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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20543

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FILE: B-205165

DATE: March 8, 1982

MATTER OF: Bob Bates - Request for relief under
Meritorious Claims Act

DIGEST:

Reporting claim to Congress under Meritorious Claims Act, 31 U.S.C. § 236, for relief of subcontractor who was not paid by contractor and who could not recover under Miller Act bond since contracting officer had failed to require bond is not justified where the claim does not involve equitable circumstances of an unusual nature and which are unlikely to constitute recurring problem.

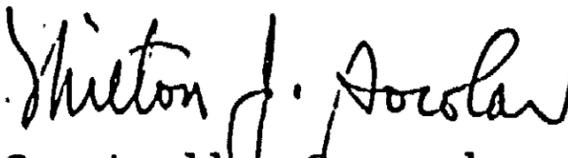
By letter of January 20, 1982, counsel for Bob Bates refers to our decision in B-205165, January 8, 1982, 82-1 CPD _____, which disallowed the claim by Bates for costs incurred as a subcontractor on contract No. 14-16-0002-79-209, and requests relief under the Meritorious Claims Act, 31 U.S.C. § 236 (1976).

The record indicates that the above contract for construction work at the Optima National Wildlife Refuge, in Oklahoma, was awarded by the United States Fish and Wildlife Service to Tribal Construction Inc. (Tribal) on September 14, 1981 (our decision of January 8, 1982, mistakenly states that award was made in August of 1981), and that Tribal entered into a subcontract with Bates for the performance of a portion of the contract. Tribal failed to pay Bates for the work performed. Bates was unable to collect from Tribal, even though he had obtained a judgment against Tribal in a local State court. Bates was unable to recover under a payment bond, which is required under the Miller Act, 40 U.S.C. § 270(a)(2) (1976), since the contracting officer had failed to require Tribal to furnish the bond. Bates subsequently filed a tort claim with the Fish and Wildlife Service under the Federal Tort Claims Act, but was denied relief.

On September 22, 1981, Bates filed his claim with our Office. Our disallowance of Bates' claim was based on the fact that there was no privity of contract between Bates and the Government.

Regarding the request for relief under the Meritorious Claims Act, our Office has consistently refused to report claims to the Congress under that act unless the claim involves equitable circumstances of an unusual nature and which are unlikely to constitute a recurring problem, since to report to the Congress a particular case when similar equities exist or are likely to arise with respect to other claimants would constitute preferential treatment over others in similar circumstances. See The Farmington Manufacturing Company, B-186817, September 17, 1976, 76-2 CPD 255. In the present case, we know of at least one other claimant who is in a similar situation to Bob Bates and, in our view, there could well be others. See United Electric Corporation v. United States, Ct. Cl. 10-80C, April 22, 1981. Moreover, there could well be a recurring problem involving claimants, such as Bob Bates, where the contractor furnished no bond or where the bond was insufficient.

For the above reasons, we do not deem the situation in the present case appropriate for us to file a report with the Congress under the Meritorious Claims Act.

for 
Comptroller General
of the United States