

Calendar No. 671

115TH CONGRESS
2D SESSION**S. 3437****[Report No. 115–385]**

To establish a Federal rotational cyber workforce program for the Federal
cyber workforce.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2018

Mr. PETERS (for himself, Mr. HOEVEN, and Ms. HASSAN) introduced the fol-
lowing bill; which was read twice and referred to the Committee on
Homeland Security and Governmental Affairs

NOVEMBER 26, 2018

Reported by Mr. JOHNSON, with an amendment

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

A BILL

To establish a Federal rotational cyber workforce program
for the Federal cyber workforce.

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 “Federal Rotational
5 Cyber Workforce Program Act of 2018”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **AGENCY.**—The term “agency” has the
4 meaning given the term “Executive agency” in sec-
5 tion 105 of title 5, United States Code, except that
6 the term does not include the Government Account-
7 ability Office.

8 (2) **COUNCIL.**—The term “Council” means the
9 Chief Human Capital Officers Council established
10 under section 1303 of the Homeland Security Act of
11 2002 (5 U.S.C. 1401 note).

12 (3) **CYBER WORKFORCE POSITION.**—The term
13 “cyber workforce position” means a position identi-
14 fied as having information technology, cybersecurity,
15 or other cyber-related functions under section 303 of
16 the Federal Cybersecurity Workforce Assessment
17 Act of 2015 (Public Law 114–113; 5 U.S.C. 301
18 note).

19 (4) **DIRECTOR.**—The term “Director” means
20 the Director of the Office of Personnel Management.

21 (5) **EMPLOYEE.**—The term “employee” has the
22 meaning given the term in section 2105 of title 5,
23 United States Code.

24 (6) **EMPLOYING AGENCY.**—The term “employ-
25 ing agency” means the agency from which an em-

1 ployee is detailed to a rotational cyber workforce po-
 2 sition.

3 ~~(7) ROTATIONAL CYBER WORKFORCE POSI-~~
 4 ~~TION.—~~The term “rotational cyber workforce posi-
 5 tion” means a cyber workforce position with respect
 6 to which a determination has been made under sec-
 7 tion 3(a)(1).

8 ~~(8) ROTATIONAL CYBER WORKFORCE PRO-~~
 9 ~~GRAM.—~~The term “rotational cyber workforce pro-
 10 gram” means the program for the detail of employ-
 11 ees among rotational cyber workforce positions at
 12 agencies.

13 **SEC. 3. ROTATIONAL CYBER WORKFORCE POSITIONS.**

14 ~~(a) DETERMINATION WITH RESPECT TO ROTA-~~
 15 ~~TIONAL SERVICE.—~~

16 ~~(1) IN GENERAL.—~~The head of each agency, in
 17 the sole and exclusive discretion of the head of the
 18 agency, may determine that a cyber workforce posi-
 19 tion in that agency is eligible for the rotational cyber
 20 workforce program.

21 ~~(2) NOTICE PROVIDED.—~~The head of an agency
 22 shall submit to the Director—

23 ~~(A) notice regarding any determination~~
 24 ~~made by the head of the agency under para-~~
 25 ~~graph (1); and~~

1 ~~(B)~~ for each position with respect to which
 2 the head of the agency makes a determination
 3 under paragraph ~~(1)~~, the information required
 4 under subsection ~~(b)(1)~~.

5 ~~(b)~~ PREPARATION OF LIST.—The Director, with as-
 6 sistance from the Council and the Secretary of Homeland
 7 Security, shall develop a list of rotational cyber workforce
 8 positions that—

9 ~~(1)~~ with respect to each such position, to the
 10 extent that the information does not disclose sen-
 11 sitive national security information, includes—

12 ~~(A)~~ the title of the position;

13 ~~(B)~~ the occupational series with respect to
 14 the position;

15 ~~(C)~~ the grade level with respect to the po-
 16 sition;

17 ~~(D)~~ the agency in which the position is lo-
 18 cated;

19 ~~(E)~~ the duty location with respect to the
 20 position; and

21 ~~(F)~~ the major duties and functions of the
 22 position; and

23 ~~(2)~~ shall be used to support the rotational cyber
 24 workforce program.

