

**252.203–700X Display of Fraud Hotline Poster(s).**

As prescribed in 203.1004(b), use the following clause:

**DISPLAY OF FRAUD HOTLINE POSTER(S) (DATE)***(a) Definition.*

*United States*, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

*(b) Display of fraud hotline poster(s).* (1) The Contractor shall display prominently in common work areas within business segments performing work in the United States under Department of Defense (DoD) contracts—

(i) DoD fraud hotline posters prepared by the DoD Office of the Inspector General. DoD fraud hotline posters may be obtained from the DoD Inspector General, ATTN: Defense Hotline, 400 Army Navy Drive, Washington, DC 22202–2884.

(ii) Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(2) of this clause; and

(iii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Any required DHS posters may be obtained as follows:

<i>Poster(s)</i>	<i>Obtain from</i>
_____	_____
_____	_____

(Contracting Officer shall insert—

(i) Title of applicable Department of Homeland Security fraud hotline poster; and

(ii) The Web site(s) or other contact information for obtaining the poster(s).)

(3) Additionally, if the Contractor maintains a company Web site as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the Web site.

*(c) Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that exceed \$5 million except when the subcontract—

(1) Is for the acquisition of a commercial item; or

(2) Is performed entirely outside the United States.

(End of clause)

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**BILLING CODE 5001–08–P**

**GENERAL SERVICES ADMINISTRATION****48 CFR Part 532**

[GSAR Case 2010–G509; Docket 2011–0009; Sequence 1]

RIN 3090–AJ13

**Reinstatement of Coverage Pertaining to Final Payment Under Construction and Building Services**

**AGENCY:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** GSA is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to amend the GSAR to restore guidance on making final payments under construction and building service contracts to ensure contractors are paid in accordance with their contract requirements and not overpaid or receive improper payments for work performed. This guidance, which prescribed the use of GSA Form 1142, Release of Claims, for releases of claims under construction and building service contracts, was inadvertently deleted as part of the Rewrite of GSAR regulations on Contract Financing. GSA Contracting Officers have used this form to achieve uniformity and consistency in the release of claims process.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat on or before May 10, 2011 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by GSAR Case 2010–G509 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting “GSAR Case 2010–G509” under the heading “Enter Key Word or ID”. Follow the instructions provided to “Submit a Comment”. Please include your name, company name (if any), and “GSAR Case 2010–G509” on your attached document.

- *Fax:* 202–501–4067.

- *Mail:* General Services Administration, Regulatory Secretariat, 1275 First Street, NE., 7th Floor, ATTN: Hada Flowers, Washington, DC 20417.

*Instructions:* Please submit comments only and cite GSAR Case 2010–G509 in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Edward N. Chambers at (202) 501–3221, or by e-mail at [edward.chambers@gsa.gov](mailto:edward.chambers@gsa.gov). For information pertaining to the status or publication schedules, contact the Regulatory Secretariat, 7th Floor, GS Building, Washington, DC 20417, (202) 501–4755. Please cite GSAR Case 2010–G509.

**SUPPLEMENTARY INFORMATION:****A. Background**

A release of claims is a requirement under GSAR clause 552.232–72, Final Payment, precedent to making final payment under construction and building service contracts. Prior to deleting the form, GSA Contracting Officers relied upon GSA Form 1142 to obtain the release of claims under these contracts. However, GSAR 532.905–71 which prescribed the use of GSA Form 1142 for releases of claims under construction and building service contracts was inadvertently deleted as part of the Rewrite of GSAR Part 532, Contract Financing published in the **Federal Register** at 74 FR 54915, on October 29, 2009, GSAR Case 2006–G515. GSAR 532.905–71 also provided guidance on deductions to final payments under construction and building service contracts.

GSA Form 1142, Release of Claims, uses standard language for contractors to attest that is has no claims, or no claims except for those they may set forth where indicated on the form. The form requires a signature from the contractor and a witness. Additionally, there is a location for the firm’s seal.

GSA believes that GSA Form 1142 provides great value and accountability in providing uniformity and consistency for the release of claims process.

