

Federal News Network

By: Nick Tsiopanas and Charles E. Williams, Jr. | April 15, 2019

# 809 Panel recommendation will bring more innovative small businesses to DoD

The Section 809 Panel, created by Congress in the fiscal 2016 National Defense Authorization Act to streamline and codify defense acquisition, recently published the third and final volume of its *Final Report*. In this volume, the panel made a bold [recommendation \(No. 35\)](#) to replace current, cumbersome buying practices with a new authority called readily available. In part, this recommendation would eliminate mandatory small business set-asides and instead provide a 5% price preference to small businesses while keeping [utilization goals](#) in place.

Hysteria quickly ensued, with headlines stating the 809 panel recommended the [“Elimination of Federal Small Business Program”](#) and [“Eliminate Most DoD Small Business Set-Asides.”](#)

These reactions are more sensational than accurate. The panel recommended creating a new way for the Defense Department to obtain competition, thus eliminating mandatory set-asides when using readily-available procedures. This change would not eliminate small business set-asides, nor would it eliminate the federal small business program. Under these procedures, DoD would still have the option to set-aside procurements for small business.

## Advertisement

Some are concerned that implementing this recommendation would lead DoD to stop setting aside work for small business. A prominent real-world example shows that this is unlikely. Under the General Services Administration (GSA) Multiple Award Schedule (MAS) program, solicitations are frequently set-aside despite the fact that [the “rule of two” is not applicable](#) to these purchases. Agencies strive to meet their small business utilization goals, so they set-aside procurements when appropriate, even though they are not required to do so.

The panel’s recommended changes are necessary to put mission first, prioritize warfighter needs for state-of-the-art capabilities and break away from the current compli-

ance-oriented acquisition culture. The panel believes many of the constraints in the current system can be removed while still meeting the broader public policy objective of acquiring supplies and services from small businesses through government contracts.

The panel's *Volume 3 Report* states, "Many companies do not view DoD as a viable, much less a critical, business partner."

Companies that do business with DoD, including many small businesses, may like it that way because it limits competition. They know how the system works, with all its quirks and inefficiencies, and can leverage that knowledge to get contracts. Under the panel's recommendations, some of these incumbent small businesses will be challenged by additional competition from non-traditional small businesses that could offer better solutions for warfighters and better value for U.S. taxpayers. That would be a win for restoring true competition and enabling DoD to reap the benefits of innovation from a wider variety of small businesses.

The private-sector small businesses that drive the majority of innovation want nothing to do with the current DoD market. Many do not even know what FedBizOpps is and can't wait a year to find out if they've won a contract. Others have tried to sell innovative technology to DoD, giving up after experiencing what feels like an endless business development cycle. These are often insurmountable hurdles for companies that endeavor to create and deliver innovation at speed.

The Air Force's recent [Pitch Day](#) showed how one DoD organization is reaching out to industry and embracing small business by simplifying and accelerating the acquisition process. But much like Other Transaction Agreements and [Middle Tier Acquisition](#), Pitch Day was a work-around to traditional practice orchestrated by bureaucracy hackers (kudos to them!). For long-term success, acquisition practices like this must be the norm, not the exception.

*It is time to stop creating or expanding authorities for DoD to operate outside the acquisition system and deliberately implement changes that will make DoD's acquisition system function in today's private-sector-driven marketplace, establishing a system that meets warfighters' needs in a way that provides agility and values time.*

—Section 809 Panel Volume 3 Report

In Volume 1, the panel recognized that small businesses are valuable sources of innovation and described a [pivot](#) in how they should be utilized to support DoD's warfighting capabilities and capacities. The recommendations included bolstering support and funding for the Small Business Innovation Research (SBIR), Small Business Technology Transfer (STTR), and Rapid Innovation Fund (RIF) programs, making SBIR and STTR permanent, and providing increased flexibility for use of RIF.

The panel's [Volume 3](#) recommendations aim to help level the playing field by drastically streamlining and simplifying defense acquisition. Currently, small businesses are at a disadvantage navigating these complex processes because they lack the staff and infrastructure many large businesses have dedicated to their work with the federal government (e.g., business development, compliance, legal). By reducing many of these government-unique processes, the panel cuts administrative time for both small businesses and the government's acquisition workforce, allowing the system to deliver solutions faster.

A closer look at the panel's recommendations as a whole made it clear that the panel views small businesses as central to DoD's mission, as long as DoD policies focus on encouraging innovation and maintaining a diverse pool of suppliers that can meet mission needs. If the Section 809 Panel recommends eliminating anything, it is the excessive amount of time it takes to deliver innovation to warfighters.

So let's throttle back on the hysteria and work together to put DoD's acquisition system on a war footing to better support warfighters defending against the nation's adversaries. Congress should adopt, and DoD should support, the panel's readily available recommendation in the 2020 NDAA.

U.S. warfighters need more innovation from small businesses, and they need it now.

*Charlie E. Williams, Jr. is the president of CWilliams LLC, a commissioner on the Section 809 Panel, and the current president of the National Contract Management Association. He previously served as director of the Defense Contract Management Agency.*

*Nick Tsiopanas currently supports the Section 809 Panel. He is the president of ZYGOS Consulting LLC, which specializes in providing acquisition support to government clients.*

*The authors worked on the Section 809 Panel and are both small business owners who contract with DoD under the current acquisition system. Despite their own interests, they believe the system must change to better support national security needs.*

*Copyright © 2019 Federal News Network. All rights reserved. This website is not intended for users located within the European Economic Area.*