

CHANGE ORDER REFORM FOR FEDERAL CONSTRUCTION

Support Change Order Reforms that Benefit the Federal Government, Small Businesses and the Construction Industry

Action Needed:

House and Senate:

Thank You for Passing the *Change Order Transparency for Federal Contractors Act (H.R. 4754)* in the FY 2019 National Defense Authorization Act (NDAA) bill.

Ask the House and Senate to keep the *Small Business Payment for Performance Act (H.R. 8273)* in the final FY 2022 NDAA (Sec. 870 of H.R. 7900)

Background:

The Change Order Transparency for Federal Contractors Act was recently passed as part of the FY 2019 National Defense Authorization Act. It requires federal contracting agencies to provide details on their change order procedures and their historical change order performance data in solicitations. This will provide small businesses with a better idea of the risks of working for any federal contracting agency. However, additional reforms are needed to the change order process. Such reforms are currently included in the Small Business Payment for Performance Act, which allows contractors to send an invoice upon change order submittal and request payment for a portion of the bill immediately to offset the extra, unpaid upfront costs of the work.

AGC Message:

- **Change Orders Are a Routine Part of Every Construction Project.** It is common with any construction project—public or private—for unforeseen issues to emerge. These unforeseen issues usually involve work outside the original scope of the contract. As a result, a change to the contract is required for the contractor to perform the work and be paid.
- **The Federal Agency Change Order Process is Broken.** Contractors are increasingly frustrated by the slow approval of and late payment for change orders. While change orders wait to be approved and paid by federal agencies for months or even years, contractors must continue to pay their own bills—payroll, material costs or even taxes. The *Small Business Payment for Performance Act* would require federal agencies to make interim partial payments to contractors for unilateral changes directed by the buying agencies.
- **The Federal Agency Change Order Process Delays Projects.** Work must be stopped or slowed down because of untimely processing of change orders. Construction schedules remain tight and the lack of quick turnaround on change orders can have a negative ripple effect on an entire project, often resulting in delays.
- **The Federal Agency Change Order Process Puts Small Businesses in Jeopardy.** Ironically, the same federal agencies that work to meet small business contract award goals to help grow those entities can ultimately be the cause of these small businesses closing their doors. According to the Colorado Small Business Administration, the U.S. Department of Veterans Affairs failed to pay at least 33 small business construction contractors in a timely fashion, with some waiting more than a year after work completion for payment. Of those 33 companies, at least two filed for bankruptcy.