

20151-1715. <http://www.nro.gov/foia/index.html>

AP2.2.16. *National Security Agency*. National Security Agency/Central Security Service, FOIA/PA Services, DC34, 9800 Savage Road, Suite 6248, Fort George G. Meade, MD 20755-6248. <http://www.nsa.gov/foia/index.cfm>.

AP2.2.17. *Inspector General of the Department of Defense*. Inspector General of the Department of Defense, Chief FOIA/PA Office, 400 Army Navy Drive, Room 201, Arlington, VA 22202-4704. <http://www.dodig.osd.mil/fo/foia/foia.htm>.

AP2.3. *DoD Field Activity And Combatant Command Addresses*

Although the below FOIA Requester Service Centers are OSD Components for the purposes of the FOIA, these Centers respond directly to the public on initial requests. Accordingly, initial requests should be sent to the addresses indicated.

AP2.3.1. *DoD TRICARE Management Activity*. TRICARE Management Activity, Attention: Freedom of Information Act Officer, 16401 East Centretex Parkway, Aurora, CO 80011-9043. <http://www.tricare.mil/tmaprivacy/foia.cfm>.

AP2.3.2. *Chairman, Armed Services Board of Contract Appeals*. Chairman, Armed Services Board of Contract Appeals, Skyline Six Room 703, 5109 Leesburg Pike, Falls Church, VA 22041-3208.

AP2.3.3. *Defense Technical Information Center*. Defense Technical Information Center, Attn: FOIA Program Manager, 8725 John J. Kingman Road, Suite 0944, Fort Belvoir, VA 22062-6218. <http://www.dtic.mil/dtic/foia/>.

AP2.3.4 *DoD Education Activity*. DoD Education Activity, Freedom of Information Act Officer, 4040 North Fairfax Dr., Arlington, VA 22203-1635. <http://www.dodea.edu/foia/>.

AP2.3.5. *U.S. Central Command*. U.S. Central Command, CCJ6-RD (FOIA), 7115 South Boundary Blvd., MacDill Air Force Base, FL 33621-5101. <http://www.centcom.mil/sites/foia/default.aspx>.

AP2.3.6. *U.S. European Command*. U.S. European Command, FOIA Requester Service Center, Unit 30400 Box 1000, APO AE 09131. <http://www.eucom.mil/english/FOIA/main.asp>.

AP2.3.7. *U.S. Joint Forces Command*. U.S. Joint Forces Command, Code J024, 1526 Mitscher Ave., Ste. 200, Norfolk, VA 23511-5100. <http://www.jfcom.mil/about/foia.htm>.

AP2.3.8. *U.S. Northern Command*. U.S. Northern Command, FOIA Officer, 250 Vandenberg Street, Suite B016, Peterson Air Force Base, CO 80914-38040. <http://www.northcom.mil/foia/home.htm>.

AP2.3.9. *U.S. Pacific Command*. U.S. Pacific Command, J151 FOIA, Box 64017, Camp H. M. Smith, HI 96861-4017. <http://www.pacom.mil/foia/homepage.shtml>.

AP2.3.10. *U.S. Southern Command*. U.S. Southern Command, SCJ1-A (FOIA), 3511 NW .91st Avenue, Miami, FL 33172-1217. <http://www.southcom.mil/AppsSC/pages/foia.php>.

AP2.3.11. *U.S. Special Operations Command*. U.S. Special Operations Command, SOCS-SJS-I/FOIA Requester Service Center, 7701 Tampa Point Blvd.,

MacDill Air Force Base, FL 33621-5323. <http://www.socom.mil/foia/>.

AP2.3.12. *U.S. Strategic Command*. U.S. Strategic Command, Attn: J01031 (FOIA), 901 SAC Blvd., Suite 1E5, Offutt Air Force Base, NE 68113-6000. <http://www.stratcom.mil/foia/>.

AP2.3.13. *U.S. Transportation Command*. U.S. Transportation Command, Attn: TCCS-IM, 508 Scott Drive, Scott Air Force Base, IL 62225-5357. <http://www.transcom.mil/foia.cfm>.

AP2.4. *National Guard Bureau*. The National Guard Bureau FOIA Requester Service Center is unique in that it processes its own initial FOIA requests; however, FOIA appeals are handled either by the Department of the Army or the Department of the Air Force. The address is: Chief, National Guard Bureau, Attn: NGB-SDA (FOIA), 1411 Jefferson Davis Highway, Arlington, VA 22202-3231. <http://www.ngb.army.mil/sitelinks/foia.aspx>.

Dated: December 11, 2007.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, DoD.*

[FR Doc. E7-24359 Filed 12-18-07; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

#### 42 CFR Part 1001

#### Solicitation of New Safe Harbors and Special Fraud Alerts

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Notice of intent to develop regulations.

**SUMMARY:** In accordance with section 205 of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, this annual notice solicits proposals and recommendations for developing new and modifying existing safe harbor provisions under the Federal anti-kickback statute (section 1128B(b) of the Social Security Act), as well as developing new OIG Special Fraud Alerts.

**DATES:** To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on February 19, 2008.

**ADDRESSES:** In commenting, please refer to file code OIG-112-N. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific

recommendations and proposals through the Federal eRulemaking Portal at <http://www.regulations.gov>. (Attachments should be in Microsoft Word, if possible.)

2. *By regular, express, or overnight mail.* You may send written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG-112-N, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201. Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver, by hand or courier, your written comments before the close period to Office of Inspector General, Department of Health and Human Services, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201. Because access to the interior of the Cohen Building is not readily available to persons without Federal Government identification, commenters are encouraged to schedule their delivery with one of our staff members at (202) 358-3141.

For information on viewing public comments, please see the Supplementary Information section.

