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~~Parent topic: Federal Acquisition Regulation~~

29.000 Scope of part.

This part ~~prescribes~~provides policies and procedures for ~~(a)-~~using tax clauses in contracts (including foreign contracts), ~~(b)-asserting~~claiming immunity or exemption from taxes, and ~~(e)-obtaining~~getting tax refunds. It explains Federal, State, and local taxes on certain supplies and services ~~acquired by that~~ executive agencies buy and ~~the applicability of such~~how these taxes apply to the Federal Government. ~~It is for the general~~ This information ~~of~~is general guidance for Government personnel and does not ~~present the full scope of the~~cover all tax laws and regulations.

~~29.001 Definitions.~~

~~As used in this part—~~

~~North Atlantic Treaty Organization (NATO) Forces means the Members of the Force, Members of the Civilian Component, NATO Personnel and all property, equipment, and materiel of NATO, NATO Member States, and Operational Partners present in the territory of Afghanistan.~~

~~U.S. Forces means the entity comprising the members of the force and of the civilian component, and all property, equipment, and materiel of the United States Armed Forces present in the territory of Afghanistan.~~

Subpart 29.1 - General

29.101 Resolving tax problems.

~~(a) Contract tax problems are essentially~~primarily legal ~~in nature~~issues and vary widely. ~~Specific tax questions must be resolved by reference to the applicable contract terms and to the pertinent tax laws and regulations. Therefore, when tax questions arise, Contracting officers should request assistance from the agency designated~~must consult the agency's legal counsel when tax issues arise, especially.

~~(b) To keep treatment within an agency consistent, contracting officers or other authorized personnel shall consult the agency designated counsel before negotiating with any taxing authority for the purpose of~~

~~(1) Determining whether or not a tax is valid or applicable; or~~

~~(2) Obtaining exemption from, or refund of, a tax.~~

~~(c) When the constitutional immunity of the Government from State or local taxation may reasonably be at issue, contractors should be discouraged from negotiating independently with taxing authorities if the contract involved is either-~~

~~(1) A cost reimbursement contract; or~~

~~(2) A fixed price contract containing a tax escalation clause.~~

~~(d) Before purchasing goods or services from a foreign source, the contracting officer should consult the agency designated counsel-~~

~~(1) For information on foreign tax treaties and agreements in force and on the implementation of any foreign tax relief programs; and~~

~~(2) To resolve any other tax questions affecting the prospective contract.~~

Subpart 29.2 - Federal Excise Taxes

29.201 General.

(a) Federal excise taxes are ~~levied~~taxes on the sale or use of ~~particular~~specific supplies or services. Subtitle D of the Internal Revenue Code ~~of 1954~~, Miscellaneous Excise Taxes, 26 U.S.C.4041, etseq., and its ~~implementing~~ regulations, (26 CFR parts 40 through 299,) cover ~~miscellaneous~~ Federal excise tax requirements. ~~Questions arising~~Direct questions in this area ~~should be directed to the agency designated~~legal counsel. The most common excise taxes are—

(1) Manufacturers' excise taxes ~~imposed~~ on certain motor-vehicle articles, tires and inner tubes, gasoline, lubricating oils, coal, fishing equipment, firearms, shells, and cartridges sold by manufacturers, producers, or importers; and

(2) Special-fuels excise taxes ~~imposed~~charged at ~~the retail level~~ on diesel fuel and special motor fuels.

(b) ~~Sometimes~~Executive agencies must take advantage of available Federal excise tax exemptions. When the law exempts the Federal Government from these taxes. ~~Contracting officers should solicit prices, the contracting officer must, unless inappropriate for the circumstances, request offers~~ on a tax-exclusive basis ~~when it is known that the Government is exempt from these taxes, and on a tax-inclusive basis.~~ When no exemption exists, request offers on a tax-inclusive basis.

~~(c) Executive agencies shall take maximum advantage of available Federal excise tax exemptions.~~

29.202 General exemptions.

~~No~~ Federal manufacturers' or special-fuels excise taxes ~~are imposed~~ do not apply in many contracting situations ~~as, for example, when the~~. This includes supplies ~~are~~ for any of the following purposes:

(a) The exclusive use of any State or political subdivision, including the District of Columbia (26 U.S.C. 4041 and 4221).

