

### Subpart 29.4—Contract Clauses

#### 29.401 Domestic contracts.

##### 29.401-1 Indefinite-delivery contracts for leased equipment.

The contracting officer shall insert the clause at 52.229-1, State and Local Taxes, in solicitations and contracts for leased equipment when a fixed-price indefinite-delivery contract is contemplated, the contract will be performed wholly or partly within the United States, its possessions, or Puerto Rico, and the place or places of delivery are not known at the time of contracting.

##### 29.401-2 Construction contracts performed in North Carolina.

The contracting officer shall insert the clause at 52.229-2, North Carolina State and Local Sales and Use Tax, in solicitations and contracts for construction to be performed in North Carolina. If the requirement is for vessel repair to be performed in North Carolina, the clause shall be used with its Alternate I.

##### 29.401-3 Competitive contracts.

The contracting officer shall insert the clause at 52.229-3, Federal, State, and Local Taxes, in solicitations and contracts if the contract is to be performed wholly or partly within the United States, its possessions, or Puerto Rico, when a fixed-price contract is contemplated and the contract is expected to exceed the simplified acquisition threshold, unless the clause at 52.229-4, Federal, State, and Local Taxes (Noncompetitive Contract), is included in the contract.

[60 FR 34759, July 3, 1995, as amended at 61 FR 39190, July 26, 1996]

##### 29.401-4 Noncompetitive contracts.

The contracting officer shall insert the clause at 52.229-4, Federal, State, and Local Taxes (Noncompetitive Contract), in fixed-price noncompetitive contracts when the contract exceeds the simplified acquisition threshold to be performed wholly or partly within the United States, its possessions, or Puerto Rico when satisfied that the contract price does not include contingencies for State and local taxes, and

that, unless the clause is used, the contract price will include such contingencies. When the clause at 52.229-4 is included in a contract, the contracting officer shall ensure that the contract does *not* include the clause at 52.229-3, Federal, State, and Local Taxes.

[48 FR 42293, Sept. 19, 1983, as amended at 55 FR 52793, Dec. 21, 1990; 60 FR 34759, July 3, 1995; 61 FR 39190, July 26, 1996]

##### 29.401-5 Contracts performed in U.S. possessions or Puerto Rico.

The contracting officer shall insert the clause at 52.229-5, Taxes—Contracts Performed in U.S. Possessions or Puerto Rico, in solicitations and contracts that include the clause at 52.229-3, Federal, State, and Local Taxes, or 52.229-4, Federal, State, and Local Taxes (Noncompetitive Contract).

##### 29.401-6 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 SA 1978, 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 of 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