**FOR FURTHER INFORMATION CONTACT:** Joel Schaer, (202) 619-0089, OIG Regulations Officer.

#### **SUPPLEMENTARY INFORMATION:**

*Submitting Comments:* We welcome comments from the public on recommendations for developing new or revised safe harbors and Special Fraud Alerts. Please assist us by referencing the file code OIG-112-N.

*Inspection of Public Comments:* All comments received before the end of the comment period are available for viewing by the public. All comments will be posted on <http://www.regulations.gov> as soon as possible after they have been received. Comments received timely will also be available for public inspection as they are received at Office of Inspector General, Department of Health and Human Services, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (202) 619-0089.

### **I. Background**

#### *A. OIG Safe Harbor Provisions*

Section 1128B(b) of the Social Security Act (the Act) (42 U.S.C. 1320a-7b(b)) provides criminal penalties for individuals or entities that knowingly

and willfully offer, pay, solicit or receive remuneration in order to induce or reward business reimbursable under the Federal health care programs. The offense is classified as a felony and is punishable by fines of up to \$25,000 and imprisonment for up to 5 years. OIG may also impose civil money penalties, in accordance with section 1128A(a)(7) of the Act (42 U.S.C. 1320a-7a(a)(7)), or exclusion from the Federal health care programs, in accordance with section 1128(b)(7) of the Act (42 U.S.C. 1320a-7(b)(7)).

Since the statute on its face is so broad, concern has been expressed for many years that some relatively innocuous commercial arrangements may be subject to criminal prosecution or administrative sanction. In response to the above concern, the Medicare and Medicaid Patient and Program Protection Act of 1987, section 14 of Public Law 100-93, specifically required the development and promulgation of regulations, the so-called "safe harbor" provisions, specifying various payment and business practices which, although potentially capable of inducing referrals of business reimbursable under the Federal health care programs, would not be treated as criminal offenses under the anti-kickback statute and would not serve as a basis for administrative sanctions. OIG safe harbor provisions have been developed "to limit the reach of the statute somewhat by permitting certain non-abusive arrangements, while encouraging beneficial and innocuous arrangements" (56 FR 35952, July 29, 1991). Health care providers and others may voluntarily seek to comply with these provisions so that they have the assurance that their business practices will not be subject to liability under the anti-kickback statute or related administrative authorities.

Existing OIG safe harbors describing those practices that are sheltered from liability are codified in 42 CFR part 1001.

#### *B. OIG Special Fraud Alerts*

OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices OIG finds potentially fraudulent or abusive. The Special Fraud Alerts encourage industry compliance by giving providers guidance that can be applied to their own practices. OIG Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as to those charged with administering the Federal health care programs.

In developing these Special Fraud Alerts, OIG has relied on a number of sources and has consulted directly with experts in the subject field, including those within OIG, other agencies of the Department, other Federal and State agencies, and those in the health care industry.

#### *C. Section 205 of Public Law 104-191*

Section 205 of Public Law 104-191 requires the Department to develop and publish an annual notice in the **Federal Register** formally soliciting proposals for modifying existing safe harbors to the anti-kickback statute and for developing new safe harbors and Special Fraud Alerts.

In developing safe harbors for a criminal statute, OIG is required to engage in a thorough review of the range of factual circumstances that may fall within the proposed safe harbor subject area so as to uncover potential opportunities for fraud and abuse. Only then can OIG determine, in consultation with the Department of Justice, whether it can effectively develop regulatory limitations and controls that will permit beneficial and innocuous arrangements within a subject area while, at the same time, protecting the Federal health care programs and their beneficiaries from abusive practices.

### **II. Solicitation of Additional New Recommendations and Proposals**

In accordance with the requirements of section 205 of Public Law 104-191, OIG last published a **Federal Register** solicitation notice for developing new safe harbors and Special Fraud Alerts on December 11, 2006 (71 FR 71501). As required under section 205, a status report of the public comments received in response to that notice is set forth in Appendix D to the OIG's Semiannual Report covering the period April 1, 2007, through September 30, 2007.<sup>1</sup> OIG is not seeking additional public comment on the proposals listed in Appendix D at this time. Rather, this notice seeks additional recommendations regarding the development of proposed or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized in Appendix D to the OIG Semiannual Report referenced above.

#### *A. Criteria for Modifying and Establishing Safe Harbor Provisions*

In accordance with section 205 of HIPAA, we will consider a number of factors in reviewing proposals for new

<sup>1</sup> The OIG Semiannual Report can be accessed through the OIG web site at <http://oig.hhs.gov/publications/semiannual.html>.

or modified safe harbor provisions, such as the extent to which the proposals would affect an increase or decrease in—

- Access to health care services,
- The quality of services,
- Patient freedom of choice among health care providers,
- Competition among health care providers,
- The cost to Federal health care programs,
- The potential overutilization of the health care services, and
- The ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

In addition, we will also take into consideration other factors, including, for example, the existence (or nonexistence) of any potential financial benefit to health care professionals or providers that may take into account their decisions whether to (1) order a health care item or service or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

#### *B. Criteria for Developing Special Fraud Alerts*

In determining whether to issue additional Special Fraud Alerts, we will also consider whether, and to what extent, the practices that would be identified in a new Special Fraud Alert may result in any of the consequences set forth above, as well as the volume and frequency of the conduct that would be identified in the Special Fraud Alert.

A detailed explanation of justifications for, or empirical data supporting, a suggestion for a safe harbor or Special Fraud Alert would be helpful and should, if possible, be included in any response to this solicitation.

**Daniel R. Levinson,**  
*Inspector General.*

[FR Doc. E7-24579 Filed 12-18-07; 8:45 am]

**BILLING CODE 4150-04-P**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 20**

#### **Service Regulations Committee Meeting**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.