Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Amend section 31.205–41 by adding paragraph (b)(8) to read as follows:

31.205–41 Taxes.
   * * * * *
   (b) Any tax imposed under 26 U.S.C. 5000C.
   * * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Amend section 52.229–3 by revising the date of the clause and paragraph (b) to read as follows:

52.229–3 Federal, State, and Local Taxes.
   * * * * *
   (b)(1) The contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.
   (2) Taxes imposed under 26 U.S.C. 5000C may not be—
      (i) Included in the contract price; nor
      (ii) Reimbursed.
   * * * * *

4. Amend section 52.229–4 by revising the date of the clause and paragraph (b) to read as follows:

52.229–4 Federal, State, and Local Taxes (State and Local Adjustments).
   * * * * *
   (b)(1) Unless otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.
   (2) Taxes imposed under 26 U.S.C. 5000C may not be—
      (i) Included in the contract price; nor
      (ii) Reimbursed.
   * * * * *

5. Amend section 52.229–6 by—
   a. Revising the date of the clause;
   b. Redesignating paragraph (c) as (c)(1); removing from the newly designated paragraph (c)(1) “States.” and adding “States, except as provided in subparagraph (c)(2) of this clause.” in its place;
   c. Adding paragraph (c)(2);
   d. Redesignating paragraph (d) as (d)(1); removing from the newly designated paragraph (d)(1) “The contract price shall” and adding “Except as provided in subparagraph (d)(2) of this clause, the contract price shall” in its place; and
   e. Adding paragraph (d)(2).

   The revisions and additions read as follows:

52.229–6 Taxes—Foreign Fixed-Price Contracts.
   * * * * *
   (c)(1) * * *
   (2) Taxes imposed under 26 U.S.C. 5000C may not be—
      (i) Included in the contract price; nor
      (ii) Reimbursed.
      (d)(1) * * *
   (2) The contract price may not be increased to offset taxes imposed under 26 U.S.C. 5000C.
   * * * * *

6. Amend section 52.229–7 by—
   a. Revising the date of the clause;
   b. Redesignating paragraph (b) as paragraph (b)(1); and
   c. Adding paragraph (b)(2).

   The revision and addition read as follows:

52.229–7 Taxes—Foreign Fixed-Price Contracts with Foreign Governments.
   * * * * *
   (b)(1) * * *
   (2) Taxes imposed under 26 U.S.C. 5000C may not be included in the contract price.
   * * * * *

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, and 31

[FAC 2005–65; Item V; Docket 2013–0080; Sequence 1]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

DATES: Effective Date: January 29, 2013.


SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 1, 2, and 31, this document makes editorial changes to the FAR.

List of Subjects in 48 CFR parts 1, 2, and 31

Government procurement.


Laura Auletta,
Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, and 31 as set forth below:

1. The authority citation for 48 CFR parts 1, 2, and 31 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

1. Amend section 1.106 by—
   a. Removing from the table following the introductory text, FAR segments “52.234–1” and “34.1” and their corresponding OMB Control Numbers “9000–0133” and “9000–0132”, respectively; and
   b. Adding, in numerical sequence, in the table following the introductory text, FAR segments “27.2”, “52.227–2”, “52.227–6”, and “52.227–9” and their corresponding OMB Control Number “9000–0096”.

PART 2—DEFINITIONS OF WORDS AND TERMS

2.000 [Amended]

2. Amend section 2.000 by removing from the last sentence of paragraph (b) “(see the Index for locations)”.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–6 [Amended]

3. Amend section 31.205–6 by removing from paragraph
This final rule amends the FAR to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 112–383) and section 813 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81). These statutes extend the sunset date for protests against awards of task or delivery orders to September 30, 2016. There is no effect on Government automated systems.

**Item III—Free Trade Agreement—Colombia (FAR Case 2012–012)**

This final rule adopts, with minor change, the interim rule published in the Federal Register at 77 FR 27548 on May 10, 2012, to implement the United States-Colombia Trade Promotion Agreement. This Trade Promotion Agreement is a free trade agreement (FTA) that provides for mutually non-discriminatory treatment of eligible products and services from Colombia.

The Colombia FTA covers acquisition of supplies and services equal to or exceeding $77,494. The threshold for the Colombia FTA is $7,777,000 for construction. The excluded services for the Colombia FTA are the same as for the Bahrain FTA, Dominican Republic-Central American FTA, Chile FTA, NAFTA, Oman FTA, and Peru FTA.

**Item IV—Unallowability of Costs Associated With Foreign Contractor Excise Tax (FAR Case 2011–011)**

This final rule amends the FAR to implement certain requirements of section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, which imposes a 2 percent excise tax on certain Federal procurement payments to foreign persons. First, the statute disallows the cost of the 2 percent excise tax on certain foreign procurements as part of a payment, or as part of a cost-based negotiated price. Second, the statute stipulates that no funds are to be disbursed to any foreign contractor in order to reimburse the tax imposed. This rule will have a minimal economic impact on small businesses because the 2 percent excise tax is