

# PROCUREMENT REFORM

## Support Reforms that Benefit the Government, Small Businesses and the Entire Construction Industry

### Action Needed:

Ask the House of Representatives for a floor vote on **H.R. 679, the Construction Consensus Procurement Improvement Act of 2017** and **H.R. 2594, Small Business Payment for Performance Act.**

### Background:

- AGC co-founded the Construction Industry Procurement Coalition, a coalition of 15 construction organizations representing tens of thousands of firms and individuals engaged in all facets of construction, to promote common sense procurement reforms that benefit the government, taxpayers, small businesses and the entire industry.
- Such common sense, bipartisan reforms are currently included in the Construction Consensus Procurement Improvement Act of 2017, which would help restrict federal agencies from procuring construction services through reverse auctions and make the design-build construction process more competitive, and in the Small Business Payment for Performance Act, which 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.

### AGC Message:

- **Prohibit Federal Agencies from Procuring Construction Services through Reverse Auctions.** Procuring design and construction services is different than procuring off-the-shelf, manufactured commodities. In 2004, the U.S. Army Corps of Engineers (USACE) determined that procuring design and construction services through reverse auctions “should be the very rare exception and not the rule—if used at all.”
  - However, the Departments of Veterans Affairs and Interior continue to use reverse auctions for construction. The Government Affairs Office recently reported that federal agencies conducted over 3,600 single-bid reverse auctions.
  - In reverse auctions, each bidder recognizes that he will have the option to provide successively lower bids as the auction progresses. Thus, a bidder has no incentive to offer its best price and subsequently may never offer its lowest price.
- **Make the Design-Build Construction Process More Competitive by Limiting One-Step Design-Build Procurements.** Many qualified design/construction teams—especially small businesses—cannot risk the high cost of producing complete design and engineering technical proposals and, consequently, do not compete. Reasonably limiting one-step, design-build competitions will help spur more design-build competition within the construction industry, leading to more innovative and better value proposals. This would reduce resources spent on reviewing unqualified proposals and increase competition by providing predictable business risks.
- **Support Reform and Oversight of the Federal Change Order Review Process.** Contractors increasingly are frustrated by the slow approval of and the resulting lack of payment for change orders. Increase transparency and require federal agencies to collect and report data regarding the administration of change orders, including the timeliness of action to encourage greater accountability.