

§ 6104.3 Response to claim [Rule 403].

(a) *Content of response.* When a claim has been filed with the Board by a claimant, within 30 calendar days after docketing by the Board (or within 60 calendar days after docketing, if the agency office involved is located outside the 50 states and the District of Columbia), the agency shall submit to the Board:

- (1) A simple, concise, and direct statement of its response to the claim;
- (2) Citations to applicable statutes, regulations, and cases; and
- (3) Any additional information deemed necessary to the Board's review of the claim.

(b) *Service of copy.* A copy of these submissions shall also be sent to the claimant. To expedite proceedings, if the agency believes its reasons for denying the claim were sufficiently explained in the material filed by the claimant, it should notify the Board and the claimant that it does not intend to file a response.

§ 6104.4 Reply to agency response [Rule 404].

A claimant may file a reply to the agency response within 30 calendar days after receiving the response (or within 60 calendar days after receiving the response, if the claimant is located outside the 50 states and the District of Columbia). If the claim has been forwarded by the agency, the claimant shall have 30 calendar days from the time the claim is docketed by the Board (or 60 calendar days after docketing, if the claimant is located outside the 50 states and the District of Columbia) to reply. To expedite proceedings, if the claimant does not wish to reply, the claimant should so notify the Board and the agency.

§ 6104.5 Proceedings [Rule 405].

(a) *Requests for additional time.* The claimant or the agency may request additional time to make any filing.

(b) *Conferences.* The judge will not engage in ex parte communications involving the underlying facts or merits of the claim. The judge may hold a conference with the claimant and the agency contact, at any time, for any purpose. The judge may provide the participants a memorandum reflecting the results of a conference.

(c) *Additional submissions.* The judge may require the submission of additional information at any time.

§ 6104.6 Decisions [Rule 406].

The judge will issue a written decision based upon the record, which includes submissions by the claimant and the agency, and information

provided during conferences. The claimant and the agency will each be furnished a copy of the decision by the Office of the Clerk of the Board. In addition, all Board decisions are posted weekly on the Internet. The Board's Internet address is: www.gsbca.gsa.gov.

§ 6104.7 Reconsideration of Board decision [Rule 407].

A request for reconsideration may be made by the claimant or the agency. Such requests must be received by the Board within 30 calendar days after the date the decision was issued (or within 60 calendar days after the date the decision was issued, if the claimant or the agency office making the request is located outside the 50 states and the District of Columbia). The request for reconsideration should state the reasons why the Board should consider the request. Mere disagreement with a decision or re-argument of points already made is not a sufficient ground for seeking reconsideration.

§ 6104.8 Payment of successful claims [Rule 408].

The agency shall pay amounts the Board determines are due the claimant.

Dated: May 5, 1997

Stephen M. Daniels,
Chairman, GSA Board of Contract Appeals.
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BILLING CODE 6820-34-P

**GENERAL SERVICES
ADMINISTRATION****48 CFR Parts 6104 and 6105**

RIN 3090-AG29

**Board of Contract Appeals; Rules of
Procedure for Decisions Authorized
Under 31 U.S.C. 3529**

AGENCY: Board of Contract Appeals, General Services Administration.

ACTION: Final rule.

SUMMARY: This document specifies the procedures the GSA Board of Contract Appeals will apply to the Board's review of a request from an agency disbursing or certifying official, or agency head, for a Board decision on a question involving a payment the official will make, or a voucher presented to a certifying official for certification, which concerns a claim against the agency for reimbursement of expenses incurred by a federal civilian employee while on official temporary duty travel or in connection with relocation to a new duty station.

EFFECTIVE DATE: This regulation is effective May 12, 1997.

FOR FURTHER INFORMATION CONTACT:
Margaret S. Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, telephone (202) 501-0272, Internet address: Margaret.Pfunder@gsa.gov.

SUPPLEMENTARY INFORMATION:**A. Regulatory Flexibility Act**

The General Services Administration certifies that this rule will not 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.*).