(b) ~~Shipment for export~~ Export shipment to a foreign country or an outlying area of the United States. Shipment must occur within 6 months ~~of the time~~ after title passes to the Government. When ~~the~~ claiming this exemption ~~is claimed~~, the words "for export" must appear on the contract or purchase document, ~~and~~. The contracting officer must ~~furnish~~ give the seller proof of export (see 26 CFR 48.4221-3).

(c) Further manufacture, or resale for further manufacture (this exemption does not include tires and inner tubes) (26 CFR 48.4221-2).

(d) Use as fuel supplies, ships or sea stores, or legitimate equipment on vessels of war, including—

(1) Aircraft owned by the United States and constituting ~~a~~ part of the armed forces; and

(2) Guided missiles and pilotless aircraft owned or chartered by the United States. When claiming this exemption ~~is to be claimed~~, make the purchase ~~should be made~~ on a tax-exclusive basis. The contracting officer ~~shall furnish~~ must give the seller an exemption certificate for Supplies for Vessels of War (an example ~~is given~~ appears in 26 CFR 48.4221-4(d)(2);). The IRS will accept one certificate covering all orders under a single contract for ~~a specified period of~~ up to 12 calendar quarters) (26 U.S.C. 4041 and 4221).

(e) A nonprofit educational organization (26 U.S.C. 4041 and 4221).

(f) Emergency vehicles (26 U.S.C. 4053 and 4064(b)(1)(c)).

29.203 Other Federal tax exemptions.

(a) Pursuant to 26 U.S.C.4293, the Secretary of the Treasury has exempted the United States from the communications excise tax imposed in 26 U.S.C.4251, when the supplies and services are for the exclusive use of the United States. (Secretarial Authorization, June 20,1947, Internal Revenue Cumulative Bulletin,1947-1, 205.)

(b) Pursuant to 26 U.S.C. 4483(b), the Secretary of the Treasury has exempted the United States from the federal highway vehicle users tax imposed in 26 U.S.C. 4481. The exemption applies whether the ~~vehicle is owned or leased by the~~ United States: owns or leases the vehicle. (Secretarial Authorization, Internal Revenue Cumulative Bulletin, 1956-2, 1369.)

29.204 Federal excise tax on specific foreign contract payments.

(a) Title 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C-1 through 1.5000C-7 require acquiring agencies to collect this excise tax ~~via~~ (section 5000C tax) through

withholding on applicable contract payments (see 29.402-3, 31.205-41(b)(8)). Agencies merely withhold the tax (~~section 5000C tax~~) for the Internal Revenue Service (IRS). All substantive issues regarding the underlying section 5000C tax, ~~e.g., such as~~ the imposition of, ~~and or~~ exemption from the tax, are matters under ~~the IRS jurisdiction of the IRS. The contracting officer will refer all.~~ For questions ~~relating to the interpretation of the~~ about interpreting IRS regulations, refer to <https://www.irs.gov/help/tax-law-questions>.

(b) ~~In accordance with the~~ According to clause 52.229-12, Tax on Certain Foreign Procurements, contractors ~~that are~~ subject to the section 5000C tax will complete IRS Form W-14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, and submit this form with each voucher or invoice. ~~In the absence of~~ If a completed IRS Form W-14 ~~accompanying is not submitted with~~ a payment request, the default withholding percentage is 2 percent for ~~the section 5000C withholding for~~ that payment request. Information about IRS Form W-14 is available ~~via the internet~~ at www.irs.gov/w14.

(c) ~~(1)~~ Exemptions from ~~the~~ withholding in ~~the~~ IRS regulations at 26 CFR 1.5000C-1(d)(1) through (4) are ~~captured under~~ covered in the ~~provision~~ prescription at 29.402-3(a) ~~(i.e.,), which means the contracting officer will not include the provision when one of the 29.402-3(a) exceptions applies).~~

(2) The offeror will claim exemptions ~~at~~ under 26 CFR 1.5000C-1(d)(5) through (7) ~~must be claimed by the offeror when it submits~~ submitting an IRS Form W-14 with ~~the~~ their offer. If not submitted with the offer, exemptions will not ~~be applied~~ apply to the contract.

