

**DECISION**

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

FILE: B-210544

DATE: March 14, 1983

MATTER OF: Vern Willard

**DIGEST:**

Where contractor and its surety under payment bond refuse to reimburse worker for labor and materials furnished in connection with performance of contract, worker's only remedy is suit in Federal District Court under Miller Act, 40 U.S.C. § 270 (1976). GAO's responsibility is limited to furnishing copies of Miller Act contracts and payment bonds.

Mr. Vern Willard has requested this Office's assistance in connection with the refusal by a contractor, Mr. Vince Weber, to pay him \$141.47 earned on a construction project on United States Forest land in the Mt. Baker-Snoqualmie Ranger District.

According to Mr. Willard, who is a dump truck owner-operator, Mr. Weber hired him to haul gravel for road construction and the hourly rate established by the Washington Utilities and Transportation Commission for dump truck leasing is \$51.02. Mr. Willard states that he worked 23-1/2 hours, for which he was only paid \$45 per hour, for a total of \$1,057.50, and that Mr. Weber still owes him \$141.47. Mr. Willard further states that not only did Mr. Weber refuse to pay him, but Mr. Weber's surety, Heritage Insurance Company of America, has refused to pay his claim. Mr. Willard requests that this Office conduct an investigation of the surety's operations.

The Miller Act, 40 U.S.C. § 270 (1976), payment bond is the only protection provided by the Government for persons supplying labor or material in the prosecution of the work provided for in a Government construction contract. In the event that a person supplying labor or materials is unable to collect amounts due for labor or materials furnished, a suit may be brought under the Miller Act, 40 U.S.C. § 270b (1976), for collection under the payment bond in the United States District Court.

Our responsibility to persons furnishing labor or materials under Government construction contracts is limited to furnishing copies of Miller Act contracts and payment

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bonds when entitlement has been established by affidavit in the manner prescribed by section 3 of the Miller Act, 40 U.S.C. § 270c (1976).

Other than the remedy provided by the Miller Act, the settlement of obligations between contractors and those furnishing labor and materials is a matter outside the jurisdiction of our Office, there being no privity of contract between such persons and the United States. See Pyramid Stone Co., B-203736, July 31, 1981, 81-2 CPD 79, and H.A. Sack Co., Inc., B-203291, June 15, 1981, 81-1 CPD 489, and cases cited therein.

*Harry R. Van Cleve*  
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