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

C. Effective Date

These rules are applicable to all Board-issued decisions authorized under 31 U.S.C. 3529 filed on or after May 12, 1997.

D. Background

On December 20, 1996, the Board published in the **Federal Register** (61 FR 67241) an interim rule specifying the rules of procedure the Board would apply to the Board's review of a request from an agency disbursing or certifying official, or agency head, for a Board decision on a question involving a payment the official will make, or a voucher presented to a certifying official for certification, which concerns a claim against the agency for reimbursement of expenses incurred by a federal civilian employee while on official temporary duty travel or in connection with relocation to a new duty station. Such a decision is referred to by the rules as a "Section 3529 decision." The Board invited written comments on the interim rules.

The rules were intended to implement section 204 of the General Accounting Office Act of 1996 (Pub. L. 104-316) (GAO Act), which, by amending 31 U.S.C. 3529, transferred the authority of the Comptroller General to make decisions on agency questions regarding payment or certification of vouchers which involved federal civilian employees' travel and relocation expenses, to the Administrator of General Services, who redelegated that function to the GSA Board of Contract Appeals. When issued by the Comptroller General, these decisions were commonly known as "advance

decisions” since they were sought by agency officials before making payments or certifying vouchers for payment.

Section 204 of the GAO Act amends 31 U.S.C. 3529 by referencing an earlier transfer of functions from the Comptroller General to the Director of the Office of Management and Budget authorized by section 211 of Legislative Branch Appropriations Act, 1996 (Pub. L. 104–53) (LBAA). Section 211 of the LBAA also authorized the Director to delegate any of those functions to another agency or agencies. On June 30, 1996, the Director delegated some of the functions contained in 31 U.S.C. 3702—the authority to review claims made against the United States for reimbursement of expenses incurred by federal civilian employees while on official temporary duty travel or in connection with relocation to a new duty station—to the Administrator of General Services, who redelegated that function to the GSA Board of Contract Appeals.

With respect to a function transferred to OMB under section 211 of the LBAA and delegated by OMB to another agency, section 204 of the GAO Act provides that the head of that agency has the authority to issue “advance decisions” authorized by 31 U.S.C. 3529 on questions involving such functions. Thus, the Administrator of General Services is authorized to issue “advance decisions” on questions involving reimbursement of expenses incurred by federal civilian employees while on official temporary duty travel or in connection with relocation to a new duty station. The Administrator has redelegated that function to the Board, along with the authority to adopt and issue rules necessary for the issuance of these decisions. This final rule has been adopted by vote of the Board’s judges.

E. Summary of Comments and Changes

The Board received no written comments on the interim rule.

The Board’s judges, however, agreed on a reorganization of the interim rule which necessitated a number of structural and textual revisions to the rule. The interim rule was published as 48 CFR 6104.9, the final section (and rule) of part 6104, which contains the Board’s rules of procedure for travel and relocation expenses cases. In reviewing the interim rule, the Board determined that the procedures for Section 3529 decisions could be simplified and made clearer if the material in the interim rule was expanded to comprise its own part. Former interim rule 48 CFR 6104.9 has therefore been renumbered as 48 CFR part 6105. The following revisions have been made:

Section 6105.1 (Scope)

This section has been added to describe explicitly the matters to which the rules apply and the authority under which the Board reviews requests for Section 3529 decisions.

Section 6105.2 (Request for Decision)

This section comprises paragraphs (a), (b), and (c) of former section 6104.9. Language has been added which: (1) Explains that Section 3529 decisions may be requested on matters which pertain to claims involving reimbursement of travel and relocation expenses; (2) states the address and working hours of the Office of the Clerk of the Board; and (3) requires the agency to provide to the affected employee a copy of all agency submissions to the Board.

