

AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 5457

OFFERED BY MR. COMER OF KENTUCKY

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Strengthening Agency
3 Management and Oversight of Software Assets Act”.

4 SEC. 2. DEFINITIONS.

5 In this Act:

6 (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of General Services.

9 (2) AGENCY.—The term “agency” has the meaning given that term in section 3502 of title 44, United States Code, except that such term does not include an element of the intelligence community.

13 (3) CLOUD COMPUTING.—The term “cloud computing” has the meaning given the term in Special Publication 800–145 of the National Institute of Standards and Technology, or any successor document.

1 (4) CLOUD SERVICE PROVIDER.—The term
2 “cloud service provider” has the meaning given the
3 term in section 3607(b) of title 44, United States
4 Code.

5 (5) COMPREHENSIVE ASSESSMENT.—The term
6 “comprehensive assessment” means a comprehensive
7 assessment conducted pursuant to section 3(a).

15 (8) PLAN.—The term “plan” means the plan
16 developed by a Chief Information Officer, or equiva-
17 lent official, pursuant to section 4(a).

18 (9) SOFTWARE ENTITLEMENT.—The term
19 “software entitlement” means any software that—

20 (A) has been purchased, leased, or licensed
21 by or billed to an agency under any contract or
22 other business arrangement; and

23 (B) is subject to use limitations.

4 (A) section 2(b)(2)(A) of the Making Elec-
5 tronic Government Accountable By Yielding
6 Tangible Efficiencies Act of 2016 (40 U.S.C.
7 11202, etc., Public Law 114-210).

10 SEC. 3. SOFTWARE INVENTORY UPDATE AND EXPANSION.

11 (a) IN GENERAL.—As soon as practicable, and not
12 later than 18 months after the date of enactment of this
13 Act, the Chief Information Officer of each agency, in con-
14 sultation with the Chief Financial Officer, the Chief Ac-
15 quisition Officer, the Chief Data Officer, and General
16 Counsel of the agency, or the equivalent officials of the
17 agency, shall complete a comprehensive assessment of the
18 software paid for by, in use at, or deployed throughout
19 the agency, which shall include—

20 (1) the current software inventory of the agency,
21 including software entitlements, contracts and
22 other agreements or arrangements of the agency,
23 and a list of the largest software entitlements of the
24 agency separated by provider and category of soft-
25 ware;

1 (2) a comprehensive, detailed accounting of—
2 (A) any software used by or deployed with-
3 in the agency, including software developed or
4 built by the agency, or by another agency for
5 use by the agency, including shared services, as
6 of the date of the comprehensive assessment,
7 including, to the extent identifiable, the con-
8 tracts and other agreements or arrangements
9 used by the agency to acquire, build, deploy, or
10 use such software;

11 (B) information and data on software enti-
12 tlements, which shall include information on
13 any additional fees or costs, including fees or
14 costs for the use of cloud services, that are not
15 included in the initial costs of the contract,
16 agreement, or arrangement—
17 (i) for which the agency pays;
18 (ii) that are not deployed or in use by
19 the agency; and
20 (iii) that are billed to the agency
21 under any contract or business arrange-
22 ment that creates duplication, or are other-
23 wise determined to be unnecessary by the
24 Chief Information Officer of the agency, or

3 (C) the extent—

4 (i) to which any software paid for, in
5 use, or deployed throughout the agency is
6 interoperable; and

7 (ii) of the efforts of the agency to im-
8 prove interoperability of software assets
9 throughout the agency enterprise;

10 (3) a categorization of software entitlements of
11 the agency by cost, volume, and type of software;

12 (4) a list of any provisions in the software enti-
13 tlements of the agency that may restrict how the
14 software can be deployed, accessed, or used, includ-
15 ing any such restrictions on desktop or server hard-
16 ware, through a cloud service provider, or on data
17 ownership or access; and

18 (5) an analysis addressing—

19 (A) the accuracy and completeness of the
20 comprehensive assessment;

21 (B) agency management of and compliance
22 with all contracts or other agreements or ar-
23 rangements that include or reference software
24 entitlements or software management within
25 the agency;

