



Reform the Administration of Change Orders on Federal Construction Projects

Background:

A recent study by ELECTRI International, *"Addressing Inequitable Payment Practices,"* identified multiple findings that affect electrical contractors and the greater construction industry at large. Overall, the study confirmed what construction industry stakeholders are all experiencing: Payment cycles are slowing down for all industry participants. Subcontractors feel the most impact, including electrical subcontractors, who ironically provide the bulk of the short-term capital yet believe they have the least leverage to change current practices.

Key Points:

- Payment practices are changing. Recent trends indicate that payment practices in the industry negatively affect business growth and construction prices, resulting in bankruptcy in some cases.
- Owners are pushing out contractual payment timeframes. Typically, between 60 and 90 days, some respondents cited payment terms up to 120 and even 180 days.
- Contract terms are getting worse for subcontractors. Among other reasons, the growing inclusion of "pay if paid" clauses in contracts have forced many subcontractors to take on the role of the banker by providing a disproportionate amount of capital.
- Payment incentives and penalties are lacking. This study found "little evidence that any contract terms incentivized owners and general contractors to pay subcontractors promptly." Instead, many subcontractors report offers for the opportunity to be paid quickly in return for a discount.
- Existing prompt payment laws generally do very little to protect subcontractors. Overall, subcontractors believe incentives are insufficient to motivate general contractors to get paid promptly. Current law is either nonexistent or does not have the teeth to encourage compliance when present.
- Current payment practices create risk for the construction industry. The lack of an adequately structured payment process has had a ripple effect. Because subcontractors cannot anticipate payment, they have begun to bid less work, forcing general contractors to increase prices, thereby deterring the contracting officers.

NECA Asks:

The Federal government must do more to address the enforcement of prompt payment to subcontractors and suppliers and should support legislation that would:

- Require prompt partial payment to contractors for change orders
- Require the flow-down provisions to ensure payment expedites to subcontractors for the work they have provided and any additional material costs.