

## 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.](#)