



To: Congressional Staff
From: Mike Oscar (Government Relations Director)
Subject: **American Subcontractors Association's 2023 Legislative Issues**
Date: June 14, 2023

The American Subcontractors Association (ASA) is the national trade association promoting the rights and interests of subcontractors, specifically contractors and suppliers, dedicated to quality construction, ethical and equitable business practices, safety in the workplace, and best industry practices. The ASA represents more than 2,400 construction subcontractors who employ over 18,000 employees annually impacting buildings and communities across the nation. The following legislative issues are important to our membership:

Change Orders: We support H.R. 2726, Small Business Payment for Performance Act of 2023, which would require prompt payment to contractors for change orders. The federal government must do more to address enforcement of prompt payment to subcontractors and suppliers.

P3 Bonding Requirements: We support H.R. 1740, legislation clarifying that current payment and performance security requirements for federally funded infrastructure projects should apply to Water Infrastructure Finance and Innovation Act (WIFIA) financed infrastructure projects, including Public Private Partnerships (P3).

Retainage: We support the reduction of the maximum retainage rate used by the federal government from 10% to 5%. In construction contracts, retainage is a sum of money earned by a contractor or subcontractor for satisfactory work, but held until the contract, or a certain portion of the contract, is complete. Though retainage arguably serves as a type of insurance for owners and prime contractors, it can have the unfortunate effect of requiring contractors and subcontractors to complete work without full payment, in essence financing the job, and making it difficult to timely pay their own creditors. In some cases, contractors and subcontractors are burdened with sizable retainage receivables long after the contract has been performed.

Bid Listing: We support the reintroduction and passage of the Stop Unfair Bid Shopping Act (SUBS Act) to require general contractors on federal construction contracts valued at \$1.5 million or more to list the subcontractors proposed to perform work valued at more than \$100,000 as part of their bid. This legislation would ensure that companies honor their contract with the federal government by adding a means to eliminate the practice of bid shopping while ensuring taxpayer dollars are not misused.

Executing Permitting Reform: We have long advocated for needed reforms to expedite the project review and approval process without sacrificing existing environmental protections. Accordingly, the Biden administration should prioritize the implementation of "One Federal Decision" and other Infrastructure Investment Jobs Act (IIJA) process enhancements before adding new regulatory requirements. These include:

1. Deterring unwarranted litigation and mitigating permitting review delays at federal agencies;
2. Requiring a two-year deadline for completing major project reviews; and
3. Enacting page limits on environmental review documents.

Workforce Development: We support apprenticeship funding opportunities, and we oppose the misclassification of employees as independent contractors.

House Construction Procurement Caucus: We support this caucus as a vehicle to address construction procurement policies and practices in the public and private sectors.