1 (c) DISTRIBUTION OF LIST.—Not less frequently
 2 than annually, the Director shall distribute an updated list
 3 developed under subsection (b) to the head of each agency
 4 and other appropriate entities.

5 **SEC. 4. ROTATIONAL CYBER WORKFORCE PROGRAM.**

6 (a) OPERATION PLAN.—

7 (1) IN GENERAL.—Not later than 270 days
 8 after the date of enactment of this Act, the Director,
 9 in consultation with the Council, the Chief Informa-
 10 tion Officer of the Department of Homeland Secu-
 11 rity, representatives of other agencies, and any other
 12 entity as the Director determines appropriate, shall
 13 develop and issue a Federal Rotational Cyber Work-
 14 force Program operation plan providing policies,
 15 processes, and procedures for a program for the de-
 16 tailing of employees among rotational cyber work-
 17 force positions at agencies.

18 (2) UPDATING.—The Director may, in consulta-
 19 tion with the Council and other entities as the Direc-
 20 tor determines appropriate, periodically update the
 21 operation plan developed and issued under para-
 22 graph (1).

23 (b) REQUIREMENTS.—The operation plan developed
 24 and issued under subsection (a) shall, at a minimum—

1 (1) identify agencies for participation in the ro-
2 tational cyber workforce program;

3 (2) establish procedures for the rotational cyber
4 workforce program, including—

5 (A) any training, education, or career de-
6 velopment requirements associated with partici-
7 pation in the rotational cyber workforce pro-
8 gram;

9 (B) any prerequisites or requirements for
10 participation in the rotational cyber workforce
11 program; and

12 (C) appropriate rotational cyber workforce
13 program performance measures, reporting re-
14 quirements, employee exit surveys, and other
15 accountability devices for the evaluation of the
16 program;

17 (3) provide that participation in the rotational
18 cyber workforce program by an employee shall be
19 voluntary;

20 (4) provide that an employee shall be eligible to
21 participate in the rotational cyber workforce pro-
22 gram if the head of the employing agency of the em-
23 ployee, or a designee of the head of the employing
24 agency of the employee, approves of the participation
25 of the employee;

1 (5) provide that the detail of an employee to a
2 rotational cyber workforce position under the rota-
3 tional cyber workforce program shall be on a nonre-
4 imbursable basis;

5 (6) provide that agencies may agree to partner
6 to ensure that the employing agency of an employee
7 that participates in the rotational cyber workforce
8 program is able to fill the position vacated by the
9 employee;

10 (7) require that an employee detailed to a rota-
11 tional cyber workforce position under the rotational
12 cyber workforce program, upon the end of the period
13 of service with respect to the detail—

14 (A) shall be entitled to return to the posi-
15 tion held by the employee, or a corresponding
16 position, in the employing agency of the em-
17 ployee; and

18 (B) shall not be entitled to return to an-
19 other position in the employing agency of the
20 employee, including a more senior position, if
21 the position held by the employee upon accept-
22 ing the detail remains open;

23 (8) provide that discretion with respect to the
24 assignment of an employee under the rotational

1 cyber workforce program shall remain with the em-
2 ploying agency of the employee;

3 ~~(9)~~ require that an employee detailed to a rota-
4 tional cyber workforce position under the rotational
5 cyber workforce program—

6 ~~(A)~~ in an agency that is not the employing
7 agency of the employee shall have all the rights
8 that would be available to the employee if the
9 employee were detailed under a provision of law
10 other than this Act from the employing agency
11 to the agency in which the rotational cyber
12 workforce position is located; and

13 ~~(B)~~ including under an extension granted
14 under subsection ~~(c)(2)(C)~~, shall be excluded
15 from the application of chapter 71 of title 5,
16 United States Code, during the period in which
17 the employee is detailed;

18 ~~(10)~~ provide that chapter 71 of title 5, United
19 States Code, shall not apply with respect to any
20 changes in the conditions of the employment of an
21 employee relating to participation by the employee in
22 the rotational cyber workforce program; and

23 ~~(11)~~ provide that an employee participating in
24 the rotational cyber workforce program shall receive
25 performance evaluations relating to service in the ro-

1 tational cyber workforce program in a participating
2 agency that are—

3 (A) prepared by an appropriate officer, su-
4 pervisor, or management official of the employ-
5 ing agency;

6 (B) in coordination with the supervisor at
7 the agency in which the employee is performing
8 that service, based on objectives identified in
9 the operation plan with respect to the employee;
10 and

11 (C) based in whole or in part on the con-
12 tribution of the employee to the agency in which
13 the employee performed such service, as com-
14 municated from that agency to the employing
15 agency of the employee.

