

**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) \* \* \*

(8) 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.

\* \* \* \* \*

#### Federal, State, and Local Taxes (FEB 2013)

\* \* \* \* \*

(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).

\* \* \* \* \*

#### Federal, State, and Local Taxes (State and Local Adjustments) (FEB 2013)

\* \* \* \* \*

(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.

\* \* \* \* \*

#### Taxes—Foreign Fixed-Price Contracts (FEB 2013)

\* \* \* \* \*

(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.

\* \* \* \* \*

#### Taxes—Foreign Fixed-Price Contracts With Foreign Governments (FEB 2013)

\* \* \* \* \*

(b) \* \* \*

(2) Taxes imposed under 26 U.S.C. 5000C may not be included in the contract price.

\* \* \* \* \*

[FR Doc. 2013–01750 Filed 1–28–13; 8:45 am]

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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.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, 1275 First Street NE., 7th Floor, Washington, DC 20417, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–65, Technical Amendments.

**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.

Dated: January 23, 2013.

**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

(o)(2)(iii)(A)(2)(i) “healthcare inflation” and adding “health care inflation” in its place.

[FR Doc. 2013-01751 Filed 1-28-13; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket FAR 2013-0078, Sequence 1]

**Federal Acquisition Regulation; Federal Acquisition Circular 2005-65; Small Entity Compliance Guide**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

**ACTION:** Small Entity Compliance Guide.

**SUMMARY:** This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2005-65, which amends the Federal Acquisition Regulation (FAR). An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005-65, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

**DATES:** January 29, 2013.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005-65 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755.

**LIST OF RULES IN FAC 2005-65**

Item	Subject	FAR Case	Analyst
I .....	Prohibition on Contracting with Inverted Domestic Corporations .....	2012-013	Jackson.
II* .....	Extension of Sunset Date for Protests of Task and Delivery Orders .....	2012-007	Lague.
III .....	Free Trade Agreement—Colombia .....	2012-012	Davis.
IV* .....	Unallowability of Costs Associated with Foreign Contractor Excise Tax .....	2011-011	Chambers.
V .....	Technical Amendments.		

**SUPPLEMENTARY INFORMATION:**

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005-65 amends the FAR as specified below:

**Item I—Prohibition on Contracting With Inverted Domestic Corporations (FAR Case 2012-013)**

This rule adopts as final an interim rule implementing section 738 of Division C of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), which prohibits the award of contracts using Fiscal Year 2012 appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such an entity. The interim rule extended an existing prohibition that applied to the use of Fiscal Year 2008 through 2010 funds. Contracting officers are prohibited from awarding contracts using appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such entity, unless an exception applies. This rule will not have any significant

economic impact on small businesses because this rule only applies to an offeror that is an inverted domestic corporation and wants to do business with the Government. Small business concerns are unlikely to have been incorporated in the United States and then reincorporated in a tax haven.

**Item II—Extension of Sunset Date for Protests of Task and Delivery Orders (FAR Case 2012-007)**

This final rule amends the FAR to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111-383) 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