

submitted comments in response to the proposed rule. The first respondent recommended adding the word "contingency" in 29.401–3(b) for clarity. The Councils adopted the intent of the respondent's recommendation for paragraph (b) for clarity and consistency with the clause language at 52.229–4(c). Another commenter recommended that the FAR be further amended to address payment of property tax on equipment rented or leased by the Government. That comment was outside the scope of the case and no action was taken.

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.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final 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.*, because the rule merely clarifies existing language.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 29 and 52

Government procurement.

Dated: March 12, 2003.

Laura G. Smith,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 29 and 52 as set forth below:

1. The authority citation for 48 CFR parts 29 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 29—TAXES

2. In section 29.305, revise paragraph (b)(1) to read as follows:

29.305 State and local tax exemptions.

* * * * *

(b) * * *

(1) Under a contract containing the clause at 52.229–3, Federal, State, and Local Taxes, or at 52.229–4, Federal,

State, and Local Taxes (State and Local Adjustments), in accordance with the terms of those clauses.

* * * * *

3. Revise the heading and text of section 29.401–3 to read as follows:

29.401–3 Federal, State, and local taxes.

(a) Except as provided in paragraph (b) of this section, insert the clause at 52.229–3, Federal, State, and Local Taxes, in solicitations and contracts if—

(1) The contract is to be performed wholly or partly within the United States, its possessions or territories, Puerto Rico, or the Northern Mariana Islands;

(2) A fixed-price contract is contemplated; and

(3) The contract is expected to exceed the simplified acquisition threshold.

(b) In a noncompetitive contract that meets all the conditions in paragraph (a) of this section, the contracting officer may insert the clause at 52.229–4, Federal, State, and Local Taxes (State and Local Adjustments), instead of the clause at 52.229–3, if the price would otherwise include an inappropriate contingency for potential postaward change(s) in State or local taxes.

29.401–4 and 29.401–5 [Removed]

29.401–6 [Redesignated as 29.401–4]

4. Remove sections 29.401–4 and 29.401–5, and redesignate section 29.401–6 as 29.401–4.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Amend section 52.229–3 as follows:

a. Revise the date of the clause;

b. Revise paragraph (a) introductory text; and

c. In paragraph (a), amend the definitions "Contract date", "All applicable Federal, State, and local taxes and duties", "After-imposed Federal tax", and "After-relieved Federal tax" by removing "as used in this clause," and placing these definitions in alphabetical order; and add, in alphabetical order, the definition "Local taxes".

The revised and added text read as follows:

52.229–3 Federal, State, and Local Taxes.

* * * * *

Federal, State, and Local Taxes (April 2003)

(a) As used in this clause—

* * * * *

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands,

if the contract is performed wholly or partly in any of those areas.

* * * * *

(End of clause)

6. Amend section 52.229–4 as follows:

(a) Revise the section and clause headings; and the introductory paragraph;

(b) Revise paragraph (a) introductory text;

(c) In paragraph (a), place the definitions "Contract date", "All applicable Federal, State, and local taxes and duties", "After-imposed tax", "After-relieved tax", and "Excepted tax" in alphabetical order and amend by removing "as used in this clause;" and add, in alphabetical order, the definition "Local taxes".

The revised and added text read as follows:

52.229–4 Federal, State, and Local Taxes (State and Local Adjustments).

As prescribed in 29.401–3, insert the following clause:

Federal, State, and Local Taxes (State and Local Adjustments) (April 2003)

(a) As used in this clause—

* * * * *

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

* * * * *

52.229–5 [Removed and reserved]

7. Remove and reserve section 52.229–5.

8. Amend section 52.229–10 as follows: a. Amend the introductory text by removing "29.401–6(b)" and adding "29.401–4(b)" in its place; b. Revise the date of the clause; and c. Amend paragraph (h) by removing "29.401–6(b)(1)" and adding "29.401–4(b)(1)" in its place.

The revised text reads as follows:

52.229–10 State of New Mexico Gross Receipts and Compensating Tax.

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State of New Mexico Gross Receipts and Compensating Tax (April 2003)

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[FR Doc. 03–6374 Filed 3–17–03; 8:45 am]

BILLING CODE 6820–EP–P