

116TH CONGRESS  
2D SESSION

# H. R. 5146

---

## AN ACT

To amend the Small Business Act to require contracting officers to take a small business concern's past performance as part of a joint venture into account when evaluating the small business concern, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Unlocking Opportuni-  
3 ties for Small Businesses Act of 2019”.

4 **SEC. 2. PAST PERFORMANCE RATINGS OF JOINT VEN-**  
5 **TURES FOR SMALL BUSINESS CONCERNS.**

6       Section 15(e) of the Small Business Act (15 U.S.C.  
7 644(e)) is amended by adding at the end the following:

8           “(5) PAST PERFORMANCE RATINGS OF JOINT  
9       VENTURES FOR SMALL BUSINESS CONCERNS.—With  
10      respect to evaluating an offer for a prime contract  
11      made by a small business concern that previously  
12      participated in a joint venture with another business  
13      concern (whether or not such other business concern  
14      was itself a small business concern), the Adminis-  
15      trator shall establish regulations—

16           “(A) requiring contracting officers to con-  
17      sider the record of past performance of the  
18      joint venture when evaluating the past perform-  
19      ance of the small business concern; and

20           “(B) requiring the small business concern  
21      to inform the contracting officer what duties  
22      and responsibilities the small business concern  
23      carried out as part of the joint venture.”.

1 **SEC. 3. PAST PERFORMANCE RATINGS OF FIRST-TIER**  
 2 **SMALL BUSINESS SUBCONTRACTORS.**

3 Section 8(d)(17) of the Small Business Act (15  
 4 U.S.C. 637(d)(17)) is amended to read as follows:

5 “(17) PAST PERFORMANCE RATINGS FOR CER-  
 6 TAIN SMALL BUSINESS SUBCONTRACTORS.—

7 “(A) IN GENERAL.—Upon request by a  
 8 small business concern that performed as a first  
 9 tier subcontractor on a covered contract (as de-  
 10 fined in paragraph 13(A)) that is submitting an  
 11 offer for a solicitation, the prime contractor for  
 12 such covered contract shall submit to the con-  
 13 tracting agency issuing the solicitation or to  
 14 such small business concern a record of past  
 15 performance for such small business concern  
 16 with respect to such covered contract.

17 “(B) CONSIDERATION.—A contracting offi-  
 18 cer shall consider the record of past perform-  
 19 ance of a small business concern provided under  
 20 subparagraph (A) when evaluating an offer for  
 21 a prime contract made by such small business  
 22 concern.”.

23 **SEC. 4. RULEMAKING.**

24 (a) SBA RULES.—Not later than the end of the 120-  
 25 day period beginning on the date of enactment of this Act,  
 26 the Administrator of the Small Business Administration

1 shall issue rules to carry out this Act and the amendments  
2 made by this Act.

3 (b) FEDERAL ACQUISITION REGULATION.—Not later  
4 than the end of the 120-day period beginning on the date  
5 that rules are issued under subsection (a), the Federal Ac-  
6 quisition Regulation shall be revised to reflect such rules.

7 **SEC. 5. DETERMINATION OF BUDGETARY EFFECTS.**

8 The budgetary effects of this Act, for the purpose of  
9 complying with the Statutory Pay-As-You-Go Act of 2010,  
10 shall be determined by reference to the latest statement  
11 titled “Budgetary Effects of PAYGO Legislation” for this  
12 Act, submitted for printing in the Congressional Record  
13 by the Chairman of the House Budget Committee, pro-  
14 vided that such statement has been submitted prior to the  
15 vote on passage.

Passed the House of Representatives January 8,  
2020.

Attest:

*Clerk.*



116TH CONGRESS  
2D SESSION

# H. R. 5146

## AN ACT

To amend the Small Business Act to require contracting officers to take a small business concern's past performance as part of a joint venture into account when evaluating the small business concern, and for other purposes.