

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

40908

95282

FILE: B-181471

DATE: July 3, 1974

MATTER OF: Balboa Insurance Company

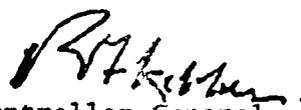
DIGEST: Payment bond surety, having settled \$13,636.40 in obligations to materialmen owed by contractor that cannot be located after completion of contract, may be reimbursed from \$15,480 contract balance upon receipt of indemnification agreement protecting Government against subsequent claim by contractor.

Contract No. N62474-72-C-8345 was awarded to H. Cline Construction Company (Cline) for the repair and alteration of certain buildings at the Marine Corps Air Station, El Toro, California. Payment and performance bonds on the contract were issued by Balboa Insurance Company (Balboa).

On June 27, 1973, Balboa notified the Government that Cline had defaulted under the payment bond by failing to pay certain labor and material costs incident to the contract and requested that further payments to Cline be withheld. The Government complied with the Balboa request. Subsequently, Balboa furnished evidence that, as a result of the default by the contractor on the obligation under the payment bond, it paid \$13,636.40 to materialmen.

The contract is complete. There is a balance of \$15,480 under the contract. All attempts to locate Cline have been unsuccessful. Thus, the Acting Counsel, Naval Facilities Engineering Command, has requested a decision as to the proper payee.

In the circumstances, since no other party has made a claim for the funds held by the Government, the surety may be reimbursed the \$13,636.40 settled under the payment bond upon receipt of an indemnification agreement protecting the Government against a subsequent claim by the contractor. B-177870, March 20, 1973; and B-158227, March 6, 1974. There is no basis for disbursing the remainder of the contract balance at this time.


Deputy Comptroller General
of the United States