

GENERAL SERVICES ADMINISTRATION

48 CFR Part 532

[GSAR Case 2020–G521 Docket No. 2020–0017; Sequence No. 1]

RIN 3090–AK25

General Services Administration Acquisition Regulation; Remove Office of General Counsel Review for Final Payments; Withdrawal

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

ACTION: Direct final rule; withdrawal.

SUMMARY: On October 1, 2020, GSA published in the **Federal Register** a direct final rule entitled Remove Office of General Counsel Review for Final Payments. The rule revised internal agency approval procedures for processing a final payment for construction and building service contracts where, after 60 days, a contracting officer is unable to obtain a release of claims from a contractor. This action withdraws the rule because GSA received an adverse comment.

DATES: The direct final rule published at 85 FR 61871, October 1, 2020, is withdrawn effective November 30, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Bryon Boyer, GSA Acquisition Policy Division, at gsarpolicy@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite GSAR Case 2020–G521.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 2020, GSA published a direct final rule (85 FR 61871). The rule, to have become effective November 30, 2020, was intended to streamline the process for certain contract final payments. GSA stated in the direct final rule that if it received adverse comments, it would publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

As part of GSA's regulatory reform efforts, GSA determined that GSAR 532.905–70 should no longer require contracting officers to obtain approval of legal counsel before processing final payments for construction and building service contracts where, after 60 days, the contracting officers are unable to obtain releases of claims from contractors. Legal review is not a statutory requirement, and the decision to process final payments in such cases

is a business decision, rather than a legal one.

The comment period for the direct final rule closed on November 2, 2020.

II. Discussion of Comment

GSA received two comments to the direct final rule from anonymous commenters. One of the comments was adverse to the direct final rule. The other comment was not applicable to the text or purpose of the direct final rule.

The adverse commenter expressed concern about the lack of analytical data regarding the administrative burden related to the legal review process. Further, the commenter suggested that decisions related to contracts are legal questions, not business decisions.

GSA does not agree with the adverse comment because, in the absence of a statutory requirement for the contracting officer to receive legal approval prior to processing the final payment, the authority to process any payment resides in the warranted contracting officer, except for the instant clause regarding final payments referenced in the clause at 532.905–70(c). GSA has determined that the clause at 532.905–70 no longer works in the best interest of the Government or contractors because, among other things: (i) Approval by legal counsel does not preclude the contracting officer from denying such payments, and (ii) approval by legal counsel does not insulate the Government from any potential liabilities should the contracting officer process the payment.

III. Reason for Withdrawal

In consideration of the comment to the direct final rule, GSA has determined that the rule should be withdrawn in its entirety. This will allow more time to further examine the issues raised and determine the best course of action.

Accordingly, GSA withdraws the rule published at 85 FR 61871 on October 1, 2020. However, withdrawal of this rule does not preclude GSA from issuing another rule on the subject matter in the future or committing the agency to any future course of action.

List of Subjects in 48 CFR Part 532

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 200428–0122]

RTID 0648–XA679

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2020 Directed Fishery Closure for Atlantic Herring Management Area 1B

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

ACTION: Temporary rule; directed fishery closure.

SUMMARY: NMFS is closing the directed fishery for Herring Management Area 1B. This closure is required because NMFS projects that 92 percent of the catch allotted to Management Area 1B has been caught. This action is intended to prevent overharvest of Atlantic herring in Management Area 1B, which would result in additional quota reductions next year.

DATES: Effective 00:01 hr local time, November 25, 2020, through 24:00 local time, December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Lou Forristall, Fishery Management Specialist, (978) 281–9321.

SUPPLEMENTARY INFORMATION: The Regional Administrator for the Greater Atlantic Region monitors Atlantic herring fishery catch in each of the management areas based on vessel and dealer reports, state data, and other available information. Based on this information, the Regional Administrator projects that the Atlantic herring fleet will catch 92 percent of the Management Area 1B sub-Annual Catch Limit (ACL) by November 25, 2020. Therefore, as required by 50 CFR 648.201(a)(1)(i), effective 00:01 hr local time November 25, 2020, federally permitted vessels may not fish for, possess, transfer, receive, land, or sell more than 2,000 lb (907.2 kg) of Atlantic herring per trip or calendar day, in or from Management Area 1B, through December 31, 2020. Vessels that have entered port before 00:01 hr local time, November 25, 2020, may land or sell more than 2,000 lb (907.2 kg) of Atlantic herring from Area 1B from that trip. A vessel may transit through Area 1B with more than 2,000 lb (907.2 kg) of Atlantic herring on board, provided all herring was caught outside Area 1B and all fishing gear is stowed and not available for immediate use as defined by 50 CFR