

Union Calendar No. 85

117TH CONGRESS
1ST SESSION

H. R. 4611

[Report No. 117-120]

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

SEPTEMBER 14, 2021

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

[For text of introduced bill, see copy of bill as introduced on July 21, 2021]

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”.*

6 **SEC. 2. DEPARTMENT OF HOMELAND SECURITY GUIDANCE**
7 **WITH RESPECT TO CERTAIN INFORMATION**
8 **AND COMMUNICATIONS TECHNOLOGY OR**
9 **SERVICES CONTRACTS.**

10 *(a) GUIDANCE.—The Secretary of Homeland Security,*
11 *acting through the Under Secretary, shall issue guidance*
12 *with respect to new and existing covered contracts.*

13 *(b) NEW COVERED CONTRACTS.—In developing guid-*
14 *ance under subsection (a), with respect to each new covered*
15 *contract, as a condition on the award of such a contract,*
16 *each contractor responding to a solicitation for such a con-*
17 *tract shall submit to the covered officer—*

18 *(1) a planned bill of materials when submitting*
19 *a bid proposal; and*

20 *(2) the certification and notifications described*
21 *in subsection (e).*

22 *(c) EXISTING COVERED CONTRACTS.—In developing*
23 *guidance under subsection (a), with respect to each existing*
24 *covered contract, each contractor with an existing covered*
25 *contract shall submit to the covered officer—*

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

3 (2) *the certification and notifications described*
4 *in subsection (e).*

5 (d) *UPDATING BILL OF MATERIALS.—With respect to*
6 *a covered contract, in the case of a change to the informa-*
7 *tion included in a bill of materials submitted pursuant to*
8 *subsections (b)(1) and (c)(1), each contractor shall submit*
9 *to the covered officer the update to such bill of materials,*
10 *in a timely manner.*

11 (e) *CERTIFICATION AND NOTIFICATIONS.—The certifi-*
12 *cation and notifications referred to in subsections (b)(2)*
13 *and (c)(2), with respect to a covered contract, are the fol-*
14 *lowing:*

15 (1) *A certification that each item listed on the*
16 *submitted bill of materials is free from all known*
17 *vulnerabilities or defects affecting the security of the*
18 *end product or service identified in—*

19 (A) *the National Institute of Standards and*
20 *Technology National Vulnerability Database;*
21 *and*

22 (B) *any database designated by the Under*
23 *Secretary, in coordination with the Director of*
24 *the Cybersecurity and Infrastructure Security*
25 *Agency, that tracks security vulnerabilities and*

1 *defects in open source or third-party developed*
2 *software.*

3 (2) *A notification of each vulnerability or defect*
4 *affecting the security of the end product or service, if*
5 *identified, through—*

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

8 (B) *any other manner of identification.*

9 (3) *A notification relating to the plan to miti-*
10 *gate, repair, or resolve each security vulnerability or*
11 *defect listed in the notification required under para-*
12 *graph (2).*

13 (f) *ENFORCEMENT.—In developing guidance under*
14 *subsection (a), the Secretary shall instruct covered officers*
15 *with respect to—*

16 (1) *the processes available to such officers enforc-*
17 *ing subsections (b) and (c); and*

18 (2) *when such processes should be used.*

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

22 (h) *GAO REPORT.—Not later than 1 year after the*
23 *date of the enactment of this Act, the Comptroller General*
24 *of the United States shall submit to the Secretary, the Com-*
25 *mittee on Homeland Security of the House of Representa-*

1 *tives, and the Committee on Homeland Security and Gov-*
2 *ernmental Affairs of the Senate a report that includes—*

3 *(1) a review of the implementation of this sec-*
4 *tion;*

5 *(2) information relating to the engagement of the*
6 *Department of Homeland Security with industry;*

7 *(3) an assessment of how the guidance issued*
8 *pursuant to subsection (a) complies with Executive*
9 *Order 14208 (86 Fed. Reg. 26633; relating to improv-*
10 *ing the nation’s cybersecurity); and*

11 *(4) any recommendations relating to improving*
12 *the supply chain with respect to covered contracts.*

13 *(i) DEFINITIONS.—In this section:*

14 *(1) BILL OF MATERIALS.—The term “bill of ma-*
15 *terials” means a list of the parts and components*
16 *(whether new or reused) of an end product or service,*
17 *including, with respect to each part and component,*
18 *information relating to the origin, composition, integ-*
19 *egrity, and any other information as determined appro-*
20 *priate by the Under Secretary.*

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

1 (3) *COVERED INFORMATION AND COMMUNICA-*
2 *TIONS TECHNOLOGY OR SERVICES.*—The term “cov-
3 *ered information and communications technology or*
4 *services” means the terms—*

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

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

11 (C) “*telecommunications equipment*” (as
12 such term is defined in section 3(52) of the Com-
13 munications Act of 1934 (47 U.S.C. 153(52)));
14 and

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

18 (4) *COVERED OFFICER.*—The term “covered offi-
19 *cer” means—*

20 (A) *a contracting officer of the Department;*
21 and

22 (B) *any other official of the Department as*
23 *determined appropriate by the Under Secretary.*

1 (5) *SOFTWARE.*—*The term “software” means*
2 *computer programs and associated data that may be*
3 *dynamically written or modified during execution.*

4 (6) *UNDER SECRETARY.*—*The term “Under Sec-*
5 *retary” means the Under Secretary for Management*
6 *of the Department of Homeland Security.*

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