

# Federal Projects,

# the Miller Act &

# Getting Paid!

**What is the Miller Act?** Federal payment bond statute that requires payment bonds on projects contracted by the United States.

The Miller Act requires prime contractors on federal projects to submit a payment bond to ensure payment for materials and services provided by their suppliers and subcontractors.

Instead of filing a mechanic's lien against a project, your right of recovery would be against the surety on the payment bond. The surety must be listed on the Treasury List and approved by the U.S. Department of Treasury.

*Generally, bonds are required on general contracts for construction exceeding \$100,000.00.*

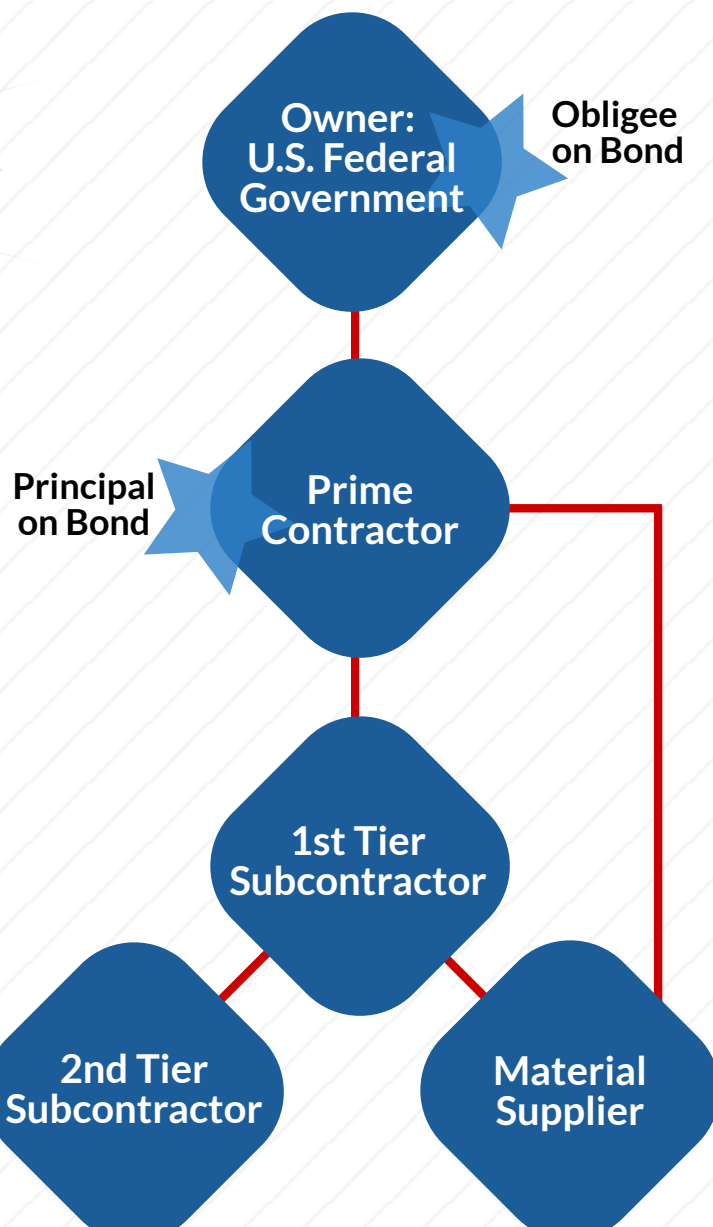
If the federal construction contract is more than \$25,000, but not more than \$100,000, the contracting officer and prime contractor must agree to a payment protection of:

- ★ A payment bond
- ★ An irrevocable letter of credit
- ★ A tripartite escrow agreement; or
- ★ A certificate of deposit

## The Miller Act Provides Protection to the Contractual Chain

### Who is covered under the Miller Act?

All those who provide labor and/or materials used in the prosecution of the work to the prime contractor or first-tier subcontractor are covered.



**Parties below this line of supply are NOT protected by the Miller Act.**

### How is a claim made?

No preliminary notice is required at the start of the federal project. However, a non-statutory notice is recommended so the prime contractor knows you will be protecting your rights. Those furnishing to a subcontractor must serve their bond claim within 90 days from last furnishing materials or services.

NOTE: There are some instances where a Miller Act payment bond may not be available. The bonding requirements on a federal project may be waived by the contracting officer in certain circumstances. The contract may be considered a supply contract rather than a construction contract. The federal government may also be funding a project where the fee owner is a private or public entity.

**Best Practice** Always attempt to obtain a copy of the payment bond from the Federal agency which contracted the project, at the beginning of the project.

**Need assistance with securing your bond claim rights?**

**Contact NCS today!**

SecureYourTomorrow@NCSCredit.com | 800.826.5256

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