

## Federal Acquisition Regulation

## 52.229-2

(e) *Notice of subcontractor waiver of protection (40 U.S.C. 3133(c)).* Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of clause)

[65 FR 46071, July 26, 2000, as amended at 70 FR 57455, Sept. 30, 2005; 71 FR 67779, Nov. 1 22, 2006; 75 FR 53135, Aug. 30, 2010]

### 52.228-16 Performance and Payment Bonds—Other Than Construction.

As prescribed in 28.103-4, insert a clause substantially as follows:

#### PERFORMANCE AND PAYMENT BONDS—OTHER THAN CONSTRUCTION (NOV 2006)

(a) *Definitions.* As used in this clause—

*Original contract price* means the award price of the contract or, for requirements contracts, the price payable for the estimated quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection of the Government in an amount equal to \_\_\_\_\_ percent of the original contract price and a payment bond (Standard Form 1416) in an amount equal to \_\_\_\_\_ percent of the original contract price.

(c) The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within \_\_\_\_\_ days, but in any event, before starting work.

(d) The Government may require additional performance and payment bond protection if the contract price is increased. The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bonds or to obtain additional bonds.

(e) The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the FEDERAL REGISTER, or may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F01, Hyattsville,

MD 20782. Or via the internet at <http://www.fms.treas.gov/c570/>.

(End of clause)

*Alternate I (JUL 2000).* As prescribed in 28.103-4, substitute the following paragraphs (b) and (d) for paragraphs (b) and (d) of the basic clause:

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection to the Government in an amount equal to \_\_\_\_\_ percent of the original contract price.

(d) The Government may require additional performance bond protection if the contract price is increased. The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

[61 FR 39214, July 26, 1996, as amended at 65 FR 46071, July 26, 2000; 71 FR 67780, Nov. 22, 2006]

### 52.229-1 State and Local Taxes.

As prescribed in 29.401-1, insert the following clause:

#### STATE AND LOCAL TAXES (APR 1984)

Notwithstanding the terms of the Federal, State, and Local Taxes clause, the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. The Contractor shall state separately on its invoices taxes excluded from the contract price, and the Government agrees either to pay the amount of the taxes to the Contractor or provide evidence necessary to sustain an exemption.

(End of clause)

[48 FR 42478, Sept. 19, 1983, as amended at 68 FR 28086, May 22, 2003]

### 52.229-2 North Carolina State and Local Sales and Use Tax.

As prescribed in 29.401-2, insert the following clause in solicitations and contracts for construction to be performed in North Carolina:

#### NORTH CAROLINA STATE AND LOCAL SALES AND USE TAX (APR 1984)

(a) *Materials*, as used in this clause, means building materials, supplies, fixtures, and equipment that become a part of or are annexed to any building or structure erected, altered, or repaired under this contract.