

## Calendar No. 737

118TH CONGRESS  
2D SESSION**S. 4651****[Report No. 118–317]**

To require agencies to use information and communications technology products obtained from original equipment manufacturers or authorized resellers, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 10, 2024

Mr. CORNYN (for himself, Mr. PETERS, and Mr. OSSOFF) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 19 (legislative day, DECEMBER 16), 2024

Reported by Mr. PETERS, with an amendment

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

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**A BILL**

To require agencies to use information and communications technology products obtained from original equipment manufacturers or authorized resellers, 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 “Securing America’s  
3 Federal Equipment in Supply Chains Act” or the “SAFE  
4 Supply Chains Act”.

5 **SEC. 2. AGENCY USE OF IT PRODUCTS.**

6       (a) **DEFINITIONS.**—In this section:

7           (1) **AGENCY.**—The term “agency” has the  
8 meaning given the term in section 3502 of title 44,  
9 United States Code.

10          (2) **APPROPRIATE CONGRESSIONAL COMMIT-**  
11 **TEES.**—The term “appropriate congressional com-12 mittees” means the Committee on Homeland Secu-  
13 rity and Governmental Affairs of the Senate and the  
14 Committee on Oversight and Accountability of the  
15 House of Representatives.

16          (3) **AUTHORIZED RESELLER.**—The term “au-

17 thorized reseller” means a reseller, after market

18 manufacturer, supplier, or distributor of a covered

19 product with a direct or prime contractual arrange-

20 ment with, or the express written authority of, the

21 original equipment manufacturer of the covered

22 product to manufacture, buy, stock, repackage, sell,

23 resell, repair, service, otherwise support, or dis-

24 tribute the covered product.

25          (4) **COVERED PRODUCT.**—The term “covered

26 product”—

(A) means an information and communications technology end-use hardware product or component, including software and firmware that comprise the end-use hardware product or component; and

(B) does not include—

(i) other software; or

(ii) an end-use hardware product—

(I) in which there is embedded information and communications technology; and

(II) the principal function of which is not the creation, manipulation, storage, display, receipt, or transmission of electronic data and information.

(5) ~~END-USE PRODUCT.~~—The term “end-use product” means a product ready for use by the maintainer, integrator, or end user of the product.

(6) ~~INFORMATION AND COMMUNICATIONS TECHNOLOGY.~~—The term “information and communications technology”—

(A) has the meaning given the term in section 4713 of title 41, United States Code; and

~~(B)~~ includes information and communications technologies covered by definitions contained in the Federal Acquisition Regulation, including definitions added after the date of the enactment of this Act by the Federal Acquisition Regulatory Council pursuant to notice and comment.

~~(7) ORIGINAL EQUIPMENT MANUFACTURER.—~~

The term “original equipment manufacturer” means a company that manufactures a covered product that the company—

~~(A)~~ designed from self-sourced or purchased components; and

~~(B)~~ sells under the name of the company.

~~(b) PROHIBITION ON PROCUREMENT AND USE.—~~

Subject to subsection (c) and notwithstanding sections 1905 through 1907 of title 41, United States Code, the head of an agency may not procure or obtain, renew a contract to procure or obtain, or use a covered product that is procured from an entity other than—

~~(1)~~ an original equipment manufacturer; or

~~(2)~~ an authorized reseller.

~~(c) WAIVER.—~~

~~(1) IN GENERAL.—~~Upon written notice to the Director of the Office of Management and Budget,

the head of an agency may waive the prohibition under subsection (b) with respect to a covered product if the head of the agency determines that—

(A) the waiver is necessary in the interest of national security; or

(B) procuring, obtaining, or using the covered product is necessary—

(i) for the purpose of scientifically valid research (as defined in section 102 the Education Sciences Reform Act of 2002 (20 U.S.C. 9501)); or

(ii) to avoid jeopardizing the performance of mission critical functions.

(2) NOTICE.—The notice described in paragraph (1)—

(A) shall—

(i) specify, with respect to the waiver under paragraph (1)—

(I) the justification for the waiver;

(II) any security mitigations that have been implemented; and

(III) with respect to a waiver that necessitates a security mitigation, the plan of action and milestones to

1                   avoid future waivers for subsequent  
2                   similar purchases; and  
3                   (ii) be submitted in an unclassified  
4                   form; and  
5                   (B) may include a classified annex.

6           ~~(3) DURATION.~~—With respect to a waiver for  
7           the purpose of research, as described in paragraph  
8           ~~(1)(B)(i)~~, the waiver shall be effective for the dura-  
9           tion of the research identified in the waiver.

