

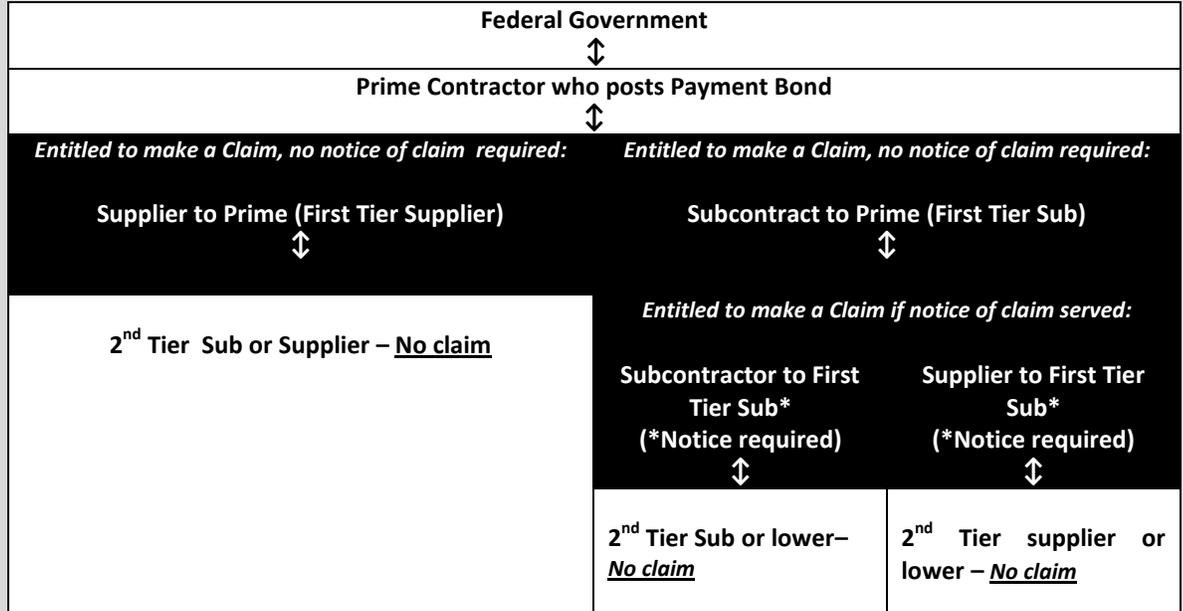
# FEDERAL PUBLIC BOND CLAIM STEPS

(Miller Act claim under 40 USC §3131 et seq.)

**Before you bid or sign the contract.**



**First, confirm you are entitled to make a claim under the Miller Act Bond.** Only the parties described in the black shaded boxes are entitled to make a claim.



**Second, obtain a copy of the payment bond.** A Miller Act payment bond is not required on all federal public projects. Examples of situations where no Miller Act bond is required includes: Construction contracts valued at \$150,000 or less (although some alternative security may exist); construction contracts performed in foreign countries; or construction contracts performed for military or for the alteration, or repair of maritime vessels if waived by the Department of Transportation. **Even if a bond should have been required, there is no remedy for the failure of a contracting officer to require a payment bond! A copy of the bond is available from the contracting officer.**

**After your performance, serve claim within deadline.**



A notice of claim, if required (see above table), must be served upon the **contractor that provided the bond** by any method capable of written third-party verification (such as certified mail, registered mail, Federal Express or hand-delivery) by no later than:

**90 days after last day of performance**

Although not required, send a copy of the statutory notice to the surety who provided the bond and the contracting officer. The notice of claim should be “received” within the 90 day period.

**About Three to Nine Months After Your Performance**



**Retain attorney to review, and if necessary, file lawsuit against surety bond.** The deadline to file is **1 year from the last day of your performance** - not one year from when the notice was given! A lawsuit may not be filed until ninety (90) days after the completion of performance. The lawsuit must be filed in Federal Court for the use and benefit of the United States. Attorney fees may also be recoverable if your contract so provides.

This summary provides general information about a complicated and often-changing area of law. This summary should not take the place of individualized legal advice. Some of the terms used above have specific statutory meanings. There may be other significant legal requirements or limitations to your ability to pursue a Miller Act payment bond claim.

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