

Union Calendar No. 286

116TH CONGRESS
1ST SESSION

H. R. 5146

[Report No. 116-361]

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.

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

DECEMBER 19, 2019

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

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”.

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

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

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

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

23 “(B) requiring the small business concern
24 to inform the contracting officer what duties

1 and responsibilities the small business concern
2 carried out as part of the joint venture.”.

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

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

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

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

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

1 **SEC. 4. RULEMAKING.**

2 (a) **SBA RULES.**—Not later than the end of the 120-
3 day period beginning on the date of enactment of this Act,
4 the Administrator of the Small Business Administration
5 shall issue rules to carry out this Act and the amendments
6 made by this Act.

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

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