

# SUMMARY OF STEPS NECESSARY TO PERFECT A FEDERAL PUBLIC WORKS CLAIM

## USE THIS INFORMATION WITH CAUTION

**This summary contains general information only, and must not be construed as legal advice, or take the place of competent legal counsel. Its purpose is to provide general -- not specific -- information on SOME -- but not all -- of the steps and precautions that must be taken, so that your bond claim may be valid and may be enforced, if necessary. The bonding laws are complicated, and your procedures and follow-through on the preparation of **any** bond claim should be checked by an attorney. The general information contained in this summary may be dated. Again, you should seek the advice of legal counsel for specific situations and advice as to the "then existing" status of the law.**

<b>1. Pre-claim Notice</b>		
<b>NONE</b>		
<b>2. The Claim</b>		
<b>When</b>	<b>Who</b>	<b>Action Required</b>
Within 90 days after last substantial performance of labor, delivery of materials, or rental of equipment.	All second-tier contractors subcontractors, and suppliers on Federal Public Works Projects. (See chart below)	Notice of the Claim must have been received by the contractor which provided the bond.
<b>3. Post-Claim Notice</b>		
<b>NONE</b>		
<b>4. Action</b>		
<b>When</b>	<b>Who</b>	<b>Action Required</b>
Not sooner than 90 days after last day on project or later than 1 year from last date. Not based on Claim's date.	All Claimants.	Commence Action.

**PARTIES PROTECTED BY A MILLER ACT BOND**

<b>Federal Government</b>			
⇕			
<b>Prime Contractor</b>			
⇕		⇕	
<b>First Tier Supplier</b>		<b>First-Tier Subcontractor</b>	
⇕	⇕	⇕	⇕
Supplier	Subcontractor	<b>2<sup>nd</sup> Tier Supplier*</b>	<b>2<sup>nd</sup> Tier Subcontractor*</b>
		⇕	⇕
		Supplier or Subcontractor	Supplier or Subcontractor

ONLY THE PARTIES **ABOVE** IN BOLD ARE PROTECTED BY A FEDERAL MILLER ACT PAYMENT BOND.

THOSE IN WHITE ARE **NOT** PROTECTED. \* Written Notice of Claim required

**Federal Notes:**

1. This chart does not necessarily apply to Oregon's Little Miller Act! Litigation (although not a full formal written appellate court opinion) concerning protected parties under the Oregon Little Miller Act has found that persons below the dashed bar in this chart can be protected parties under the **Oregon act**. If you do not have a direct contractual relationship with the prime contractor, you must give written notice to the contractor within ninety (90) days from the date you last performed labor or furnished material for which your claim is made (see above).
2. You should also consider giving notice to the contracting officer for the Federal Project and to the surety (the bonding company) as this may expedite payment.
3. Some public works contracts (both State and Federal) are divided in sections. While working on one project (i.e. light rail) you may be working under more than one contract and thus more than one notice may be required. Some projects which you may think are

a "State Project" may be a federal project. You should confirm the type of bond **before you bid the project.**

4. The language of the Miller Act no longer limits service of claims to only **registered** mail. Now, any means that provides written, third-party verification of delivery is permitted.

**You should insure that notice is actually received before the time period expires. The time period may not be extended if the last day falls on a Saturday, Sunday or other legal holiday.**