(3) Any exemption claimed and self-certified on the IRS Form W-14 is subject to IRS audit ~~by the IRS~~. Any disputes ~~regarding the imposition~~ about imposing and ~~collection of~~ collecting the section 5000C tax are ~~adjudicated~~ handled by the IRS ~~as the section 5000C tax because this~~ is a tax matter, not a contract issue.

(d) The exemptions in 29.201 through 29.~~302~~ 301 do not apply to this section 5000C tax.

(e) Additional information about this excise tax on specific foreign contract payments is available ~~via the internet~~ at <https://www.irs.gov/government-entities/excise-tax-on-specified-federal-foreign-procurement-payments>.

Subpart 29.3 - State and Local Taxes

29.300 Scope of subpart.

This subpart ~~prescribes~~ provides the policies and procedures regarding the exemption or immunity of Federal Government purchases and property from State and local taxation.

29.301 ~~[Reserved]~~

~~29.302~~ Application of State and local taxes to the Government.

(a) Generally, purchases and leases made by the Federal Government are immune from State and local taxation. ~~Whether any~~ However, whether a specific purchase or lease is immune, ~~how ever,~~

is a legal question requiring advice ~~and assistance of~~ from the ~~agency-designated~~ agency's legal counsel.

(b) When ~~it is~~ economically feasible ~~to do so~~, executive agencies ~~shall~~ must take ~~maximum~~ full advantage of all exemptions from State and local taxation ~~that may be available. If~~. When appropriate, the contracting officer ~~shall~~ must provide a Standard Form 1094, U.S. Tax Exemption Form (see part 53), or other evidence listed in 29.305 304(a) to establish that the ~~purchase is being made by the~~ Government is making the purchase.

29.303 302 Application of State and local taxes to Government contractors and subcontractors.

(a) The Government does not normally designate prime contractors and subcontractors ~~shall not normally be designated~~ as agents of the Government for ~~the purpose of~~ claiming immunity from State or local sales or use taxes. Before any activity ~~contends~~ claims that a contractor is ~~an~~ a Government agent ~~of the Government~~, refer the matter ~~shall be referred~~ to the agency head for review. ~~The referral shall~~ Include all ~~pertinent~~ relevant data ~~on which the contention is based, together with~~ and a thorough analysis of all relevant legal precedents with the referral.

(b) When purchases are ~~not~~ made by ~~the Government itself, but by~~ a prime contractor or ~~by a~~ subcontractor ~~under a prime contract rather than directly by the Government~~, the right to ~~an~~ exemption ~~of the transaction~~ from ~~a~~ sales or use tax may not ~~rest~~ depend on the Government's immunity from direct taxation by States and localities. Instead, it may ~~rest instead~~ depend on provisions of the ~~particular~~ specific State or local law ~~involved~~, or, in some cases, the transaction may not ~~in fact~~ be expressly exempt from the tax. Protect the Government's interest ~~shall be protected by using~~ by following the procedures in 29.101.

(c) ~~Frequently~~ Often, property owned by the Government (including property acquired under ~~the~~ progress payments ~~clause of fixed-price contracts~~ or the Government property ~~clause of cost-reimbursement contracts~~) ~~owned by the Government is in the~~ is in a contractor's or subcontractor's possession ~~of a contractor or subcontractor. Situations may arise in which~~. States or localities ~~assert~~ may claim the right to tax Government property directly or to tax the contractor's or subcontractor's possession of, interest in, or use of that property. In such cases, the contracting officer ~~shall~~ must seek review and advice from the ~~agency-designated~~ agency's legal counsel on the appropriate ~~course of~~ action.