Section 6105.3 (Additional Submissions)

Formerly section 6104.9(d) of the interim rule, this section has been revised in two ways. First, the rule increases from 10 to 30 calendar days after receiving the copy of the request for decision the time in which an affected employee may submit any additional information to the Board (60 calendar days for an affected employee located outside the United States). The Board found that 10 calendar days is often too short a time period for employees to make an additional submission, and that employees located outside the United States often need a longer time in which to receive and respond to submissions. Second, to help expedite resolution of these matters, rather than waiting for the additional submission period to expire, the rule now provides that the affected employee should notify the Board and the agency if the employee does not wish to make an additional submission.

Section 6105.4 (Proceedings)

This rule has been added to cover three aspects of proceeding: requests for additional time; conferences; and additional submissions. It parallels the rule on proceedings in part 6104 (Rules of Procedure for Transportation and Relocation Expenses Cases).

Section 6105.5 (Decisions)

This rule has been added to describe the record on which a judge will base a decision under this part. The rule also provides that the Board will furnish the agency and the affected employee each a copy of the decision, and gives the Internet address at which all of the Board’s decisions are posted weekly.

Section 6105.6

This rule describes how and under what circumstances an agency or affected employee may request reconsideration of a Board decision.

List of Subjects in 48 CFR Parts 6104 and 6105

Administrative practice and procedure, Government procurement, Travel and transportation expenses.

For the reasons set out in the preamble, 48 CFR Chapter 61 is amended as follows:

1. The authority citation for Part 6104 continues to read as follows:

Authority: 31 U.S.C. 3529; 31 U.S.C. 3702; 41 U.S.C. 601–613; Secs 202(n), 204, Pub. L. 104–316, 110 Stat. 3826; Sec. 211, Pub. L. 104–53, 109 Stat. 535.

2. Section 6104.9 is redesignated as part 6105 and revised to as follows:

PART 6105—RULES OF PROCEDURE FOR DECISIONS AUTHORIZED BY 31 U.S.C. 3529

Sec.

6105.1 Scope [Rule 501].

6105.2 Request for decision [Rule 502].

6105.3 Additional submissions [Rule 503].

6105.4 Proceedings [Rule 504].

6105.5 Decisions [Rule 505].

6105.6 Reconsideration of Board decision [Rule 506].

Authority: 31 U.S.C. 3529; 31 U.S.C. 3702; 41 U.S.C. 601–613; Secs. 202(n), 204, Pub. L. 104–316, 110 Stat. 3826; Sec. 211, Pub. L. 104–53, 109 Stat. 535.

§ 6105.1 Scope [Rule 501].

These procedures govern the Board’s issuance of decisions, upon the request of an agency disbursing or certifying official, or agency head, on questions involving payment of travel or relocation expenses that were formerly issued by the Comptroller General under 31 U.S.C. 3529. Section 204 of the General Accounting Office Act of 1996, Public Law 104–316, transfers the authority to issue these decisions to the Director of the Office of Management and Budget, and authorizes the Director to delegate the authority to perform that function to another agency or agencies. The Director has delegated the authority to issue these decisions to the Administrator of General Services, who has redelegated that function to the General Services Administration Board of Contract Appeals.

§ 6105.2 Request for decision [Rule 502].

(a) *Request for decision.* (1) A disbursing or certifying official of an agency, or the head of an agency, may request from the Board a decision (referred to as a “Section 3529 decision”) on a question involving a

payment the disbursing official or head of agency will make, or a voucher presented to a certifying official for certification, which concerns the following type of claim made against the United States by a federal civilian employee:

(i) A claim for reimbursement of expenses incurred while on official temporary duty travel; and

(ii) A claim for reimbursement of expenses incurred in connection with relocation to a new duty station.