16 (c) PROGRAM REQUIREMENTS FOR ROTATIONAL
17 SERVICE.—

18 (1) IN GENERAL.—An employee serving in a
19 cyber workforce position in an agency may, with the
20 approval of the head of the agency, submit an appli-
21 cation for detail to a rotational cyber workforce posi-
22 tion that appears on the list developed under section
23 3(b).

24 (2) SELECTION AND TERM.—

1 (A) ~~SELECTION.~~—The head of an agency
 2 shall select an employee for a rotational cyber
 3 workforce position under the rotational cyber
 4 workforce program in a manner that is con-
 5 sistent with the merit system principles under
 6 section 2301(b) of title 5, United States Code.

7 (B) ~~TERM.~~—Except as provided in sub-
 8 paragraph (C), and notwithstanding section
 9 3341(b) of title 5, United States Code, a detail
 10 to a rotational cyber workforce position shall be
 11 for a period of not less than 180 days and not
 12 more than 1 year.

13 (C) ~~EXTENSION.~~—The Chief Human Cap-
 14 ital Officer of the agency to which an employee
 15 is detailed under the rotational cyber workforce
 16 program may extend the period of a detail de-
 17 scribed in subparagraph (B) for a period of 60
 18 days unless the Chief Human Capital Officer of
 19 the employing agency of the employee objects to
 20 that extension.

21 (3) ~~WRITTEN SERVICE AGREEMENTS.~~—

22 (A) ~~IN GENERAL.~~—The detail of an em-
 23 ployee to a rotational cyber position shall be
 24 contingent upon the employee entering into a
 25 written service agreement with the employing

1 agency under which the employee is required to
2 complete a period of employment with the em-
3 ploying agency following the conclusion of the
4 detail that is equal in length to the period of
5 the detail.

6 (B) CONTINUED SERVICE AGREEMENTS.—

7 A written service agreement under subpara-
8 graph (A) shall not supersede or modify the
9 terms or conditions of any other service agree-
10 ment entered into by the employee under any
11 other authority or relieve the obligations be-
12 tween the employee and the employing agency
13 under such a service agreement. Nothing in this
14 subparagraph prevents an employing agency
15 from terminating a service agreement entered
16 into under any other authority under the terms
17 of such agreement or as required by law or reg-
18 ulation.

19 **SEC. 5. REPORTING BY GAO.**

20 Not later than the end of the second fiscal year after
21 the fiscal year in which the operation plan under section
22 4(a) is issued, the Comptroller General of the United
23 States shall submit to Congress a report assessing the op-
24 eration and effectiveness of the rotational cyber workforce
25 program, which shall address, at a minimum—

1 (1) the extent to which agencies have partici-
2 pated in the rotational cyber workforce program; in-
3 cluding whether the head of each such participating
4 agency has—

5 (A) identified positions within the agency
6 that are rotational cyber workforce positions;

7 (B) had employees from other partici-
8 pating agencies serve in positions described in
9 subparagraph (A); and

10 (C) had employees of the agency request to
11 serve in rotational cyber workforce positions
12 under the rotational cyber workforce program
13 in participating agencies; including a descrip-
14 tion of how many such requests were approved;
15 and

16 (2) the experiences of employees serving in ro-
17 tational cyber workforce positions under the rota-
18 tional cyber workforce program; including an assess-
19 ment of—

20 (A) the period of service;

21 (B) the positions (including grade level and
22 occupational series) held by employees before
23 completing service in a rotational cyber work-
24 force position under the rotational cyber work-
25 force program;

(C) the extent to which each employee who completed service in a rotational cyber workforce position under the rotational cyber workforce program achieved a higher skill level, or attained a skill level in a different area, with respect to information technology, cybersecurity, or other cyber-related functions; and

(D) the extent to which service in rotational cyber workforce positions has affected intra-agency and interagency integration and coordination of cyber practices, functions, and personnel management.

