FDA as to which clinical studies constitute “covered clinical studies” for purposes of complying with financial disclosure requirements.

(f) *Significant payments of other sorts* means payments made by the sponsor of a covered study to the investigator or the institution to support activities of the investigator that have a monetary value of more than \$25,000, exclusive of the costs of conducting the clinical study or other clinical studies, (e.g., a grant to fund ongoing research, compensation in the form of equipment or retainers for ongoing consultation or honoraria) during the time the clinical investigator is carrying out the study and for 1 year following the completion of the study.

(g) *Applicant* means the party who submits a marketing application to FDA for approval of a drug, device, or biologic product. The applicant is responsible for submitting the appropriate certification and disclosure statements required in this part.

(h) *Sponsor of the covered clinical study* means the party supporting a particular study at the time it was carried out.

[63 FR 5250, Feb. 2, 1998, as amended at 63 FR 72181, Dec. 31, 1998]

§ 54.3 Scope.

The requirements in this part apply to any applicant who submits a marketing application for a human drug, biological product, or device and who submits covered clinical studies. The applicant is responsible for making the appropriate certification or disclosure statement where the applicant either contracted with one or more clinical investigators to conduct the studies or submitted studies conducted by others not under contract to the applicant.

§ 54.4 Certification and disclosure requirements.

For purposes of this part, an applicant must submit a list of all clinical investigators who conducted covered clinical studies to determine whether the applicant’s product meets FDA’s marketing requirements, identifying those clinical investigators who are full-time or part-time employees of the

sponsor of each covered study. The applicant must also completely and accurately disclose or certify information concerning the financial interests of a clinical investigator who is not a full-time or part-time employee of the sponsor for each covered clinical study. Clinical investigators subject to investigational new drug or investigational device exemption regulations must provide the sponsor of the study with sufficient accurate information needed to allow subsequent disclosure or certification. The applicant is required to submit for each clinical investigator who participates in a covered study, either a certification that none of the financial arrangements described in § 54.2 exist, or disclose the nature of those arrangements to the agency. Where the applicant acts with due diligence to obtain the information required in this section but is unable to do so, the applicant shall certify that despite the applicant’s due diligence in attempting to obtain the information, the applicant was unable to obtain the information and shall include the reason.

(a) The applicant (of an application submitted under sections 505, 506, 510(k), 513, or 515 of the Federal Food, Drug, and Cosmetic Act, or section 351 of the Public Health Service Act) that relies in whole or in part on clinical studies shall submit, for each clinical investigator who participated in a covered clinical study, either a certification described in paragraph (a)(1) of this section or a disclosure statement described in paragraph (a)(3) of this section.

(1) Certification: The applicant covered by this section shall submit for all clinical investigators (as defined in § 54.2(d)), to whom the certification applies, a completed Form FDA 3454 attesting to the absence of financial interests and arrangements described in paragraph (a)(3) of this section. The form shall be dated and signed by the chief financial officer or other responsible corporate official or representative.

(2) If the certification covers less than all covered clinical data in the application, the applicant shall include in the certification a list of the studies covered by this certification.

(3) Disclosure Statement: For any clinical investigator defined in § 54.2(d) for whom the applicant does not submit the certification described in paragraph (a)(1) of this section, the applicant shall submit a completed Form FDA 3455 disclosing completely and accurately the following:

(i) Any financial arrangement entered into between the sponsor of the covered study and the clinical investigator involved in the conduct of a covered clinical trial, whereby the value of the compensation to the clinical investigator for conducting the study could be influenced by the outcome of the study;

(ii) Any significant payments of other sorts from the sponsor of the covered study, such as a grant to fund ongoing research, compensation in the form of equipment, retainer for ongoing consultation, or honoraria;

(iii) Any proprietary interest in the tested product held by any clinical investigator involved in a study;

(iv) Any significant equity interest in the sponsor of the covered study held by any clinical investigator involved in any clinical study; and

(v) Any steps taken to minimize the potential for bias resulting from any of the disclosed arrangements, interests, or payments.

(b) The clinical investigator shall provide to the sponsor of the covered study sufficient accurate financial information to allow the sponsor to submit complete and accurate certification or disclosure statements as required in paragraph (a) of this section. The investigator shall promptly update this information if any relevant changes occur in the course of the investigation or for 1 year following completion of the study.

(c) Refusal to file application. FDA may refuse to file any marketing application described in paragraph (a) of this section that does not contain the information required by this section or a certification by the applicant that the applicant has acted with due diligence to obtain the information but was unable to do so and stating the reason.

[63 FR 5250, Feb. 2, 1998; 63 FR 35134, June 29, 1998, as amended at 64 FR 399, Jan. 5, 1999]

§ 54.5 Agency evaluation of financial interests.

(a) *Evaluation of disclosure statement.* FDA will evaluate the information disclosed under § 54.4(a)(2) about each covered clinical study in an application to determine the impact of any disclosed financial interests on the reliability of the study. FDA may consider both the size and nature of a disclosed financial interest (including the potential increase in the value of the interest if the product is approved) and steps that have been taken to minimize the potential for bias.

(b) *Effect of study design.* In assessing the potential of an investigator's financial interests to bias a study, FDA will take into account the design and purpose of the study. Study designs that utilize such approaches as multiple investigators (most of whom do not have a disclosable interest), blinding, objective endpoints, or measurement of endpoints by someone other than the investigator may adequately protect against any bias created by a disclosable financial interest.

(c) *Agency actions to ensure reliability of data.* If FDA determines that the financial interests of any clinical investigator raise a serious question about the integrity of the data, FDA will take any action it deems necessary to ensure the reliability of the data including:

(1) Initiating agency audits of the data derived from the clinical investigator in question;

(2) Requesting that the applicant submit further analyses of data, e.g., to evaluate the effect of the clinical investigator's data on overall study outcome;

(3) Requesting that the applicant conduct additional independent studies to confirm the results of the questioned study; and

(4) Refusing to treat the covered clinical study as providing data that can be the basis for an agency action.

§ 54.6 Recordkeeping and record retention.

(a) *Financial records of clinical investigators to be retained.* An applicant who has submitted a marketing application containing covered clinical studies shall keep on file certain information