



## Ensure Small Business Federal Contractors Get Paid for Change Orders in a Timely Manner

### Background:

- A recent study by ELECTRI International entitled, "*Addressing Inequitable Payment Practices*," identified multiple findings that affect electrical contractors and the construction industry as a whole. Overall the study confirmed what construction industry stakeholders are all experiencing: payment cycles are slowing down for all industry participants. The impact of this is mostly felt by subcontractors, including electrical subcontractors, who ironically provide the bulk of the short-term capital, yet believe that they have the least amount of leverage to change current practices.

### Key Points:

- *Payment Practices are Changing.* Recent trends indicate that payment practices in the industry are negatively affecting business growth, construction prices, and in some cases, have resulted in bankruptcy.
- *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 has 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 being offered 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 that there are insufficient incentives to motivate general contractors to get them paid promptly. Current law is either nonexistent or when it is present does not have the teeth to encourage compliance.
- *Current Payment Practices Create Risk for the Construction Industry.* The lack of an adequately structured payment process has had a ripple effect. Because subcontractors are not able to anticipate payment, they have begun to bid less work, forcing general contractors to increase prices thereby deterring the contracting officers.

### NECA Asks:

- Support forthcoming legislation to require prompt partial payment to contractors for change orders.
- The Federal government must do more to address enforcement of prompt payment to subcontractors and suppliers.