

116TH CONGRESS
1ST SESSION

H. R. 2344

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 18, 2019

Mr. STAUBER (for himself 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 2019”.

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

2 **CONTRACTS.**

3 (a) IN GENERAL.—The Small Business Act (15
4 U.S.C. 631 et seq.) is amended by inserting after section
5 15 the following new section:

6 **“SEC. 15A. EQUITABLE ADJUSTMENTS TO CONSTRUCTION**

7 **CONTRACTS.**

8 “(a) REQUEST FOR AN EQUITABLE ADJUSTMENT.—
9 A small business concern performing a construction con-
10 tract that was awarded by an agency may submit a re-
11 quest for an equitable adjustment to the contracting offi-
12 cer of such agency if the contracting officer directs a
13 change in the terms of the contract performance without
14 the agreement of the small business concern. Such request
15 shall—

16 “(1) be timely made pursuant to the terms of
17 the contract; and

18 “(2) specify the estimated amount required to
19 cover additional costs resulting from such change in
20 the terms of the contract performance.

21 “(b) AMOUNT.—Upon receipt of a request for equi-
22 table adjustment under subsection (a), the agency shall
23 provide to the small business concern an interim partial
24 payment in an amount that is at least 50 percent of the
25 estimated amount under subsection (a)(2).

1 “(c) LIMITATION.—Any interim partial payment
2 made under this section shall not be deemed to be an ac-
3 tion to definitize the request for an equitable adjustment.

4 “(d) FLOW-DOWN OF INTERIM PARTIAL PAYMENT
5 AMOUNTS.—A small business concern that requests an eq-
6 uitable adjustment under this section shall pay to a first
7 tier subcontractor or supplier the portion of each interim
8 partial payment received that is attributable to the in-
9 creased costs of performance incurred by the first tier sub-
10 contractor or supplier due to the change in the terms of
11 the contract performance. A first tier subcontractor or
12 supplier that receives a portion of an interim partial pay-
13 ment under this section shall pay to a subcontractor or
14 supplier at any tier the appropriate portion of such pay-
15 ment.”.

16 (b) IMPLEMENTATION.—The Administrator of the
17 Small Business Administration shall implement the re-
18 quirements of this section not later than the earlier of the
19 following dates:

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

22 (2) October 1, 2021.

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