

Suspend the Rules and Pass the Bill, H.R. 4611, With an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

117TH CONGRESS
1ST SESSION

H. R. 4611

To direct the Secretary of Homeland Security to issue guidance with respect to certain information and communications technology or services contracts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2021

Mr. TORRES of New York (for himself and Mr. GARBARINO) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To direct the Secretary of Homeland Security to issue guidance with respect to certain information and communications technology or services contracts, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “DHS Software Supply
5 Chain Risk Management Act of 2021”.

1 **SEC. 2. DEPARTMENT OF HOMELAND SECURITY GUIDANCE**
2 **WITH RESPECT TO CERTAIN INFORMATION**
3 **AND COMMUNICATIONS TECHNOLOGY OR**
4 **SERVICES CONTRACTS.**

5 (a) **GUIDANCE.**—The Secretary of Homeland Secu-
6 rity, acting through the Under Secretary, shall issue guid-
7 ance with respect to new and existing covered contracts.

8 (b) **NEW COVERED CONTRACTS.**—In developing
9 guidance under subsection (a), with respect to each new
10 covered contract, as a condition on the award of such a
11 contract, each contractor responding to a solicitation for
12 such a contract shall submit to the covered officer—

13 (1) a planned bill of materials when submitting
14 a bid proposal; and

15 (2) the certification and notifications described
16 in subsection (e).

17 (c) **EXISTING COVERED CONTRACTS.**—In developing
18 guidance under subsection (a), with respect to each exist-
19 ing covered contract, each contractor with an existing cov-
20 ered contract shall submit to the covered officer—

21 (1) the bill of materials used for such contract,
22 upon the request of such officer; and

23 (2) the certification and notifications described
24 in subsection (e).

25 (d) **UPDATING BILL OF MATERIALS.**—With respect
26 to a covered contract, in the case of a change to the infor-

1 mation included in a bill of materials submitted pursuant
2 to subsections (b)(1) and (c)(1), each contractor shall sub-
3 mit to the covered officer the update to such bill of mate-
4 rials, in a timely manner.

5 (e) CERTIFICATION AND NOTIFICATIONS.—The cer-
6 tification and notifications referred to in subsections
7 (b)(2) and (c)(2), with respect to a covered contract, are
8 the following:

9 (1) A certification that each item listed on the
10 submitted bill of materials is free from all known
11 vulnerabilities or defects affecting the security of the
12 end product or service identified in—

13 (A) the National Institute of Standards
14 and Technology National Vulnerability Data-
15 base; and

16 (B) any database designated by the Under
17 Secretary, in coordination with the Director of
18 the Cybersecurity and Infrastructure Security
19 Agency, that tracks security vulnerabilities and
20 defects in open source or third-party developed
21 software.

22 (2) A notification of each vulnerability or defect
23 affecting the security of the end product or service,
24 if identified, through—

1 (A) the certification of such submitted bill
2 of materials required under paragraph (1); or

3 (B) any other manner of identification.

4 (3) A notification relating to the plan to miti-
5 gate, repair, or resolve each security vulnerability or
6 defect listed in the notification required under para-
7 graph (2).

8 (f) ENFORCEMENT.—In developing guidance under
9 subsection (a), the Secretary shall instruct covered officers
10 with respect to—

11 (1) the processes available to such officers en-
12 forcing subsections (b) and (c); and

13 (2) when such processes should be used.

14 (g) EFFECTIVE DATE.—The guidance required under
15 subsection (a) shall take effect on the date that is 180
16 days after the date of the enactment of this section.

17 (h) GAO REPORT.—Not later than 1 year after the
18 date of the enactment of this Act, the Comptroller General
19 of the United States shall submit to the Secretary, the
20 Committee on Homeland Security of the House of Rep-
21 resentatives, and the Committee on Homeland Security
22 and Governmental Affairs of the Senate a report that in-
23 cludes—

24 (1) a review of the implementation of this sec-
25 tion;

1 (2) information relating to the engagement of
2 the Department of Homeland Security with indus-
3 try;

4 (3) an assessment of how the guidance issued
5 pursuant to subsection (a) complies with Executive
6 Order 14208 (86 Fed. Reg. 26633; relating to im-
7 proving the nation’s cybersecurity); and

8 (4) any recommendations relating to improving
9 the supply chain with respect to covered contracts.

10 (i) DEFINITIONS.—In this section:

11 (1) BILL OF MATERIALS.—The term “bill of
12 materials” means a list of the parts and components
13 (whether new or reused) of an end product or serv-
14 ice, including, with respect to each part and compo-
15 nent, information relating to the origin, composition,
16 integrity, and any other information as determined
17 appropriate by the Under Secretary.

18 (2) COVERED CONTRACT.—The term “covered
19 contract” means a contract relating to the procure-
20 ment of covered information and communications
21 technology or services for the Department of Home-
22 land Security.

23 (3) COVERED INFORMATION AND COMMUNICA-
24 TIONS TECHNOLOGY OR SERVICES.—The term “cov-

1 ered information and communications technology or
2 services” means the terms—

3 (A) “information technology” (as such
4 term is defined in section 11101(6) of title 40,
5 United States Code);

6 (B) “information system” (as such term is
7 defined in section 3502(8) of title 44, United
8 States Code);

9 (C) “telecommunications equipment” (as
10 such term is defined in section 3(52) of the
11 Communications Act of 1934 (47 U.S.C.
12 153(52))); and

13 (D) “telecommunications service” (as such
14 term is defined in section 3(53) of the Commu-
15 nications Act of 1934 (47 U.S.C. 153(53))).

16 (4) COVERED OFFICER.—The term “covered of-
17 ficer” means—

18 (A) a contracting officer of the Depart-
19 ment; and

20 (B) any other official of the Department as
21 determined appropriate by the Under Secretary.

22 (5) SOFTWARE.—The term “software” means
23 computer programs and associated data that may be
24 dynamically written or modified during execution.

1 (6) UNDER SECRETARY.—The term “Under
2 Secretary” means the Under Secretary for Manage-
3 ment of the Department of Homeland Security.

4 **SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.**

5 The budgetary effects of this Act, for the purpose of
6 complying with the Statutory Pay-As-You-Go Act of 2010,
7 shall be determined by reference to the latest statement
8 titled “Budgetary Effects of PAYGO Legislation” for this
9 Act, submitted for printing in the Congressional Record
10 by the Chairman of the House Budget Committee, pro-
11 vided that such statement has been submitted prior to the
12 vote on passage.