SEC. 6. SUNSET.

Effective 5 years after the date of enactment of this Act, this Act is repealed.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Rotational Cyber Workforce Program Act of 2018”.

SEC. 2. DEFINITIONS.

In this Act:

(1) *AGENCY.*—The term “agency” has the meaning given the term “Executive agency” in section 105 of title 5, United States Code, except that the term does not include the Government Accountability Office.

1 (2) *COUNCIL.*—*The term “Council” means the*
 2 *Chief Human Capital Officers Council established*
 3 *under section 1303 of the Homeland Security Act of*
 4 *2002 (5 U.S.C. 1401 note).*

5 (3) *CYBER WORKFORCE POSITION.*—*The term*
 6 *“cyber workforce position” means a position identi-*
 7 *fied as having information technology, cybersecurity,*
 8 *or other cyber-related functions under section 303 of*
 9 *the Federal Cybersecurity Workforce Assessment Act of*
 10 *2015 (5 U.S.C. 301 note).*

11 (4) *DIRECTOR.*—*The term “Director” means the*
 12 *Director of the Office of Personnel Management.*

13 (5) *EMPLOYEE.*—*The term “employee” has the*
 14 *meaning given the term in section 2105 of title 5,*
 15 *United States Code.*

16 (6) *EMPLOYING AGENCY.*—*The term “employing*
 17 *agency” means the agency from which an employee is*
 18 *detailed to a rotational cyber workforce position.*

19 (7) *ROTATIONAL CYBER WORKFORCE POSI-*
 20 *TION.*—*The term “rotational cyber workforce posi-*
 21 *tion” means a cyber workforce position with respect*
 22 *to which a determination has been made under sec-*
 23 *tion 3(a)(1).*

24 (8) *ROTATIONAL CYBER WORKFORCE PRO-*
 25 *GRAM.*—*The term “rotational cyber workforce pro-*

1 *gram” means the program for the detail of employees*
 2 *among rotational cyber workforce positions at agen-*
 3 *cies.*

4 **SEC. 3. ROTATIONAL CYBER WORKFORCE POSITIONS.**

5 *(a) DETERMINATION WITH RESPECT TO ROTATIONAL*
 6 *SERVICE.—*

7 *(1) IN GENERAL.—The head of each agency, in*
 8 *the sole and exclusive discretion of the head of the*
 9 *agency, may determine that a cyber workforce posi-*
 10 *tion in that agency is eligible for the rotational cyber*
 11 *workforce program.*

12 *(2) NOTICE PROVIDED.—The head of an agency*
 13 *shall submit to the Director—*

14 *(A) notice regarding any determination*
 15 *made by the head of the agency under paragraph*
 16 *(1); and*

17 *(B) for each position with respect to which*
 18 *the head of the agency makes a determination*
 19 *under paragraph (1), the information required*
 20 *under subsection (b)(1).*

21 *(b) PREPARATION OF LIST.—The Director, with assist-*
 22 *ance from the Council and the Secretary of Homeland Secu-*
 23 *rity, shall develop a list of rotational cyber workforce posi-*
 24 *tions that—*

1 (1) *with respect to each such position, to the ex-*
 2 *tent that the information does not disclose sensitive*
 3 *national security information, includes—*

4 (A) *the title of the position;*

5 (B) *the occupational series with respect to*
 6 *the position;*

7 (C) *the grade level with respect to the posi-*
 8 *tion;*

9 (D) *the agency in which the position is lo-*
 10 *cated;*

11 (E) *the duty location with respect to the po-*
 12 *sition; and*

13 (F) *the major duties and functions of the*
 14 *position; and*

15 (2) *shall be used to support the rotational cyber*
 16 *workforce program.*

17 (c) *DISTRIBUTION OF LIST.—Not less frequently than*
 18 *annually, the Director shall distribute an updated list de-*
 19 *veloped under subsection (b) to the head of each agency and*
 20 *other appropriate entities.*

21 **SEC. 4. ROTATIONAL CYBER WORKFORCE PROGRAM.**

22 (a) *OPERATION PLAN.—*

23 (1) *IN GENERAL.—Not later than 270 days after*
 24 *the date of enactment of this Act, the Director, in con-*
 25 *sultation with the Council, the Chief Information Of-*

