

addresses, is landlords submitting false claims for periodic payments under housing assistance payment (HAP) contracts.

**FOR FURTHER INFORMATION CONTACT:**

Bryan P. Saddler, Counsel to the Inspector General, Office of Legal Counsel Office of Inspector General, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8260, Washington, DC 20410-4500, telephone (202) 708-1613 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Mission of HUD's OIG**

The mission of HUD's OIG is to provide policy direction to HUD and to conduct, supervise, and coordinate audits, investigations, and other activities for the purpose of promoting economy and efficiency in the administration of the programs and operations of HUD and preventing and detecting fraud and abuse in such programs.

Consistent with this mission, Section II of this notice presents OIG's fraud information bulletin on charging excess rent in the Housing Choice Voucher program.

**II. Fraud Information Bulletin: Excess Rent**

*Purpose*

This Bulletin highlights a recurring problem in the Housing Choice Voucher (HCV) program. Specifically, this Bulletin discusses the submission by landlords of false claims for periodic payments under Housing Assistance Payment (HAP) contracts, where such landlords have violated their continuing obligations to not charge tenants rents in excess of what is authorized by the HAP contracts.

*The Problem*

Improperly requiring tenants to pay rent in excess of what is authorized by the applicable HAP contract represents both an actionable offense under the False Claims Act and deplorable behavior directed towards the very persons whom the HCV program was designed to serve. (Additionally, depending on the intent, such an action may qualify as a criminal offense under 18 U.S.C. 287, 1343, etc.) OIG will not tolerate such conduct, and rather will cooperate with efforts to bring offending landlords to justice and to remedy their wrongs.

*Background*

HUD administers Federal aid to local housing agencies (HAs) that is intended to implement housing assistance programs for low-income residents. With respect to the HCV program, HUD funds HAs via annual contributions contracts. The HAs, in turn, enter into HAP contracts with individual landlords. These HAP contracts provide for periodic housing assistance payments on behalf of eligible low-income tenants. The HAP contracts also may require eligible tenants to make supplemental rent payments; however, the contracts expressly prohibit landlords from requiring tenants to pay rent in excess of what is authorized by the HAP contracts.

Pursuant to qui tam complaints and citizen complaints filed throughout the nation and subsequent activities, OIG has become aware of a number of landlords who have improperly required tenants to pay rent in excess of what is authorized by the HAP contracts, and thereby submitted or caused to be submitted false claims for HAP contract periodic rent payments.

*Example*

On July 29, 2005, a Connecticut tenant filed a qui tam complaint, under 31 U.S.C. 3730, against her former landlord. See *Coleman v. Hernandez*, 490 F. Supp.2d 278 (D. Conn. 2007). The tenant complained that pursuant to a HAP contract the landlord had agreed to accept \$1,550 per month for the rental of an apartment in Stamford. Of this \$1,550, the tenant was personally responsible for \$20, and HUD via the HA paid the complementary \$1,530. In spite of the explicit prohibition in the HAP contract, however, the landlord required the tenant to pay an "additional rent payment" of \$60 on six separate occasions. In other words, the landlord inappropriately extracted an additional \$360 from the helpless tenant.

OIG is aware of numerous similar examples of this sort of egregious conduct nationwide.

*Penalty*

Pursuant to the False Claims Act, 31 U.S.C. 3729 *et seq.*, persons who submit to HUD or a HUD intermediary claims that are false, fictitious or fraudulent are liable for an assessment equal to three times the amount of the claim, plus a penalty of between \$5,500 and \$11,000 per claim. The United States may take the position that the entire amount of its HAP payment, not merely the amount of the excess payment by the tenant, is the claim that should be trebled where

landlords make false certifications concerning excess rent charged. Additionally, each periodic rent payment constitutes a separate claim; thus, in the *Coleman* case the court levied a \$33,000 (6 × \$5,500) penalty against the landlord for her \$360 victimization of the tenant.

*Pertinent Information*

If you have pertinent information regarding this bulletin, please contact: Office of Legal Counsel, Office of the Inspector General, Department of Housing and Urban Development, 451 Seventh St., SW., Room 8260, Washington, DC 20410.

Dated: July 1, 2008.

**Kenneth M. Donohue,**

*Inspector General.*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**Fish and Wildlife Service and Confederated Salish and Kootenai Tribes Sign Annual Funding Agreement**

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

**ACTION:** Notice.

**SUMMARY:** On June 19, 2008, the U.S. Fish and Wildlife Service (the Service) and the Confederated Salish and Kootenai Tribes (CSKT) (collectively the Parties) signed an annual funding agreement (AFA) under the Tribal Self-Governance Act of 1994. The Tribal Self-Governance Act provides for the Secretary of the Interior (the Secretary) to negotiate and enter into an AFA with a tribe participating in Self-Governance, authorizing the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof (Activities), administered by the Secretary, which are of special geographic, historical, or cultural significance to that tribe. This includes such Activities within the National Wildlife Refuge System (NWRS).

Under the AFA, the CSKT will function in partnership with the Service and will be directly involved with our management mission at the National Bison Range Complex (NBRC). CSKT will perform a variety of Activities at the NBRC, including operational responsibility for mission-critical Activities such as the biology, maintenance, visitor services, and fire programs. The NBRC will remain a unit

of the NWRS and will continue to be administered and managed by the Service in accordance with the NWRS Administration Act (16 U.S.C. 668dd-ee, as amended), and all other applicable Federal laws, regulations, and policies.

