

SMALL BUSINESS PARITY PROGRAMS ACT OF 2010

MS. LANDRIEU: Mr./Madame President, I am pleased to introduce the *Small Business Parity Programs Act of 2010*. As the Chair of the Committee on Small Business and Entrepreneurship, I have held a number of hearings and roundtables on the issues affecting small businesses that contract with the federal government. The legislation I am introducing today represents the second of several steps the Committee is taking to address some of the disparities and inequalities that prevent our small businesses from receiving their fair share of government contracts.

As the largest purchaser in the world, the Federal Government is uniquely positioned to offer new and reliable business opportunities for our Main Street businesses. Government contracts are perhaps one of the easiest and most inexpensive ways the government can help immediately increase sales for America's entrepreneurs, giving them the tools they need to keep our economy strong and create jobs. When large businesses get government contracts they can potentially absorb that new work into their workforce. When small businesses get government work they must "staff up" to meet the increased demand. By increasing contracts to small businesses by just 1 percent, we can create more than 100,000 new jobs--and today, we need those jobs more than ever.

But small businesses face significant challenges in competing for these contracts, including a maze of complicated regulations, contract bundling, size standards with loopholes for big businesses and a lack of protections for sub-contractors. Despite the fact that federal agencies have a statutory goal to spend 23 percent of their contract dollars on contracts to small firms, and to ensure fair participation by women-owned firms, small disadvantaged firms, service-disabled veteran firms, and HUBZone businesses, the agencies often fall short of these goals.

The *Small Business Parity Programs Act of 2010* is just the second of several steps that I am undertaking to ensure that all small businesses have fair access to government contracting opportunities. This particular legislation will reaffirm Congress's intent that government contracting officers have the discretion to choose among any of the small business development and contracting programs when deciding to make a contract award. This legislation makes clear that small businesses that participate in the 8(a), service-disabled veterans, women, and HUBZone programs all have a fair opportunity to win these contracts.

Two recent decisions by the Government Accountability Office misinterpreted Congress's long-standing intent with regard to the operation of the current laws governing these programs. The decisions stated that the HUBZone program had preference over all other small business contracting programs. The decisions were also relied upon in a recent opinion issued by a judge of the Court of Federal Claims, in a case called *Mission Critical Solutions v. United States*.

I was disappointed by these decisions because they misinterpret the intent of Congress in passing the Small Business Reauthorization Act of 1997. For this reason, along with the Small Business Committee's Ranking Member, Senator Olympia Snowe of Maine, I filed an amendment containing the provisions included in this bill to S. 1390, the *Department of Defense Authorization Act for Fiscal Year 2010*. The amendment was accepted and passed the full

Senate on July 24, 2009 with overwhelming and bipartisan support. To my disappointment, it did not make it through conference Committee with the House and was left out of the final bill. The Conference Report accompanying that bill did include, however, explicit language reaffirming Congress's intent that "contracting officers of the Department of Defense and other federal agencies have the discretion whether or not to award contracts pursuant to the HUBZone program" or any of the other small business procurement programs.

As Chair of the Committee on Small Business and Entrepreneurship, I have focused a considerable amount of energy on promoting the interests of small businesses in the federal contracting arena. The legislation I am introducing will, quite simply, make clear that it has always been Congress's intent to allow contracting officers to accord parity to each restricted competition program authorized by the Small Business Act.

This legislation will have an immediate, positive impact for small businesses seeking fair access to federal contracts. It will reaffirm contracting officers' flexibility to award contracts to HUBZone businesses, which provide important benefits for hard-hit communities. At the same time, it also will reaffirm Congress's intent to ensure robust implementation of the 8(a), SDVO and Women-Owned small business development and procurement programs. Among other things, programs such as these are crucial to enable the government to address the significant discriminatory barriers that evidence submitted to us shows still limit the opportunities available for minority- owned businesses, women owned businesses, and SDVO businesses to participate in the marketplace.

The language of our bill is intended to make clear that no single restricted competition program has priority over any other, contrary to the misinterpretation of Congress' intent by the GAO and one decision of the Court of Federal Claims. However, nothing in the bill is intended to change the current requirement that, where a contracting officer chooses to make an award pursuant to the HUBZone program, that award must be made on the basis of restricted competition if the contracting officer has a reasonable expectation that at least two qualified HUBZone small business concerns will submit offers and that the award can be made at a fair market price.

It is well past time to provide greater opportunities for the thousands of small business owners who wish to do business with the Federal Government. I believe that this legislation is a good step toward opening those doors.

I hope my colleagues will join me in supporting this simple yet commonsense bill and I look forward to working with them as we move this legislation forward.

Mr. President,

I ask unanimous consent that the text of the bill be printed in the *Record*.