

1 *by striking “September 30, 2025” and inserting “September*  
2 *30, 2028”.*

3 **SEC. 818. GOVERNMENT ACCOUNTABILITY OFFICE BID PRO-**  
4 **TEST PROCESS ENHANCEMENT.**

5 *(a) REVISE REGULATIONS.—*

6 *(1) IN GENERAL.—Not later than 180 days after*  
7 *the date of the enactment of this Act, the Secretary of*  
8 *Defense shall revise the Defense Supplement to the*  
9 *Federal Acquisition Regulation to establish proce-*  
10 *dures for a contracting officer of the Department of*  
11 *Defense to file a claim against a contractor that files*  
12 *a covered bid protest.*

13 *(2) CLAIMS PROCEDURES.—The procedures re-*  
14 *quired by paragraph (1) shall ensure the following:*

15 *(A) A claim described in paragraph (1)*  
16 *shall be filed in accordance with chapter 71 of*  
17 *title 41, United States Code.*

18 *(B) Any remedy shall be limited to the*  
19 *disgorgement of any profits and fees earned by*  
20 *the incumbent contractor in the performance of*  
21 *a covered contract during the disgorgement pe-*  
22 *riod.*

23 *(3) TREATMENT OF AMOUNTS RECEIVED.—*  
24 *Amounts received as result of a claim described in*  
25 *paragraph (1) shall be credited to the fund or account*

1        *that was used to cover the costs of the covered con-*  
2        *tract, or, if the period of availability of obligations*  
3        *for the appropriation from which such costs were*  
4        *paid has expired, to the appropriations of a fund or*  
5        *account that is currently available to the Secretary*  
6        *for the same purpose. Amounts so credited shall be*  
7        *merged with amounts in such fund or account and*  
8        *shall be available for the same purposes, and subject*  
9        *to the same conditions and limitations, as amounts in*  
10       *such fund or account.*

11            (4) *DEFINITIONS.—In this subsection:*

12                    (A) *The term “covered bid protest” means a*  
13                    *bid protest—*

14                            (i) *that was filed with the Comptroller*  
15                            *General of the United States by an incum-*  
16                            *bent contractor;*

17                            (ii) *that was dismissed by the Comp-*  
18                            *troller General based a lack of any reason-*  
19                            *able legal or factual basis; and*

20                            (iii) *for which such dismissal was fi-*  
21                            *nally determined.*

22                    (B) *The term “covered contract” means a*  
23                    *contract with the Department of Defense entered*  
24                    *into with the incumbent contractor for the acqui-*  
25                    *sition of goods or services by the Department*

1           *during the disgorgement period that are the same*  
2           *or substantially similar to goods or services to be*  
3           *acquired by the Department under the contract*  
4           *previously awarded to the incumbent contractor.*

5           *(C) The term “disgorgement period” means*  
6           *the period of performance under a contract that*  
7           *was awarded or extended because the Depart-*  
8           *ment of Defense received notice of a protest by*  
9           *the incumbent contractor and was prohibited*  
10          *from awarding a new contract during the pend-*  
11          *ency of such bid protest under section 3553(c) of*  
12          *title 31, United States Code.*

13          *(D) The term “finally determined”, with re-*  
14          *spect to the dismissal of a bid protest, means dis-*  
15          *missal—*

16                  *(i) was not appealed and is no longer*  
17                  *appealable because the time for taking an*  
18                  *appeal has expired; or*

19                  *(ii) was appealed and the appeals*  
20                  *process for which is completed.*

21          *(E) The term “incumbent contractor”*  
22          *means a contractor under a contract with the*  
23          *Department of Defense for the acquisition of*  
24          *goods or services by the Department that are the*  
25          *same or substantially similar to goods or services*

1           to be acquired by the Department under a new  
2           or follow-on contract that is the subject of a cov-  
3           ered bid protest.

4           (b) *CONTINUED PERFORMANCE TO FACILITATE NA-*  
5 *TIONAL DEFENSE.*—Section 3553 of title 31, United States  
6 Code, is amended—

7           (1) by amending subsection (c)(3) to read as fol-  
8           lows:

9           “(3) For the purposes of the written finding under  
10 paragraph (2)(A) with respect to a contract for a procure-  
11 ment by a component of the Department of Defense, the  
12 head of the procuring activity may make the finding under  
13 such paragraph for such contract if such head of the pro-  
14 curing activity determines that the performance of such  
15 contract would facilitate the national defense.”; and

16           (2) in subsection (d)(3), by adding at the end the  
17 following new subparagraph:

18           “(D) For the purposes of the determination under  
19 paragraph (2)(B) with respect to a contract for a procure-  
20 ment by a component of the Department of Defense, a con-  
21 tracting officer may not determine that immediate perform-  
22 ance of such contract is not in the best interests of the  
23 United States if the contracting officer determines that per-  
24 formance of the contract would facilitate the national de-  
25 fense.”.