

Support Parity Among All Small Business Development Programs

How can Congress Support Parity?

- ✓ Co-sponsor S.3190 or H.R. 3729 to ensure parity among all socio-economic small business programs of the Federal government.

What is Parity and Why is it an Issue?

On February 26, 2010, in *Mission Critical Solutions v. U.S.*¹, the Court of Federal Claims upheld a Government Accountability Office decision giving the HUBZone program priority over other small business development programs. The ruling in the Mission Critical decision hinged on the statutory underpinnings that created HUBZones, which used the word “shall” and not “may,” requiring contracting officers to give preference to HUB-Zone firms on any procurement opportunity that meets the HUB-Zone criteria (which occurs whenever two or more HUBZone firms are available to perform the contract at a fair price).

The SBA promotes parity among the following programs: 8(a), HUB-Zone, Service Disabled Veteran-Owned Small Businesses (SDVOSBs) and Women-Owned Small Businesses (WOSBs). The Office of Management and Budget and the Department of Justice disagree with the decision and have directed federal contracting officers that the decision applies only in the specific case.

What is the Solution and Who Supports It?

The entire small business community is united in seeking a legislative remedy to restore program parity beyond question. A two-line bill has been introduced in both the House and Senate (S.3190 and H.R. 3729) that would change the HUBZone statute from “shall” to “may” thus ensuring the HUBZone program and the other small business programs are treated with parity. This legislation reaffirms Congress’s intent that contracting officers have discretion to choose among any of the small business development and contracting programs when deciding to make a contract award.

¹ *Mission Critical Solutions v. U.S.*, No. 09-864 C, U.S. Court of Federal Claims (Feb. 26, 2010, re-filed Mar. 2, 2010).