1 *ficer of the Department of Homeland Security, rep-*
 2 *resentatives of other agencies, and any other entity as*
 3 *the Director determines appropriate, shall develop*
 4 *and issue a Federal Rotational Cyber Workforce Pro-*
 5 *gram operation plan providing policies, processes,*
 6 *and procedures for a program for the detailing of em-*
 7 *ployees among rotational cyber workforce positions at*
 8 *agencies.*

9 (2) *UPDATING.*—*The Director may, in consulta-*
 10 *tion with the Council and other entities as the Direc-*
 11 *tor determines appropriate, periodically update the*
 12 *operation plan developed and issued under paragraph*
 13 *(1).*

14 (b) *REQUIREMENTS.*—*The operation plan developed*
 15 *and issued under subsection (a) shall, at a minimum—*

16 (1) *identify agencies for participation in the ro-*
 17 *tational cyber workforce program;*

18 (2) *establish procedures for the rotational cyber*
 19 *workforce program, including—*

20 (A) *any training, education, or career de-*
 21 *velopment requirements associated with partici-*
 22 *pation in the rotational cyber workforce pro-*
 23 *gram;*

1 (B) any prerequisites or requirements for
2 participation in the rotational cyber workforce
3 program; and

4 (C) appropriate rotational cyber workforce
5 program performance measures, reporting re-
6 quirements, employee exit surveys, and other ac-
7 countability devices for the evaluation of the pro-
8 gram;

9 (3) provide that participation in the rotational
10 cyber workforce program by an employee shall be vol-
11 untary;

12 (4) provide that an employee shall be eligible to
13 participate in the rotational cyber workforce program
14 if the head of the employing agency of the employee,
15 or a designee of the head of the employing agency of
16 the employee, approves of the participation of the em-
17 ployee;

18 (5) provide that the detail of an employee to a
19 rotational cyber workforce position under the rota-
20 tional cyber workforce program shall be on a nonre-
21 imbursable basis;

22 (6) provide that agencies may agree to partner
23 to ensure that the employing agency of an employee
24 that participates in the rotational cyber workforce

1 program is able to fill the position vacated by the em-
2 ployee;

3 (7) require that an employee detailed to a rota-
4 tional cyber workforce position under the rotational
5 cyber workforce program, upon the end of the period
6 of service with respect to the detail—

7 (A) shall be entitled to return to the posi-
8 tion held by the employee, or a corresponding po-
9 sition, in the employing agency of the employee;
10 and

11 (B) shall not be entitled to return to an-
12 other position in the employing agency of the
13 employee, including a more senior position, if
14 the position held by the employee upon accepting
15 the detail remains open;

16 (8) provide that discretion with respect to the as-
17 signment of an employee under the rotational cyber
18 workforce program shall remain with the employing
19 agency of the employee;

20 (9) require that an employee detailed to a rota-
21 tional cyber workforce position under the rotational
22 cyber workforce program in an agency that is not the
23 employing agency of the employee shall have all the
24 rights that would be available to the employee if the
25 employee were detailed under a provision of law other

1 *than this Act from the employing agency to the agen-*
2 *cy in which the rotational cyber workforce position is*
3 *located;*

4 *(10) provide that participation by an employee*
5 *in the rotational cyber workforce program shall not*
6 *constitute a change in the conditions of the employ-*
7 *ment of the employee; and*

8 *(11) provide that an employee participating in*
9 *the rotational cyber workforce program shall receive*
10 *performance evaluations relating to service in the ro-*
11 *tational cyber workforce program in a participating*
12 *agency that are—*

13 *(A) prepared by an appropriate officer, su-*
14 *pervisor, or management official of the employ-*
15 *ing agency;*

16 *(B) based, acting in coordination with the*
17 *supervisor at the agency in which the employee*
18 *is performing that service, on objectives identi-*
19 *fied in the operation plan with respect to the em-*
20 *ployee; and*

21 *(C) based in whole or in part on the con-*
22 *tribution of the employee to the agency in which*
23 *the employee performed such service, as commu-*
24 *nicated from that agency to the employing agen-*
25 *cy of the employee.*