(2) A request for a Section 3529 decision shall be in writing; no particular form is required. The request must refer to a specific payment or voucher; it may not seek general legal advice. The request should—

(i) Explain why the official is seeking a Section 3529 decision, rather than taking action on his or her own regarding the matter;

(ii) State the question presented and include citations to applicable statutes, regulations, and cases;

(iii) Include—

(A) The name, address, telephone number, and facsimile machine number (if available) of the official making the request;

(B) The name, address, telephone number, and facsimile number (if available) of the employee affected by the specific payment or voucher; and

(C) Any other information which the official believes the Board should consider; and

(iv) Be sent to the Office of the Clerk of the Board, Room 7022, General Services Administration Building, 1800 F Street, NW., Washington, DC 20405. The Clerk's telephone number is: (202) 501-0116. The Clerk's facsimile machine number is (202) 501-0664. The Board's working hours are 8:00 a.m. to 4:30 p.m., Eastern Time, on each day other than a Saturday, Sunday, or federal holiday.

(b) *Notice of docketing.* A request for a Section 3529 decision will be docketed by the Office of the Clerk of the Board. A written notice of docketing will be sent promptly to the official and the affected employee. The notice of docketing will identify the judge to whom the request has been assigned.

(c) *Service of copy.* The official submitting a request for a Section 3529 decision shall send to the affected employee copies of all material provided to the Board. All submissions to the Board shall indicate that a copy has been provided to the affected employee.

§ 6105.3 Additional submissions [Rule 503].

If the affected employee wishes to submit any additional information to

the Board, he or she must submit such information within 30 calendar days after receiving the copy of the request for decision and supporting material (or within 60 calendar days after receiving the copy, if the affected employee is located outside the 50 states and the District of Columbia). To expedite proceedings, if the employee does not wish to make an additional submission, the employee should so notify the Board and the agency.

§ 6105.4 Proceedings [Rule 504].

(a) *Requests for additional time.* The agency or the affected employee may request additional time to make any filing.

(b) *Conferences.* The judge will not engage in ex parte communications involving the underlying facts or merits of the request. The judge may hold a conference with the agency and the affected employee, at any time, for any purpose. The judge may provide the participants a memorandum reflecting the results of a conference.

(c) *Additional submissions.* The judge may require the submission of additional information at any time.

§ 6105.5 Decisions [Rule 505].

The judge will issue a written decision based upon the record, which includes submissions by the agency and the affected employee, and information provided during conferences. The agency and the affected employee will each be furnished a copy of the decision by the Office of the Clerk of the Board. In addition, all Board decisions are posted weekly on the Internet. The Board's Internet address is: www.gsbcg.sga.gov.

§ 6105.6 Reconsideration of Board decision [Rule 506].

A request for reconsideration may be made by the agency or the affected employee. Such requests must be received by the Board within 30 calendar days after the date the decision was issued (or within 60 calendar days after the date the decision was issued, if the agency or the affected employee making the request is located outside the 50 states and the District of Columbia). The request for reconsideration should state the reasons why the Board should consider the request. Mere disagreement with a decision or re-argument of points already made is not a sufficient ground for seeking reconsideration.

Dated: May 5, 1997.

Stephen M. Daniels,
Chairman, GSA Board of Contract Appeals.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 960429120-6120-01; I.D. 042997A]

Fisheries Off West Coast and Western Pacific States; West Coast Salmon Fisheries; Closure from Point Lopez to Point Mugu, CA

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

ACTION: Closure; request for comments.

SUMMARY: NMFS announces that the commercial salmon fishery in the area from Point Lopez to Point Mugu, CA, was closed at 12 midnight (local time), April 22, 1997. The Regional Administrator, Northwest Region, NMFS, has determined that the commercial quota of 10,000 chinook salmon has been reached. This action is necessary to conform to the 1996 announcement of management measures for 1997 salmon seasons opening earlier than May 1 and is intended to ensure conservation of chinook salmon.

DATES: Effective 2400 hours local time, April 22, 1997, through 2400 hours local time April 30, 1997. Comments will be accepted through May 27, 1997.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070, or William Hogarth, Acting Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132. Information relevant to this notice is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: William Robinson, 206-526-6140, or Rodney McInnis, 562-980-4030.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR 660.409(a)(1) state that when a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Administrator to be reached on or by a certain date, NMFS will, by an inseason action issued under 50 CFR 660.411, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the