



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



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Department of the Interior Acquisition Policy Release (DIAPR) 2010-13

Subject: Small Business Administration Parity Rules Following the Mission Critical Solutions Court of Federal Claims Decision

- 1. Purpose:** The purpose of this DIAPR is to instruct procurement personnel to follow the position that the HUBZone, 8(a) and Service-Disabled Veteran-Owned Small Business programs have parity between them following the Court of Federal Claims Decision in the Mission Critical Solutions case.
- 2. Effective Date:** This policy is effective upon issuance.
- 3. Expiration Date:** This policy shall remain in effect unless superseded or cancelled.
- 4. Background and Explanation:** In the case of Mission Critical Solutions v. the United States (09-864 C, Court of Federal Claims, Feb. 26, 2010), the Court of Federal Claims held that the Small Business Act requires contract opportunities to be set aside for HUBZone firms whenever two HUBZone firms are available to perform the contract at a fair market price.

The Small Business Administration (SBA) has taken the position that the Mission Critical ruling controls only the contract at issue in the Mission Critical procurement and that the SBA's regulations that the HUBZone, 8(a) and Service-Disabled Veteran-Owned Small Business programs have parity without giving preference to one over the others. The U.S. Department of Justice, Civil Division concurs with the SBA position that the Mission Critical ruling applies only to that specific procurement.

Until further guidance is provided, Contracting Officers are instructed to follow the position taken by the SBA that the HUBZone, 8(a) and Service-Disabled Veteran-Owned Small Business programs have parity.

- 5. Action Required:** Bureau Procurement Chiefs shall review, circulate and make certain that the SBA position is being followed within their bureaus with regard to this matter.

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