1 (c) *PROGRAM REQUIREMENTS FOR ROTATIONAL SERV-*
2 *ICE.*—

3 (1) *IN GENERAL.*—*An employee serving in a*
4 *cyber workforce position in an agency may, with the*
5 *approval of the head of the agency, submit an appli-*
6 *cation for detail to a rotational cyber workforce posi-*
7 *tion that appears on the list developed under section*
8 *3(b).*

9 (2) *SELECTION AND TERM.*—

10 (A) *SELECTION.*—*The head of an agency*
11 *shall select an employee for a rotational cyber*
12 *workforce position under the rotational cyber*
13 *workforce program in a manner that is con-*
14 *sistent with the merit system principles under*
15 *section 2301(b) of title 5, United States Code.*

16 (B) *TERM.*—*Except as provided in sub-*
17 *paragraph (C), and notwithstanding section*
18 *3341(b) of title 5, United States Code, a detail*
19 *to a rotational cyber workforce position shall be*
20 *for a period of not less than 180 days and not*
21 *more than 1 year.*

22 (C) *EXTENSION.*—*The Chief Human Cap-*
23 *ital Officer of the agency to which an employee*
24 *is detailed under the rotational cyber workforce*
25 *program may extend the period of a detail de-*

1 scribed in subparagraph (B) for a period of 60
2 days unless the Chief Human Capital Officer of
3 the employing agency of the employee objects to
4 that extension.

5 (3) WRITTEN SERVICE AGREEMENTS.—

6 (A) IN GENERAL.—The detail of an em-
7 ployee to a rotational cyber position shall be con-
8 tingent upon the employee entering into a writ-
9 ten service agreement with the employing agency
10 under which the employee is required to complete
11 a period of employment with the employing
12 agency following the conclusion of the detail that
13 is equal in length to the period of the detail.

14 (B) CONTINUED SERVICE AGREEMENTS.—A
15 written service agreement under subparagraph
16 (A) shall not supersede or modify the terms or
17 conditions of any other service agreement entered
18 into by the employee under any other authority
19 or relieve the obligations between the employee
20 and the employing agency under such a service
21 agreement. Nothing in this subparagraph pre-
22 vents an employing agency from terminating a
23 service agreement entered into under any other
24 authority under the terms of such agreement or
25 as required by law or regulation.

1 **SEC. 5. REPORTING BY GAO.**

2 *Not later than the end of the second fiscal year after*
3 *the fiscal year in which the operation plan under section*
4 *4(a) is issued, the Comptroller General of the United States*
5 *shall submit to Congress a report assessing the operation*
6 *and effectiveness of the rotational cyber workforce program,*
7 *which shall address, at a minimum—*

8 *(1) the extent to which agencies have partici-*
9 *pated in the rotational cyber workforce program, in-*
10 *cluding whether the head of each such participating*
11 *agency has—*

12 *(A) identified positions within the agency*
13 *that are rotational cyber workforce positions;*

14 *(B) had employees from other participating*
15 *agencies serve in positions described in subpara-*
16 *graph (A); and*

17 *(C) had employees of the agency request to*
18 *serve in rotational cyber workforce positions*
19 *under the rotational cyber workforce program in*
20 *participating agencies, including a description*
21 *of how many such requests were approved; and*

22 *(2) the experiences of employees serving in rota-*
23 *tional cyber workforce positions under the rotational*
24 *cyber workforce program, including an assessment*
25 *of—*

26 *(A) the period of service;*

1 (B) the positions (including grade level and
2 occupational series) held by employees before
3 completing service in a rotational cyber work-
4 force position under the rotational cyber work-
5 force program;

6 (C) the extent to which each employee who
7 completed service in a rotational cyber workforce
8 position under the rotational cyber workforce
9 program achieved a higher skill level, or attained
10 a skill level in a different area, with respect to
11 information technology, cybersecurity, or other
12 cyber-related functions; and

13 (D) the extent to which service in rotational
14 cyber workforce positions has affected intra-agen-
15 cy and interagency integration and coordination
16 of cyber practices, functions, and personnel man-
17 agement.

18 **SEC. 6. SUNSET.**

19 *Effective 5 years after the date of enactment of this*
20 *Act, this Act is repealed.*

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