~~29.304 Matters requiring special consideration:~~

(d) Indefinite-delivery contracts for equipment rental may require the contractor to provide equipment in any state. States and local governments impose various taxes on equipment leased to the Government, and the tax amounts can vary significantly among jurisdictions.

29.303 North Carolina Sales and Use Tax Act.

The imposition of State and local taxes may result in special contract considerations including the following:

~~(a) With coordination of the agency-designated counsel, a contract may (1) state that the contract price includes or excludes a specified tax or (2) require that the contractor take certain actions with regard to payment, nonpayment, refund, protest, or other treatment of a specified tax. Such~~

special treatment may be appropriate when there is doubt as to the applicability or allocability of the tax, or when the applicability of the tax is being litigated.

(b) The applicability of State and local taxes to purchases by the Federal Government may depend on the place and terms of delivery. When the contract price will be substantial, alternative places and terms of delivery should be considered in light of possible tax consequences.

(c) Indefinite delivery contracts for equipment rental may require the contractor to furnish equipment in any of the States. Since leased equipment remains the contractor's property, States and local governments impose a wide variety of property, use, or other taxes on equipment leased to the Government. The amount of these taxes can vary considerably from jurisdiction to jurisdiction. See 29.401-1 for the prescription of the contract clause to be included in contracts when delivery points are not known at time of contracting.

(d) The North Carolina State and local sales and use tax. (1)(a) The North Carolina Sales and Use Tax Act ~~authorizes~~allows counties and incorporated cities and towns to ~~obtain each year~~receive an annual refund from the ~~Commissioner~~Secretary of Revenue ~~of the State of North Carolina a refund of~~for sales and use taxes indirectly paid on building materials, supplies, fixtures, and equipment that become a part of or are ~~annexed~~attached to any building or structure ~~erected~~built, altered, or repaired for ~~such~~these counties and incorporated cities and towns in North Carolina. In United States v. Clayton, 250 F. Supp. 827 (1965), ~~it was held~~the court ruled that the United States is entitled to the ~~benefit of the refund~~, but must follow the ~~Act's~~refund procedure ~~of the Act and the~~ regulations to recover what it is due.

(2) The Act provides that,

(b) To receive the refund, ~~the Act requires~~claimants ~~must to~~ file, ~~a written request~~ within 6 months after the ~~claimant's end of their~~ fiscal year ~~closes, a written request substantiated,~~ supported by ~~such~~records, receipts, and information ~~as that~~ the ~~Commissioner~~Secretary of Revenue ~~may require. No refund requires. Claimants will be made on an application not receive a refund for applications filed within the time allowed and in such manner as~~late or not meeting the ~~Commissioner may require. The Secretary of Revenue's requirements of the Commissioner are set forth. These requirements appear~~in regulations ~~stating that provide that, to substantiate support~~ a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures, or equipment by a contractor, the Government must ~~secure from the contractor~~ get certified statements ~~setting forth from the contractor showing~~ the cost of ~~the~~ property purchased from each vendor and the amount of sales or use taxes paid. ~~In the event the~~If a contractor makes several purchases from the same vendor, the certified statement must ~~indicate~~show the invoice numbers, ~~the inclusive~~invoice dates ~~of the invoices, the,~~ total ~~invoice amount of the invoices,~~ and ~~the~~ sales and use taxes paid. The statement must also include the cost of any tangible personal property ~~withdrawn~~the contractor took from ~~the contractor's~~ warehouse stock and the amount of sales or use tax paid ~~by the~~. The general contractor: ~~must obtain and provide to the claimant~~ similar certified statements ~~by from~~ subcontractors ~~must be obtained by the general contractor and furnished to the claimant. Any local sales or use taxes included in.~~ The contractor's statement must ~~be shown~~show any local sales or use taxes separately from ~~the~~ State sales or use taxes.

