



August 13, 2018

**RE: AGC-Backed Change Order and Past Performance Reforms Signed into Law**

Today, President Donald Trump signed into law the 2019 National Defense Authorization Conference Report.

Included in the 2019 NDAA is the AGC-backed bipartisan legislation (*See [Sec. 855](#)*) that will require federal agencies to publish their policy and procedures on equitable adjustments to a contract, more commonly known as change orders, on any small federal construction contract out for bid, and require agencies to report on the time it takes to process these change orders. This legislation provides prospective federal construction contractors with the information they need to factor the risk and resulting cost of delayed payment for change into bids and offers to the federal government.

Last year, AGC worked with the House of Representatives to hold the first congressional hearing on change order delays and the impacts it has on federal construction contractors. The change order reform in the 2019 NDAA is a product from that congressional hearing, where AGC members testified, and AGC's bipartisan lobbying efforts in the House and Senate.

We frequently hear from AGC members the difficulty that comes from the lack visibility into agencies' change order policies and procedures. This new legal requirement should lead to a more efficient change order process that provides for early and frequent collaborative discussions, improves overall understanding and alignment of the work to be performed, and reduces the financial burden for the construction community. AGC will continue to be at the forefront in advocating for greater accountability in the change order process, working directly with the federal agencies when we can and lobbying to enact laws through congress when we must.

Also included in the 2019 NDAA is the AGC-backed inclusion of best available information regarding past performance of subcontractors and joint venture partners (*See [Sec. 823](#)*). This section allows for past performance ratings for each partner of a joint venture when awarding certain Department of Defense contracts. This will ensure contractors and subcontractors receive the credit they deserve for work performed and help bring greater transparency to federal contracting market.

The 2019 NDAA, like previous NDAA's, contain a host of laws related to the construction industry. AGC will monitor each NDAA and continue to advocate for reforms that will benefit the construction industry as a whole.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen E. Sandherr'.

Stephen E. Sandherr  
Chief Executive Officer