Without the GSA Form 1142, GSA Contracting Officers will be required to verify that contractor release of claims letter includes appropriate wording before final payment is made, resulting in their devotion of considerable additional resources to this process. Further, the coverage on deductions under GSAR 532.905–71 was useful in preventing overpayments to contractors consistent with the Administration Improper Payments Elimination and Recovery Act and OMB efforts to eliminate improper payments.

Consequently, GSA proposes to amend the GSAR to restore the coverage at GSAR 532.905–71. Since the referenced GSAR Rewrite of Part 532 (74 FR 54915) also deleted GSAR 532.905–70, this coverage will be restored at GSAR 532.905–70 vice GSAR 532.905–71.

### B. Executive Order 12866 and 13563

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804. In accordance with Executive Order 13563, Improving Regulation and Regulatory Review, dated January 18, 2011, GSA has determined that this rule is not excessively burdensome to the public, and that GSA Form 1142 which is prescribed by the rule is useful to contractors in presenting their release of claims to the Government.

### C. Regulatory Flexibility Act

The General Services Administration does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule requires the collection of the information that is administrative in nature. Submission of this information should not be burdensome to the contractor but should provide a consistent format that the contractor can use to report their claims information to the GSA. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. GSA will consider comments from small entities concerning the affected GSAR Part 532 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (GSAR case 2010-G509), in correspondence.

### D. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 3090-0080.

### List of Subjects in 48 CFR Part 532

Government procurement.

Dated: March 7, 2011.

Millisa Gary,

Acting Director, Office of Governmentwide Acquisition Policy.

Therefore, GSA proposes to amend 48 CFR part 532 as set forth below:

### PART 532—CONTRACT FINANCING

1. The authority citation for 48 CFR part 532 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

2. Add section 532.905-70 to read as follows:

#### 532.905-70 Final payment—construction and building service contracts.

The following procedures apply to construction and building service contracts:

(a) The Government shall pay the final amount due the Contractor under this contract after the documentation in FAR 52.232-5 is provided.

(b) Contracting Officers may not process the final payment on construction or building service contracts until the contractor submits a properly executed GSA Form 1142, Release of Claims, except as provided in paragraph (c) of this section.

(c) In cases where, after 60 days from the initial attempt, the Contracting Officer is unable to obtain a release of claims from the contractor, the final payment may be processed with the approval of assigned legal counsel.

(d) The amount of final payment must include, as appropriate, deductions to cover any of the following:

(1) Liquidated damages for late completion.

(2) Liquidated damages for labor violations.

(3) Amount withheld for improper payment of labor wages.

(4) The amount of unilateral change orders covering defects and omissions.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

RIN 0648-AW67

#### Western Pacific Pelagic Fisheries; Prohibiting Purse Seine Fishing in the U.S. EEZ Around Guam and the Northern Mariana Islands, and Prohibiting Longline Fishing Within 30 nm of the Northern Mariana Islands

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Western Pacific Fishery Management Council (Council) proposes Amendment 2 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (FEP). If approved by the

Secretary of Commerce, this amendment would create a 30-nautical mile (nm) longline prohibited area around the Commonwealth of the Northern Mariana Islands (CNMI), and prohibit purse seine fishing within the entire U.S. Exclusive Economic Zone (EEZ) around the Mariana Archipelago, including Guam and the CNMI. The area closures are intended to prevent and minimize gear conflicts and resource competition among the various fishery sectors (troll, longline and purse seine) in the Mariana Archipelago. In addition, this action is intended to facilitate the conservation of important stocks such as bigeye, yellowfin, and skipjack tuna throughout their range in the Pacific Ocean.

**DATES:** Comments on the amendment must be received by May 10, 2011.

**ADDRESSES:** Copies of Amendment 2, including an environmental assessment, are available from <http://www.regulations.gov>, or the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, <http://www.wpcouncil.org>.

Comments on the amendment, including the environmental assessment, identified by 0648-AW67, may be sent to either of the following addresses:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>; or

- **Mail:** Mail written comments to Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700.

**Instructions:** Comments must be submitted to one of the above two addresses to ensure that the comments are received, documented, and considered by NMFS. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*) submitted voluntarily by the sender may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Toby Wood, NMFS PIR Sustainable Fisheries, 808-944-2234.