52.228-15 Performance and Payment Bonds-Construction.

As prescribed in 28.102-3(a), insert a clause *substantially as follows*:

Performance and Payment Bonds-*Construction* (Jun 2020)

(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 total 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) *Amount of required bonds*. Unless the resulting contract price is valued at or below the threshold specified in Federal *Acquisition* Regulation 28.102-1(a) on the date of award of this contract, the successful *offeror shall* furnish performance and payment bonds to the *Contracting Officer* as follows:

(1) *Performance bonds (Standard Form 25)*. The penal amount of performance bonds at the time of contract award *shall* be 100 percent of the *original contract price*.

(2) *Payment Bonds (Standard Form 25A)*. The penal amount of payment bonds at the time of contract award *shall* be 100 percent of the *original contract price*.

(3) Additional bond protection.

(i) The Government *may* require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(ii) 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.

(c) *Furnishing executed bonds*. The Contractor *shall* furnish all executed bonds, including any necessary reinsurance agreements, to the *Contracting* Officer, within the time period specified in the Bid Guarantee provision of the *solicitation*, or otherwise specified by the *Contracting Officer*, but in any event, before starting work.

(d) *Surety or other security for bonds*. 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 6 F01,

Hyattsville, MD 20782.

Or via the internet at http://www.fms.treas.gov/c570/.

(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)

Parent topic: 52.228 [Reserved]