(3c) The clause prescribed at 29.401-2 requires contractors to submit ~~to contracting officers by November 30 of each year a~~ certified ~~statement~~statements disclosing North Carolina State and local sales and use taxes paid during the 12-month period ~~that ended~~ending the ~~preceding~~previous September 30 to contracting officers by November 30 each year. The contracting officer ~~shall~~must ensure ~~that~~ contractors comply with this requirement and ~~shall~~ obtain the annual refund to which the Government ~~may be~~is entitled. The refund application ~~for refund~~ must be filed ~~each year~~annually before March 31 ~~and~~ in the manner and form ~~required by the Commissioner~~Secretary of Revenue. requires. Get copies of the form ~~may be obtained~~ from the —

State of North Carolina,

Department of Revenue,

PO Box 25000

Raleigh,

~~North Carolina~~ NC 27640.

29.~~305~~304 State and local tax exemptions.

(a) General. The contract may require the contractor to take specific actions regarding payment, nonpayment, refund, protest, or other handling of a specified tax. Such special treatment may be appropriate when there is doubt about the applicability or allocability of the tax, or when the tax's applicability is being challenged in court.

(b) (a) Evidence of exemption. Evidence is needed to establish an exemption from State or local taxes. The type of evidence depends on the grounds for the exemption claimed, the parties to the transaction involved, and the requirements of the taxing jurisdiction. Such Examples of evidence may include the following:

~~(1) A copy of the contract or relevant portion.~~

~~(2) Copies of purchase orders, shipping documents, credit card imprinted sales slips, paid or acknowledged invoices, or similar but are not limited to documents that identify an a U.S. agency or instrumentality of the United States as the buyer.~~

~~(3), a U.S. tax exemption form (SF 1094).~~

~~(4), or documents establishing a State or local form indicating that the supplies or services are for the exclusive use of the United States~~exemption.

~~(5) Any other State or locally required document for establishing general or specific (c) exemption.~~

~~(6) Shipping documents indicating that shipments are in interstate or foreign commerce.~~

(b) Furnishing proof of exemption. If there is a reasonable basis to ~~sustain a claimed~~ claim an exemption ~~exists,~~ provide the seller ~~will be furnished with~~ evidence of exemption, as follows:

(1) Under a contract containing the clause ~~at~~ 52.229-3, Federal, State, and Local Taxes, if requested by the contractor and there is a reasonable basis to support the exemption.

~~(or at~~ 2) Under a contract containing the clause 52.229-4, Federal, State, and Local Taxes (State and Local Adjustments), ~~in accordance with the terms of those clauses~~ if the contractor requests evidence that applies to a tax excluded from the contract price and there is a reasonable basis to support the exemption.

~~(23)~~ Under a cost-reimbursement contract, if requested by the contractor and approved by the contracting officer or at the ~~discretion of the contracting officer~~ officer's discretion.

~~(34)~~ Under a contract or purchase order ~~that contains~~ with no tax provision, if ~~—~~

(i) Requested by the contractor and approved by the contracting officer or at the ~~discretion of the contracting officer~~ officer's discretion; and

(ii) Either the contract price does not include the tax or, if the transaction or property is tax exempt, the contractor ~~consents~~ agrees to a reduction in the contract price.

Subpart 29.4 - Contract Clauses

29.401 Domestic contracts.

29.401-1 Indefinite-delivery contracts for leased equipment.

Insert the clause at 52.229-1, State and Local Taxes, in solicitations and contracts for leased equipment when ~~—~~

(a) Planning a fixed-price indefinite-delivery contract ~~is contemplated~~;

(b) The contract will be performed wholly or partly in the United States or its outlying areas; and

(c) The ~~place or places of~~ delivery places 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, use the clause ~~shall be used~~ with its ~~Alternate I~~ Alternate I.

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~~ will be performed wholly or partly in the United States or its outlying areas;

(2) Planning 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)~~ changes in State or local taxes.

29.401-4 New Mexico gross receipts and compensating tax.

(a) Definition.

Services, as used in this ~~subsection~~ section, 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~~ S) NMSA 1978, and means all activities engaged in for other persons for a consideration, which activities involve ~~predominately~~ predominantly the performance of a service as distinguished from selling or leasing property. "~~Services~~ Service" 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~~ "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. ~~Such~~ That 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~~ section when all three of ~~the following~~ these 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~~ the 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~~ wholly or ~~in part~~ partly 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~~ wholly or partly in ~~part in the State of~~ New Mexico, and ~~for which~~ when 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~~ and United States National Aeronautics and Space Administration.

