

Suspend the Rules and Pass the Bill, H.R. 5146, with an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

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.

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

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 Section 15(e) of the Small Business Act (15 U.S.C.
4 644(e)) is amended by adding at the end the following:

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

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

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

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

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

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

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

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

17 **SEC. 4. RULEMAKING.**

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

23 (b) FEDERAL ACQUISITION REGULATION.—Not later
24 than the end of the 120-day period beginning on the date

1 that rules are issued under subsection (a), the Federal Ac-
2 quisition Regulation shall be revised to reflect such rules.

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

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