

## CLIENT ALERT

### Section 809 Panel Recommends Five Changes to Bid Protests in DoD Procurements

Jan.30.2019

As [previously reported](#), the Section 809 Panel released the third and final volume of its report on January 15, 2019. Volume 3 contains several recommendations that, if implemented, would materially impact the bid protest process. These recommendations include:

- Rec. 35 – Institute new procedures for DoD’s acquisition of “readily available” goods and services, replacing current procedures for the acquisition of commercial items. The proposal would eliminate **all** pre-award protests, as well as post-award protests at GAO and COFC, for procurements of “readily available” items valued at less than \$15 million. Agency level challenges would be limited to whether DoD had conducted adequate market research to confirm “readily available” status.
- Rec. 66 – Establish a “purpose statement” for protests.
- Rec. 67 – Eliminate follow-on protests at COFC after a GAO protest, and impose a 100-day deadline for the issuance of a decision on protests filed at COFC.
- Rec. 68 – Limit COFC and GAO protest jurisdiction to procurements greater than \$75,000.
- Rec. 69 – For all required debriefings, provide a redacted Source Selection Decision Document and technical evaluation for the offeror requesting the debriefing.

The full report can be [found here](#).

We will be providing further analysis of these and other issues related to the panel’s final volume on our blog shortly. Stay tuned for updates.

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For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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