On June 19, 2008, the AFA was signed by the Tribal Chairman and the Director of the Service, and endorsed by the following senior Department of the Interior management officials: The Secretary of the Interior, Deputy Secretary of the Interior, Assistant Secretary for Fish and Wildlife and Parks, and Acting Director, Office of Economic Development, on behalf of the Office of the Acting Assistant Secretary—Indian Affairs. Copies of the AFA have been forwarded to the U.S. Congress for a 90-day review period, pursuant to the implementing regulations at 25 CFR 1000.177-178.

**DATES:** The AFA term is October 1, 2008, through September 30, 2011. The Parties may agree in writing to extend the term for performing any Activity covered by the AFA, as provided at 25 CFR 1000.146, and subject to applicable Federal laws and regulations. All of the terms and conditions of the AFA will apply during any extension. The Parties may modify the Activities covered by the AFA or the consideration paid by the Service to the CSKT for performing an Activity only by amendment as provided in Section 21.A of the AFA.

**ADDRESSES:** You may obtain a copy of the AFA and Attachments A-D at any of the following Internet or U.S. mail addresses:

1. Internet—<http://mountain-prairie.fws.gov/cskt-fws-negotiation>.
2. Montana—National Bison Range Headquarters, 132 Bison Range Road, Moiese, Montana 59824.
3. Denver—U.S. Fish and Wildlife Service Regional Office, National Wildlife Refuge System—Mountain-Prairie Region, P.O. Box 25486, DFC, Denver, Colorado 80225.
4. Confederated Salish and Kootenai Tribes, P.O. Box 278, Pablo, Montana 59855.

**FOR FURTHER INFORMATION CONTACT:** Dean Rundle, Refuge Supervisor, at (303) 236-4306.

**SUPPLEMENTARY INFORMATION:** What is the NBRC? Located in northwestern Montana, the NBRC is part of the NWRS and consists of the National Bison Range, the Pablo and Ninepipe National Wildlife Refuges, and that portion of the Northwest Montana Wetland Management District that lies in Lake County. Established in 1908 to conserve the American Bison, the NBRC provides important habitat for a variety of species

such as elk, pronghorn antelope, and migratory birds.

How Was the AFA Developed? The Service and the CKST negotiated in accordance with 25 CFR part 1000.

What Events Led to this AFA? In January 2008, at the request of Department of the Interior and Service leadership, representatives of the Parties entered into a facilitated process to create a framework for negotiating an AFA pursuant to the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638). The overarching goal of this process and the subsequent negotiations was to build trust and ensure a solid understanding of both Parties' interests and intentions with regard to the long-term conservation and stewardship of the NBRC.

Throughout the period of January-June 2008, the parties engaged in government-to-government negotiations, led by professional, field-level staff, to draft the AFA in a manner that balanced the intent and function of the Self-Governance Act and the NWRS Administration Act, as well as other applicable Federal laws, regulations, and policies. Following the conclusion of negotiations in June 2008, the Service and the Department of the Interior conducted an extensive legal and policy review of the AFA to ensure it met all applicable requirements before signing the AFA on behalf of the United States.

What is the Tribal Self-Governance Act of 1994? The Tribal Self-Governance Act (codified at 25 U.S.C. 458aa-458hh) was enacted as an amendment to Public Law 93-638 (codified as the Indian Self-Determination Act, 25 U.S.C. 450-450n) and incorporated as Title IV of that Law. The Tribal Self-Governance Act allows qualifying tribes the opportunity to request AFAs with the Bureau of Indian Affairs (BIA) and non-BIA bureaus within the Department of the Interior. When dealing with non-BIA bureaus, including the Service, qualifying tribes may enter into AFAs that allow them to conduct certain activities of such non-BIA bureaus. Eligible activities include Indian programs (programs created for the benefit of Native Americans because of their status as Native Americans); activities otherwise available to Native American tribes (any activity that a Federal agency might otherwise contract to outside entities); and activities that have a special geographic, historical, or cultural significance to the Indian tribe requesting a compact. Public Law 93-638 and the implementing regulation at 25 CFR 1000.129 prohibit the inclusion of Activities in an AFA that are inherently Federal functions. The NBRC has no special Tribal programs. All

activities conducted by the Service on national wildlife refuges are for the benefit of the fish and wildlife resources, their habitats, and the American public. Activities that may have a special relationship with a tribe are the most promising for inclusion in an AFA. Whether to enter into an AFA with a tribe for these activities is discretionary on the part of the Service. The Service recognizes that the CSKT has a cultural, historical, and/or geographical connection to the lands and resources of the NBRC. The proposed AFA provides for the CSKT to perform certain Activities for the NBRC during a 3-year period.

#### What Happens Now?

As noted above, the AFA has been signed by the Director of the Service, and endorsed by senior Department of the Interior management. In accordance with 25 CFR 1000.177, the Assistant Secretary for Fish and Wildlife and Parks has forwarded copies of the AFA to the Senate Committee on Indian Affairs and the House Subcommittee on Native American and Insular Affairs, as well as other Congressional committees with jurisdictions related to the NWRS and the Service. If there are no objections to the AFA, the agreement will take effect 90 days after submission to Congress.

Dated: June 27, 2008.

**Lyle Laverty,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R9-FHC-2008-N0174; 94300-1122-0000-Z2]

#### Wind Turbine Guidelines Advisory Committee; Announcement of Public Meeting

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

**ACTION:** Notice of public meeting.

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**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), will host a Wind Turbine Guidelines Advisory Committee (Committee) meeting, on July 23-24, 2008. The meeting is open to the public. The meeting agenda will include reports from the Subcommittees on Existing Guidelines, Legal, Landscape Habitat (Mapping), Science Tools and Procedures, and Other Models/Uncertainty; and briefings from