

118TH CONGRESS
1ST SESSION

H. R. 2726

To amend the Small Business Act to provide interim partial payment to small business contractors that request an equitable adjustment due to a change in the terms of a construction contract, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2023

Mr. STAUBER (for himself, Mr. PETERS, Mr. FITZPATRICK, and Mr. VEASEY) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to provide interim partial payment to small business contractors that request an equitable adjustment due to a change in the terms of a construction contract, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Pay-
5 ment for Performance Act of 2023”.

1 **SEC. 2. EQUITABLE ADJUSTMENTS TO CONSTRUCTION**
2 **CONTRACTS.**

3 (a) IN GENERAL.—Section 15 of the Small Business
4 Act (15 U.S.C. 644) is amended—

5 (1) by redesignating subsections (x) and (y) as
6 subsections (y) and (z), respectively; and

7 (2) by inserting after subsection (w) the fol-
8 lowing new subsection:

9 “(x) INTERIM PARTIAL PAYMENTS FOR EQUITABLE
10 ADJUSTMENTS TO CONSTRUCTION CONTRACTS.—

11 “(1) REQUEST FOR AN EQUITABLE ADJUST-
12 MENT.—A small business concern that was awarded
13 a construction contract by an agency may submit a
14 request for an equitable adjustment to the con-
15 tracting officer of such agency if the contracting of-
16 ficer directs a change in the terms of the contract
17 performance without the agreement of the small
18 business concern. Such request shall—

19 “(A) be timely made pursuant to the terms
20 of the contract; and

21 “(B) specify the estimated amount re-
22 quired to cover additional costs resulting from
23 such change in the terms.

24 “(2) AMOUNT.—Upon receipt of a request for
25 equitable adjustment from a small business concern
26 under paragraph (1), the agency shall provide to

1 such concern an interim partial payment in an
2 amount equal to not less than 50 percent of the esti-
3 mated amount under paragraph (1)(B).

4 “(3) LIMITATION.—Any interim partial pay-
5 ment made under this section may not be deemed to
6 be an action to definitize the request for an equi-
7 table adjustment.

8 “(4) FLOW-DOWN OF INTERIM PARTIAL PAY-
9 MENT AMOUNTS.—A small business concern that re-
10 ceives an equitable adjustment under this subsection
11 shall pay to a first tier subcontractor of such con-
12 cern the portion of each interim partial payment re-
13 ceived that is attributable to the increased costs of
14 performance incurred by such subcontractor due to
15 the change in the terms of the contract performance
16 described in paragraph (1). A first tier subcon-
17 tractor that receives a portion of an interim partial
18 payment under this section shall pay to a subcon-
19 tractor (at any tier) the appropriate portion of such
20 payment.”.

21 (b) IMPLEMENTATION.—The Administrator of the
22 Small Business Administration shall implement the re-
23 quirements of this section not later than the earlier of the
24 following dates:

1 (1) The first day of the first full fiscal year be-
2 ginning after the date of the enactment of this Act.

3 (2) October 1, 2025.

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