



POLICY FLASH 2010-38

DATE: March 30, 2010

TO: Procurement Directors

FROM: Office of Procurement and Assistance Policy, MA-61
Office of Procurement and Assistance Management

SUBJECT: U.S. Department of Justice letter to the Small Business Administration regarding Mission Critical Solutions v. United States, No. 09-864 C (Fed. Cl.)(Feb. 26, 2010), Priority of Historically Underutilized Business Zone Program over 8(a) Business Development Program

SUMMARY: The attached letter from the U.S. Department of Justice (DOJ) to the Small Business Administration (SBA) clarifying that the injunction in the attached Mission Critical case applies only to the specific contract at issue in Mission Critical, and not to operation of SBA's parity rule more generally, is being distributed for informational purposes. In addition, please note that DOJ is appealing the Mission Critical decision to the U.S. Court of Appeals for the Federal Circuit and SBA supports clarifying legislation affirming the principles of parity.

Contracting Officers should consult their local counsel in cases when issues discussed herein are applicable to their procurement actions.

This Flash and its attachment will be available online at the following website:
http://management.energy.gov/policy_guidance/policy_flashes.htm.

Questions concerning this policy flash should be directed to Nancy Harvey at (202) 287-1358 or nancy.harvey@hq.doe.gov.



Melissa D. Rider
Director
Office of Procurement and
Assistance Policy

Attachment