

117<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 4611

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

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

16 (1) a planned bill of materials when submitting  
17 a bid proposal; and

18 (2) the certification and notifications described  
19 in subsection (e).

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

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

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

3           (d) UPDATING BILL OF MATERIALS.—With respect  
4           to a covered contract, in the case of a change to the infor-  
5           mation included in a bill of materials submitted pursuant  
6           to subsections (b)(1) and (c)(1), each contractor shall sub-  
7           mit to the covered officer the update to such bill of mate-  
8           rials, in a timely manner.

9           (e) CERTIFICATION AND NOTIFICATIONS.—The cer-  
10          tification and notifications referred to in subsections  
11          (b)(2) and (c)(2), with respect to a covered contract, are  
12          the following:

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

17                       (A) the National Institute of Standards  
18                       and Technology National Vulnerability Data-  
19                       base; and

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

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

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

6                   (B) any other manner of identification.

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

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

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

16                   (2) when such processes should be used.

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

20          (h) GAO REPORT.—Not later than 1 year after the  
21          date of the enactment of this Act, the Comptroller General  
22          of the United States shall submit to the Secretary, the  
23          Committee on Homeland Security of the House of Rep-  
24          resentatives, and the Committee on Homeland Security

1 and Governmental Affairs of the Senate a report that in-  
2 cludes—

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

5 (2) information relating to the engagement of  
6 the Department of Homeland Security with indus-  
7 try;

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

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

14 (i) DEFINITIONS.—In this section:

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

22 (2) COVERED CONTRACT.—The term “covered  
23 contract” means a contract relating to the procure-  
24 ment of covered information and communications

1 technology or services for the Department of Home-  
2 land Security.

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

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

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

13 (C) “telecommunications equipment” (as  
14 such term is defined in section 3(52) of the  
15 Communications Act of 1934 (47 U.S.C.  
16 153(52))); and

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

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

22 (A) a contracting officer of the Depart-  
23 ment; and

24 (B) any other official of the Department as  
25 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  
5           Secretary” means the Under Secretary for Manage-  
6           ment of the Department of Homeland Security.

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

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

          Passed the House of Representatives October 20,  
2021.

Attest:

*Clerk.*

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