

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 556

To amend chapter 35 of title 31, United States Code, to improve the procurement protest system.

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## IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, MARCH 3), 1993

Mr. GLENN (for himself, Mr. LEVIN, and Mr. COHEN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## A BILL

To amend chapter 35 of title 31, United States Code, to improve the procurement protest system.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROCUREMENT PROTEST SYSTEM IMPROVE-**  
4 **MENTS.**

5 (a) GAO RECOMMENDATIONS ON PROTESTS.—Sec-  
6 tion 3554 of title 31, United States Code, is amended—

7 (1) in subsection (b) by adding at the end  
8 thereof the following new paragraph:

9 “(3) The head of the procuring activity responsible  
10 for the solicitation, proposed award, or award of a contract

1 shall report to the Comptroller General if the Federal  
2 agency has not fully implemented recommendations of the  
3 Comptroller General under this subsection with respect to  
4 that contract within 60 days after receiving the rec-  
5 ommendations, by no later than 5 working days after the  
6 end of that 60-day period.”;

7           (2) in subsection (c)(1) by striking out “declare  
8 an appropriate interested party to be entitled to”  
9 and inserting “recommend that the Federal agency  
10 conducting the procurement pay to an appropriate  
11 interested party”;

12           (3) by amending subsection (c)(2) to read as  
13 follows:

14           “(2) If the Comptroller General recommends  
15 under paragraph (1) that a Federal agency pay an  
16 amount of costs to an interested party, the Federal  
17 agency shall—

18                   “(A) pay the amount promptly out of  
19 amounts appropriated by section 1304 of this  
20 title for the payment of judgments, and reim-  
21 burse that appropriation account out of avail-  
22 able funds or by obtaining additional appropria-  
23 tions for that purpose, or

1           “(B) report to the Comptroller General  
2           promptly why the recommendation will not be  
3           followed by the agency.”.

4           (4) by adding at the end of subsection (c) the  
5           following new paragraph:

6           “(3) An interested party to which the Comptroller  
7           General has recommended that costs be paid under para-  
8           graph (1) and the Federal agency recommended to pay  
9           those costs shall attempt to reach agreement on the  
10          amount of the costs to be paid, but if they are unable to  
11          agree, a party may request that the Comptroller General  
12          recommend the amount of the costs to be paid.”; and

13          (5) by amending subsection (e) to read as fol-  
14          lows:

15          “(e)(1) The Comptroller General shall report prompt-  
16          ly to the Committee on Government Operations and the  
17          Committee on Appropriations of the House of Representa-  
18          tives and to the Committee on Governmental Affairs and  
19          the Committee on Appropriations of the Senate any case  
20          in which a Federal agency fails to implement fully a rec-  
21          ommendation of the Comptroller General under subsection  
22          (b) or (c). The report shall include—

23                 “(A) a comprehensive review of the pertinent  
24                 procurement, including the circumstances of the fail-

1 ure of the Federal agency to implement a rec-  
2 ommendation of the Comptroller General; and

3 “(B) a recommendation regarding whether, in  
4 order to correct inequity or to preserve the integrity  
5 of the procurement process, the Congress should  
6 consider—

7 “(i) private relief legislation;

8 “(ii) legislative rescission or cancellation of  
9 funds;

10 “(iii) further investigation by the Congress;

11 or

12 “(iv) other action.

13 “(2) No later than January 31 of each year, the  
14 Comptroller General shall transmit to the Congress a sum-  
15 mary report describing each instance in which a Federal  
16 agency did not fully implement a recommendation of the  
17 Comptroller General under subsection (b) or (c) during  
18 the preceding year.”.

19 (b) RATIFICATION OF PRIOR AWARDS.—Amounts to  
20 which the Comptroller General declared an interested  
21 party to be entitled under section 3554 of title 31, United  
22 States Code, as in effect immediately before the enactment  
23 of this Act, shall, if not paid or otherwise satisfied by the  
24 Federal agency concerned before the date of the enact-  
25 ment of this Act, be paid promptly from the appropriation

1 made by section 1304 of title 31, United States Code, for  
2 the payment of judgments, and the Federal agency shall  
3 reimburse that appropriation account out of available  
4 funds or by obtaining additional appropriations for that  
5 purpose.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 subsection (a) shall take effect at the end of the 45-day  
8 period beginning on the date of the enactment of this Act.

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