

116TH CONGRESS
2D SESSION

H. R. 5146

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2020

Received; read twice and referred to the Committee on Small Business and
Entrepreneurship

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: CHERYL L. JOHNSON,
Clerk.