

29.401-4 New Mexico gross receipts and compensating tax.

(a) *Definition.*

Services, as used in this subsection, is as defined in the Gross Receipts and Compensating Tax Act of the State of New Mexico, Sec 7-9-3(k) NM SA1978, and means all activities engaged in for other persons for a consideration, which activities involve predominately the performance of a service as distinguished from selling or leasing property. "*Services*" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the *contracting parties shall* not be controlling. "*Services*" also includes *construction* activities and all tangible *personal property* that will become an ingredient or *component* part of a *construction* project. Such tangible *personal property* retains its character as tangible *personal property* until it is installed as an ingredient or *component* part of a *construction* project in New Mexico. However, sales of tangible *personal property* that will become an ingredient or *component* part of a *construction* project to persons engaged in the *construction* business are sales of tangible *personal property*.

(b) *Contract clause.* The *contracting officer shall* insert the clause at [52.229-10](#), State of New Mexico Gross Receipts and Compensating Tax, in *solicitations* and contracts issued by the agencies identified in paragraph (c) of this subsection when all three of the following conditions exist:

(1) The contractor will be performing a cost-reimbursement contract.

(2) The contract directs or authorizes the contractor to acquire tangible *personal property* as a *direct cost* under a contract and title to such property passes directly to and vests in the *United States* upon delivery of the property by the vendor.

(3) The contract will be for *services* to be performed in whole or in part within the State of New Mexico.

(c) Participating agencies.

(1) The agencies listed below have entered into an agreement with the State of New Mexico to eliminate the double taxation of Government cost-reimbursement contracts when contractors and their subcontractors purchase tangible *personal property* to be used in performing *services* in whole or in part in the State of New Mexico and for which title to such property will pass to the *United States* upon delivery of the property to the contractor and its subcontractors by the vendor. Therefore, the clause applies only to *solicitations* and contracts issued by the-

United States Defense Advanced Research Projects Agency;

United States Defense Threat Reduction Agency;

United States Department of Agriculture;

United States Department of the Air Force;

United States Department of the Army;

United States Department of Energy;

United States Department of Health and Human Services;

United States Department of the Interior;

United States Department of Labor;

United States Department of the Navy;

United States Department of Transportation;

United States General Services Administration;

United States Missile Defense Agency; and

United States National Aeronautics and Space Administration.

(2) Any other *Federal agency* which expects to award cost-reimbursement contracts to be performed in New Mexico *should* contact the New Mexico Taxation and Revenue Department to execute a similar agreement.

Parent topic: [29.401 Domestic contracts.](#)