

# CHANGE ORDER REFORM FOR FEDERAL CONSTRUCTION

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

### Action Needed:

Ask the House of Representatives to support the *Small Business Payment for Performance Act* (H.R. 2726)

### Background:

Time is money for all businesses, but more so for small businesses. Equitable changes to the contract, more commonly known as change orders, are ubiquitous on construction projects. Yet contractors and subcontractors on federal construction projects are increasingly burdened by the slow approval of and the resulting lack of payment for change orders. Indeed, some federal agencies routinely delay the review and approval of all change orders until the end of a project. Meanwhile, contractors and subcontractors must pay their own bills—employees, suppliers and even taxes—while federal customers delay payment for work performed. This bill would require federal agencies to make interim partial payments to their construction prime contractors for unilateral changes in contract performance directed by the buying agencies. 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 current 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 have significant negative ripple effects on an entire project, often resulting in delays.
- **The federal agency change order process disproportionately 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.