10          ~~(d) REPORTS TO CONGRESS.~~—

11               ~~(1) IN GENERAL.~~—Not later than 1 year after  
12               the date of enactment of this Act, and annually  
13               thereafter until the date that is 6 years after the  
14               date of enactment of this Act, the Director of the  
15               Office of Management and Budget shall submit to  
16               the appropriate congressional committees a report  
17               that lists—

18                       ~~(A)~~ the number and types of covered prod-  
19                       ucts for which a waiver under subsection ~~(c)(1)~~  
20                       was granted during the 1-year period preceding  
21                       the date of the submission of the report; and

22                       ~~(B)~~ the legal authority under which each  
23                       waiver described in subparagraph ~~(A)~~ was  
24                       granted, such as whether the waiver was grant-

1           ed pursuant to subparagraph (A) or (B) of sub-  
 2           section (c)(1).

3           ~~(2) CLASSIFICATION OF REPORT.—Each report~~  
 4           submitted under this subsection—

5                   (A) shall be submitted in unclassified form;  
 6           and

7                   (B) may include a classified annex that  
 8           contains the information described in paragraph  
 9           ~~(1)(B).~~

10          ~~(c) EFFECTIVE DATE.—This section shall take effect~~  
 11          on the date that is 1 year after the date of enactment  
 12          of this Act.

13   **SECTION 1. SHORT TITLE.**

14          *This Act may be cited as the “Securing America’s Fed-*  
 15          *eral Equipment Supply Chains Act” or the “SAFE Supply*  
 16          *Chains Act”.*

17   **SEC. 2. AGENCY USE OF IT PRODUCTS.**

18          (a) *DEFINITIONS.—In this section:*

19                  (1) *AGENCY.—The term “agency” has the mean-*  
 20                  *ing given the term in section 3502 of title 44, United*  
 21                  *States Code.*

22                  (2) *APPROPRIATE CONGRESSIONAL COMMIT-*  
 23                  *TEES.—The term “appropriate congressional commit-*  
 24                  *tees” means the Committee on Homeland Security*  
 25                  *and Governmental Affairs of the Senate and the Com-*

1 *mittee on Oversight and Accountability of the House*  
 2 *of Representatives.*

3 (3) *AUTHORIZED RESELLER.*—*The term “au-*  
 4 *thorized reseller” means a reseller, after market man-*  
 5 *ufacturer, supplier, or distributor of a covered prod-*  
 6 *uct with a direct or prime contractual arrangement*  
 7 *with, or the express written authority of, the original*  
 8 *equipment manufacturer of the covered product to*  
 9 *manufacture, buy, stock, repackage, sell, resell, repair,*  
 10 *service, otherwise support, or distribute the covered*  
 11 *product.*

12 (4) *COVERED PRODUCT.*—*The term “covered*  
 13 *product”—*

14 (A) *means an information and communica-*  
 15 *tions technology end-use hardware product or*  
 16 *component, including software and firmware*  
 17 *that comprise the end-use hardware product or*  
 18 *component; and*

19 (B) *does not include—*

20 (i) *other software; or*

21 (ii) *an end-use hardware product—*

22 (I) *in which there is embedded in-*  
 23 *formation and communications tech-*  
 24 *nology; and*



1                   (II) *the principal function of*  
 2                   *which is not the creation, manipula-*  
 3                   *tion, storage, display, receipt, or trans-*  
 4                   *mission of electronic data and infor-*  
 5                   *mation.*

6                   (5) *END-USE PRODUCT.—The term “end-use*  
 7                   *product” means a product ready for use by the main-*  
 8                   *tainer, integrator, or end user of the product.*

9                   (6) *INFORMATION AND COMMUNICATIONS TECH-*  
 10                  *NOLOGY.—The term “information and communica-*  
 11                  *tions technology”—*

12                  *(A) has the meaning given the term in sec-*  
 13                  *tion 4713 of title 41, United States Code; and*

14                  *(B) includes information and communica-*  
 15                  *tions technologies covered by definitions con-*  
 16                  *tained in the Federal Acquisition Regulation, in-*  
 17                  *cluding definitions added after the date of the*  
 18                  *enactment of this Act by the Federal Acquisition*  
 19                  *Regulatory Council pursuant to notice and com-*  
 20                  *ment.*

21                  (7) *ORIGINAL EQUIPMENT MANUFACTURER.—The*  
 22                  *term “original equipment manufacturer” means a*  
 23                  *company that manufactures a covered product that*  
 24                  *the company—*

