

116TH CONGRESS  
1ST SESSION

# H. R. 5146

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.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2019

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

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

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

3 (a) IN GENERAL.—Section 15(e) of the Small Busi-  
4 ness Act (15 U.S.C. 644(e)) is amended by adding at the  
5 end the following:

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

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

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

22 **SEC. 3. PAST PERFORMANCE RATINGS OF FIRST-TIER**  
23 **SMALL BUSINESS SUBCONTRACTORS.**

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

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

3           “(A) IN GENERAL.—Upon request by a  
4 small business concern that performed as a  
5 first-tier subcontractor on a covered contract  
6 (as defined in paragraph 13(A)) that is submit-  
7 ting an offer for a solicitation, the prime con-  
8 tractor for such covered contract shall submit  
9 to the contracting agency issuing the solicita-  
10 tion or to such small business concern a record  
11 of past performance for such small business  
12 concern with respect to such covered contract.

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

19 **SEC. 4. RULEMAKING.**

20           (a) SBA RULES.—Not later than the end of the 120-  
21 day period beginning on the date of enactment of this Act,  
22 the Administrator of the Small Business Administration  
23 shall issue rules to carry out this Act and the amendments  
24 made by this Act.

1           (b) FEDERAL ACQUISITION REGULATION.—Not later  
2 than the end of the 120-day period beginning on the date  
3 that rules are issued under paragraph (1), the Federal Ac-  
4 quisition Regulation shall be revised to reflect such rules.

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