(2) Any other Federal agency ~~which expects~~ expecting 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.

29.402 Foreign contracts.

29.402-1 Foreign fixed-price contracts.

~~(a) The contracting officer shall~~ (a) Insert the clause at 52.229-6, Taxes-Foreign Fixed-Price Contracts, in solicitations and contracts expected to exceed the simplified acquisition threshold when planning a fixed-price contract ~~is contemplated and the contract is~~ to be performed wholly or partly in a foreign country, unless ~~it is contemplated that~~ the contract will be with a foreign government.

~~(b) The contracting officer shall~~ (b) Insert the clause at 52.229-7, Taxes-Fixed-Price Contracts with Foreign Governments, in solicitations and contracts that exceed the simplified acquisition threshold when planning a fixed-price contract with a foreign government ~~is contemplated~~.

29.402-2 Foreign cost-reimbursement contracts.

~~(a) The contracting officer shall~~ (a) Insert the clause at 52.229-8, Taxes-Foreign Cost-Reimbursement Contracts, in solicitations and contracts when planning a cost-reimbursement contract ~~is contemplated and the contract is~~ to be performed wholly or partly in a foreign country, unless ~~it is contemplated that~~ the contract will be with a foreign government.

~~(b) The contracting officer shall~~ (b) Insert the clause at 52.229-9, Taxes-Cost-Reimbursement Contracts with Foreign Governments, in solicitations and contracts when planning a cost-reimbursement contract with a foreign government ~~is contemplated~~.

29.402-3 Tax on certain foreign procurements.

(a) Insert the provision at 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation, in solicitations, including solicitations using part 12 procedures for ~~the acquisition of~~ acquiring commercial products and commercial services, ~~unless one of the following exceptions applies; except for—~~

(1) Acquisitions using simplified acquisition procedures that do not exceed the simplified acquisition threshold ~~(as defined in 2.101);~~

(2) Emergency acquisitions using the emergency acquisition flexibilities defined in part 18;

(3) Acquisitions using the unusual and compelling urgency authority ~~per~~ in part 6.303-2;

(4) Contracts with a single individual for personal services that will not exceed the simplified acquisition threshold on an annual calendar year basis for all years of the contract; ~~and~~

(5) Acquisitions ~~if~~ the requiring activity identifies ~~that the requirement is~~ as requirements for certain foreign humanitarian assistance contracts ~~which~~ that are payments made by ~~the~~ U.S. Government agencies ~~pursuant to~~ under a contract with a foreign contracting party to obtain goods or services described in or authorized under 7 U.S.C. 1691, et seq., 22 U.S.C. 2151, et seq., 22 U.S.C. 2601 et seq., 22 U.S.C. 5801 et seq., 22 U.S.C. 5401 et seq., 10 U.S.C. 402, 10 U.S.C. 404, 10 U.S.C. 407, 10 U.S.C. 2557, and 10 U.S.C. 2561.

(b) Insert the clause at 52.229-12, Tax on Certain Foreign Procurements, in—

(1) Solicitations that contain the provision at 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation; and

(2) ~~Resultant~~ Resulting contracts ~~in~~ for which the contractor ~~has~~ indicated ~~that~~ it was a foreign person in solicitation provision 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation.

~~29.402-4 Taxes—Foreign Contracts in Afghanistan.~~

~~(a) Use the clause at 52.229-13, Taxes—Foreign Contracts in Afghanistan, in solicitations and contracts with performance in Afghanistan awarded by or on behalf of U.S. Forces, unless the clause at 52.229-14 is used.~~

~~(b) Use the clause at 52.229-14, Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement), instead of the clause at 52.229-13, Taxes—Foreign Contracts in Afghanistan, in solicitations and contracts with performance in Afghanistan awarded on behalf of or in support of the North Atlantic Treaty Organization (NATO), which are governed by the NATO Status of Forces Agreement (SOFA).~~