1 (C) the extent to which the agency accu-
2 rately captures the total cost of software enti-
3 tlements and related costs, including the total
4 cost of upgrades over the life of a contract,
5 cloud usage costs, and any other cost associated
6 with the maintenance or servicing of contracts;
7 and

10 (b) CONTRACT SUPPORT.—

1 (c) SUBMISSION.—On the date on which the Chief In-
2 formation Officer, Chief Financial Officer, Chief Acquisi-
3 tion Officer, the Chief Data Officer, and General Counsel
4 of an agency, or the equivalent officials of the agency,
5 complete the comprehensive assessment, the Chief Infor-
6 mation Officer shall submit the comprehensive assessment
7 to the head of the agency.

8 (d) SUBSEQUENT SUBMISSION.—Not later than 30
9 days after the date on which the head of an agency re-
10 ceives the comprehensive assessment under subsection (c),
11 the head of the agency shall submit the comprehensive as-
12 sessment to—
13 (1) the Director;
14 (2) the Administrator;
15 (3) the Comptroller General of the United
16 States;
17 (4) the Committee on Homeland Security and
18 Governmental Affairs of the Senate; and
19 (5) the Committee on Oversight and Govern-
20 ment Reform of the House of Representatives.

21 (e) CONSULTATION.—In order to ensure the utility
22 and standardization of the comprehensive assessment of
23 each agency, including to support the development of each
24 plan and the report required under section 4(e)(2), the
25 Director, in consultation with the Administrator, shall

1 share information, best practices, and recommendations
2 relating to the activities performed in the course of a com-
3 prehensive assessment of an agency.

4 (f) INTELLIGENCE COMMUNITY.—For each element
5 of the intelligence community, a comprehensive assess-
6 ment described under subsection (a) shall be—

7 (1) conducted separately;

8 (2) performed only by an entity designated by
9 the head of the element of the intelligence commu-
10 nity, in accordance with appropriate applicable laws;

11 (3) performed in such a manner as to ensure
12 appropriate protection of information which, if dis-
13 closed, may adversely affect national security; and

14 (4) submitted in summary form, not later than
15 30 days after the date on which the head of the ele-
16 ment of the intelligence community receives the as-
17 sessment, by the head of the element of the intel-
18 ligence community to—

19 (A) the Director;

20 (B) the Select Committee on Intelligence
21 of the Senate; and

22 (C) the Permanent Select Committee on
23 Intelligence of the House of Representatives.

1 **SEC. 4. SOFTWARE MODERNIZATION PLANNING AT AGEN-**2 **CIES.**

3 (a) IN GENERAL.—The Chief Information Officer of
4 each agency, in consultation with the Chief Financial Offi-
5 cer, the Chief Acquisition Officer, the Chief Data Officer,
6 and the General Counsel of the agency, or the equivalent
7 officials of the agency, shall use the information developed
8 pursuant to the comprehensive assessment of the agency
9 to develop a plan for the agency—

10 (1) to consolidate software entitlements of the
11 agency;

12 (2) to ensure that, in order to improve the per-
13 formance of, and reduce unnecessary costs to, the
14 agency, the Chief Information Officer, Chief Data
15 Officer, and Chief Acquisition Officer of the agency,
16 or the equivalent officers, develop criteria and proce-
17 dures for how the agency will adopt cost-effective ac-
18 quisition strategies, including enterprise licensing,
19 across the agency that reduce costs, eliminate excess
20 licenses, and improve performance; and

21 (3) to restrict the ability of a bureau, program,
22 component, or operational entity within the agency
23 to acquire, use, develop, or otherwise leverage any
24 software entitlement (or portion thereof) without the
25 approval of the Chief Information Officer of the
26 agency, in consultation with the Chief Acquisition

1 Officer of the agency, or the equivalent officers of
2 the agency.

3 (b) PLAN REQUIREMENTS.—The plan of an agency
4 shall—

5 (1) include a detailed strategy for—
6 (A) the remediation of any software asset
7 management deficiencies found during the com-
8 prehensive assessment of the agency;

