

114TH CONGRESS
2D SESSION

H. R. 4317

To amend the Small Business Act to establish a pilot program providing past performance ratings for other small business subcontractors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 2016

Mr. HANNA (for himself and Mr. TAKAI) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to establish a pilot program providing past performance ratings for other small business subcontractors, 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 “Promoting Reliable
5 Subcontractors Act of 2016” or as the “PROS Act of
6 2016”.

1 **SEC. 2. PROVIDING SMALL BUSINESS SUBCONTRACTORS**
2 **RATINGS FOR PAST PERFORMANCE ON A**
3 **CONTRACT.**

4 Section 8(d) of the Small Business Act (15 U.S.C.
5 637(d)) is amended by adding at the end the following
6 new paragraph:

7 “(17) PILOT PROGRAM PROVIDING PAST PER-
8 FORMANCE RATINGS FOR OTHER SMALL BUSINESS
9 SUBCONTRACTORS.—

10 “(A) ESTABLISHMENT.—The Adminis-
11 trator shall establish a pilot program for a
12 small business concern performing as a first
13 tier subcontractor for a covered contract (as de-
14 fined in subparagraph 13(A)) to request a past
15 performance rating in the system used by the
16 Federal Government to monitor or record con-
17 tractor past performance.

18 “(B) APPLICATION.—A small business con-
19 cern described in subparagraph (A) shall sub-
20 mit an application to the appropriate official for
21 a past performance rating. Such application
22 shall include written evidence of the past per-
23 formance factors for which the small business
24 concern seeks a rating and a suggested rating.

25 “(C) DETERMINATION.—The appropriate
26 official shall submit the application from the

1 small business concern to the contracting officer
2 (or a designee of such officer) for the covered
3 contract and to the prime contractor for review.
4 The contracting officer (or designee) and the
5 prime contractor shall, not later than 30 days
6 after receipt of the application, submit to the
7 appropriate official a response regarding the
8 application.

9 “(i) AGREEMENT ON RATING.—If the
10 contracting officer (or designee) and the
11 prime contractor agree on a past perform-
12 ance rating, or if either the contracting of-
13 ficer (or designee) or the prime contractor
14 fail to respond and the responding indi-
15 vidual agrees with the rating of the appli-
16 cant small business concern, the appro-
17 priate official shall enter the agreed-upon
18 past performance rating in the system de-
19 scribed in subparagraph (A).

20 “(ii) DISAGREEMENT ON RATING.—If
21 the contracting officer (or designee) and
22 the prime contractor fail to respond within
23 30 days or if they disagree about the rat-
24 ing, or if either the contracting officer (or
25 designee) or the prime contractor fail to

1 respond and the responding individual dis-
2 agrees with the rating of the applicant
3 small business concern, the contracting of-
4 ficer (or designee) or the prime contractor
5 shall submit a notice contesting the appli-
6 cation to appropriate official. The appro-
7 priate official shall follow the requirements
8 of subparagraph (D).

9 “(D) PROCEDURE FOR RATING.—Not later
10 than 14 calendar days after receipt of a notice
11 under subparagraph (C)(ii), the appropriate of-
12 ficial shall submit such notice to the applicant
13 small business concern. Such concern may sub-
14 mit comments, rebuttals, or additional informa-
15 tion relating to the past performance of such
16 concern not later 14 calendar days after receipt
17 of such notice. The appropriate official shall
18 enter the into the system described in subpara-
19 graph (A) a rating that is neither favorable nor
20 unfavorable along with the initial application
21 from the small business concern, the responses
22 of the contracting officer (or designee) and the
23 prime contractor, and any additional informa-
24 tion provided by the small business concern.

1 “(E) USE OF INFORMATION.—A small
2 business subcontractor may use a past perform-
3 ance rating given under this paragraph to es-
4 tablish its past performance for a prime con-
5 tract.

6 “(F) DURATION.—The pilot program es-
7 tablished under this paragraph shall terminate
8 3 years after the date on which the first small
9 business concern receives a past performance
10 rating for performance as a first tier subcon-
11 tractor.

12 “(G) REPORT.—The Comptroller General
13 of the United States shall begin an assessment
14 of the pilot program 1 year after the establish-
15 ment of such program. Not later than 6 months
16 after beginning such assessment, the Comp-
17 troller General shall submit a report to the
18 Committee on Small Business and Entrepre-
19 neurship of the Senate and the Committee on
20 Small Business of the House of Representa-
21 tives, which shall include—

22 “(i) the number of small business con-
23 cerns that have received past performance
24 ratings under the pilot program;

1 “(ii) the number of applications in
2 which the contracting officer (or designee)
3 or the prime contractor contested the ap-
4 plication of the small business concern;

5 “(iii) any suggestions or recommenda-
6 tions the Comptroller General or the small
7 business concerns participating in the pro-
8 gram have to address disputes between the
9 small business concern, the contracting of-
10 ficer (or designee), and the prime con-
11 tractor on past performance ratings; and

12 “(iv) any suggestions or recommenda-
13 tion the Comptroller General has to im-
14 prove the operation of the pilot program.

15 “(H) APPROPRIATE OFFICIAL DEFINED.—
16 In this paragraph, the term ‘appropriate offi-
17 cial’ means a Commercial Market Representa-
18 tive or other individual designated by the senior
19 official appointed by the Administrator with re-
20 sponsibilities under sections 8, 15, 31 and 36.”.

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