1                   (A) *designed from self-sourced or purchased*  
 2                   *components; and*

3                   (B) *sells under the name of the company.*

4           (b) *PROHIBITION ON PROCUREMENT AND USE.—Sub-*  
 5           *ject to subsection (c) and notwithstanding sections 1905*  
 6           *through 1907 of title 41, United States Code, the head of*  
 7           *an agency may not procure or obtain, renew a contract to*  
 8           *procure or obtain, or use a covered product that is procured*  
 9           *from an entity other than—*

10                   (1) *an original equipment manufacturer; or*

11                   (2) *an authorized reseller.*

12           (c) *WAIVER.—*

13                   (1) *IN GENERAL.—Upon written notice to the*  
 14           *Director of the Office of Management and Budget, the*  
 15           *head of an agency may waive the prohibition under*  
 16           *subsection (b) with respect to a covered product if the*  
 17           *head of the agency determines that procuring, obtain-*  
 18           *ing, or using the covered product is necessary—*

19                   (A) *for the purpose of scientifically valid re-*  
 20           *search (as defined in section 102 the Education*  
 21           *Sciences Reform Act of 2002 (20 U.S.C. 9501));*  
 22           *or*

23                   (B) *to avoid jeopardizing the performance*  
 24           *of mission critical functions.*

1           (2) *NOTICE.*—*The notice described in paragraph*

2           (1)—

3           (A) *shall—*

4                   (i) *specify, with respect to the waiver*  
5                   *under paragraph (1)—*

6                           (I) *the justification for the waiver;*

7                           (II) *any security mitigations that*  
8                           *have been implemented; and*

9                           (III) *with respect to a waiver that*  
10                           *necessitates a security mitigation, the*  
11                           *plan of action and milestones to avoid*  
12                           *future waivers for subsequent similar*  
13                           *purchases; and*

14                           (ii) *be submitted in an unclassified*  
15                           *form; and*

16           (B) *may include a classified annex.*

17           (3) *DURATION.*—*With respect to a waiver for the*  
18           *purpose of research, as described in paragraph (1)(A),*  
19           *the waiver shall be effective for the duration of the re-*  
20           *search identified in the waiver.*

21           (d) *VENDOR TECHNICAL ASSISTANCE.*—*The head of*  
22           *each agency shall establish procurement guidance to provide*  
23           *assistance to entities that are not eligible for procurements*  
24           *of covered products due to the prohibition under subsection*

1 *(b) on the process of becoming an authorized reseller for*  
 2 *covered products.*

3 *(e) REPORTS TO CONGRESS.—*

4 *(1) IN GENERAL.—Not later than 1 year after*  
 5 *the date of enactment of this Act, and annually there-*  
 6 *after until the date that is 6 years after the date of*  
 7 *enactment of this Act, the Director of the Office of*  
 8 *Management and Budget shall submit to the appro-*  
 9 *priate congressional committees a report that pro-*  
 10 *vides—*

11 *(A) the number and types of covered prod-*  
 12 *ucts for which a waiver under subsection (c)(1)*  
 13 *was granted during the 1-year period preceding*  
 14 *the date of the submission of the report;*

15 *(B) the legal authority under which each*  
 16 *waiver described in subparagraph (A) was*  
 17 *granted, such as whether the waiver was granted*  
 18 *pursuant to subparagraph (A) or (B) of sub-*  
 19 *section (c)(1); and*

20 *(C) any actions taken by the head of an*  
 21 *agency to reduce the number of waivers issued by*  
 22 *the agency under subsection (c)(1) with the goal*  
 23 *of achieving full compliance with the prohibition*  
 24 *under subsection (b).*

1           (2) *CLASSIFICATION OF REPORT.*—*Each report*  
2           *submitted under this subsection—*

3                     *(A) shall be submitted in unclassified form;*

4                     *and*

5                     *(B) may include a classified annex that*  
6                     *contains the information described in paragraph*

7                     *(1)(B).*

8           (f) *NO NEW FUNDS.*—*No additional amounts are au-*  
9           *thorized to be appropriated for the purpose of carrying out*  
10           *this Act.*

11           (g) *EFFECTIVE DATE.*—*This section shall take effect*  
12           *on the date that is 1 year after the date of enactment of*  
13           *this Act.*

Calendar No. 737

118<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 4651**

[Report No. 118-317]

**A BILL**

To require agencies to use information and communications technology products obtained from original equipment manufacturers or authorized resellers, and for other purposes.

DECEMBER 19 (legislative day, DECEMBER 16), 2024

Reported with an amendment