

P.L. 111-240, The Small Business Jobs Act of 2010, contained a number of changes to the Small Business Act, among which was revised language to clarify socioeconomic parity.

The following is an excerpt taken from a letter Senator Landrieu Mary. L. Landrieu, Chair of the Senate Committee on Small Business and Entrepreneurship, wrote to Secretary of Defense Robert M. Gates, expressing the Senator's wish that "...contracting officer's may choose with discretion among SBA's procurement and business development programs, without giving one program preference over another..."

October 13, 2010

The Honorable Robert M. Gates
U.S. Department of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

RE: Small Business Contracting Program Parity Dear Secretary Gates,

As you may know, on September 27, 2010, President Obama signed the *Small Business Jobs Act of 2010* (P.L. 111-240) into law. This historic legislation provides our nation's 29 million small businesses with much needed support and incentives to help them grow and create jobs. In particular, the *legislation* extends nearly \$12 billion in tax cuts, creates a \$30 billion Small Business Lending Fund that utilizes healthy community banks as a conduit to increase lending to small businesses, and strengthens the Small Business Administration's (SBA) core counseling, exporting, and lending programs. Further, this legislation includes a number of critical improvements to the Federal Government's small business contracting and procurement programs, including the establishment of parity amongst small business set aside programs.

Specifically, section 1347 of the legislation both reiterates and clarifies Congressional intent that Federal small business set-aside programs— including the 8(a), Historically Underutilized Business Zone (HTJBZone), Service Disabled Veteran-owned small business (SDVOSB), and the newly implemented Women-owned small business (WOSB) programs— should be placed on equal footing, with no one program receiving priority over another. Currently, existing statute allows contracting officers' discretion when choosing to award a federal contract to a small business participating in these programs. However, misinterpretation of Congressional intent by the courts as well as recent decisions by the Government Accountability Office (GAO) have forced contracting officers to give priority to small businesses participating in the HUBZone program when awarding federal contracts. These decisions have had a negative and detrimental

effect on the ability of small businesses participating in other contracting set-aside programs to effectively compete for and win federal contracts.

To ensure that all small businesses—regardless of the particular set-aside program they are participating in—receive a fair shot at winning federal contracts, it is imperative that your agency closely follow and enforce SBA's parity policy and regulations within your own contracting programs. That is, before setting aside a contract for small business, federal contracting officers may choose with discretion among SBA's procurement and business development programs, without giving one program preference over another...

With warmest regards, I am

Sincerely,

//Mary L. Landrieu//
Chair