9 (B) the ongoing maintenance of software
10 asset management upon the completion of the
11 remediation;

12 (C) automation of software license man-
13 agement processes and incorporation of dis-
14 covery tools across the agency;

15 (D) ensuring that officers and employees
16 of the agency are adequately trained in the poli-
17 cies, procedures, rules, regulations, and guid-
18 ance relating to the software acquisition and
19 development of the agency before entering into
20 any agreement relating to any software entitle-
21 ment (or portion thereof) for the agency, in-
22 cluding training on—

23 (i) negotiating options within con-
24 tracts to address and minimize provisions
25 that restrict how the agency may deploy,

1 access, or use the software, including re-
2 strictions on deployment, access, or use on
3 desktop or server hardware and restric-
4 tions on data ownership or access;

5 (ii) the differences between acquiring
6 commercial software products and services
7 and acquiring or building custom software;
8 and

9 (iii) determining the costs of different
10 types of licenses and options for adjusting
11 licenses to meet increasing or decreasing
12 demand; and

13 (E) maximizing the effectiveness of soft-
14 ware deployed by the agency, including, to the
15 extent practicable, leveraging technologies
16 that—

17 (i) measure actual software usage via
18 analytics that can identify inefficiencies to
19 assist in rationalizing software spending;

20 (ii) allow for segmentation of the user
21 base;

22 (iii) support effective governance and
23 compliance in the use of software; and

24 (iv) support interoperable capabilities
25 between software;

7 (3) provide an estimate of the costs to move to-
8 ward more enterprise, open-source, or other licenses
9 that do not restrict the use of software by the agen-
10 cy, and the projected cost savings, efficiency meas-
11 ures, and improvements to agency performance
12 throughout the total software lifecycle;

4 (7) provide information on the prevalence of
5 software products in use across multiple software
6 categories; and

11 (c) SUPPORT.—The Chief Information Officer, or
12 other equivalent official, of an agency may request support
13 from the Director and the Administrator for any analysis
14 or developmental needs to create the plan of the agency.

15 (d) AGENCY SUBMISSION.—

16 (1) IN GENERAL.—Not later than 1 year after
17 the date on which the head of an agency submits the
18 comprehensive assessment pursuant to section 3(d),
19 the head of the agency shall submit to the Director,
20 the Committee on Homeland Security and Govern-
21 mental Affairs of the Senate, and the Committee on
22 Oversight and Government Reform of the House of
23 Representatives the plan of the agency.

24 (2) INTELLIGENCE COMMUNITY.—Not later
25 than 1 year after the date on which the head of an

1 element of the intelligence community submits the
2 summary assessment pursuant to section 3(f)(4), the
3 head of the element shall separately submit the plan
4 of the element to the Director, the Select Committee
5 on Intelligence of the Senate, and the Permanent
6 Select Committee on Intelligence of the House of
7 Representatives.

8 (e) CONSULTATION AND COORDINATION.—The Di-
9 rector—

1 and the Committee on Oversight and Government
2 Reform of the House of Representatives a report de-
3 tailing recommendations to leverage Government
4 procurement policies and practices with respect to
5 software acquired by, developed by, deployed within,
6 or in use at 1 or more agencies to—

7 (A) increase the interoperability of soft-
8 ware licenses, including software entitlements
9 and software built by Government agencies;
10 (B) consolidate licenses, as appropriate;
11 (C) reduce costs;
12 (D) improve performance; and
13 (E) modernize the management and over-
14 sight of software entitlements and software
15 built by Government agencies, as identified
16 through an analysis of agency plans.

17 **SEC. 5. GAO REPORT.**

18 Not later than 3 years after the date of enactment
19 of this Act, the Comptroller General of the United States
20 shall submit to the Committee on Homeland Security and
21 Governmental Affairs of the Senate and the Committee
22 on Oversight and Government Reform of the House of
23 Representatives a report on—

24 (1) Government-wide trends in agency software
25 asset management practices;

11 SEC. 6. NO ADDITIONAL FUNDS.

12 No additional funds are authorized to be appro-
13 priated for the purpose of carrying out this Act.