

paragraph shall review all exclusion and removal orders issued under subparagraph (A) not less frequently than annually pursuant to procedures established by the Council.

(E) RESCISSION.—Orders issued pursuant to subparagraph (A) may be rescinded by an authorized official from the relevant issuing agency.

(6) NOTIFICATIONS.—Upon issuance of an exclusion or removal order pursuant to paragraph (5)(A), the official identified under that paragraph who issued the order shall—

(A) notify any source named in the order of—

- (i) the exclusion or removal order; and
- (ii) to the extent consistent with national security and law enforcement interests, information that forms the basis for the order;

(B) provide classified or unclassified notice of the exclusion or removal order to the appropriate congressional committees and leadership; and

(C) provide the exclusion or removal order to the agency identified in subsection (a)(3).

(7) COMPLIANCE.—Executive agencies shall comply with exclusion and removal orders issued pursuant to paragraph (5).

(d) AUTHORITY TO REQUEST INFORMATION.—The Council may request such information from executive agencies as is necessary for the Council to carry out its functions.

(e) RELATIONSHIP TO OTHER COUNCILS.—The Council shall consult and coordinate, as appropriate, with other relevant councils and inter-agency committees, including the Chief Information Officers Council, the Chief Acquisition Officers Council, the Federal Acquisition Regulatory Council, and the Committee on Foreign Investment in the United States, with respect to supply chain risks posed by the acquisition and use of covered articles.

(f) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to limit the authority of the Office of Federal Procurement Policy to carry out the responsibilities of that Office under any other provision of law; or

(2) to authorize the issuance of an exclusion or removal order based solely on the fact of foreign ownership of a potential procurement source that is otherwise qualified to enter into procurement contracts with the Federal Government.

(Added Pub. L. 115–390, title II, §202(a), Dec. 21, 2018, 132 Stat. 5180.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Dec. 21, 2018, and applicable to contracts that are awarded before, on, or after that date, see section 202(c) of Pub. L. 115–390, set out as a note under section 1321 of this title.

Title II of Pub. L. 115–390 effective 90 days after Dec. 21, 2018, see section 205 of Pub. L. 115–390, set out as a note under section 1321 of this title.

§ 1324. Strategic plan

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Federal Acqui-

sition Supply Chain Security Act of 2018, the Council shall develop a strategic plan for addressing supply chain risks posed by the acquisition of covered articles and for managing such risks that includes—

(1) the criteria and processes required under section 1323(a) of this title, including a threshold and requirements for sharing relevant information about such risks with all executive agencies and, as appropriate, with other Federal entities and non-Federal entities;

(2) an identification of existing authorities for addressing such risks;

(3) an identification and promulgation of best practices and procedures and available resources for executive agencies to assess and mitigate such risks;

(4) recommendations for any legislative, regulatory, or other policy changes to improve efforts to address such risks;

(5) recommendations for any legislative, regulatory, or other policy changes to incentivize the adoption of best practices for supply chain risk management by the private sector;

(6) an evaluation of the effect of implementing new policies or procedures on existing contracts and the procurement process;

(7) a plan for engaging with executive agencies, the private sector, and other nongovernmental stakeholders to address such risks;

(8) a plan for identification, assessment, mitigation, and vetting of supply chain risks from existing and prospective information and communications technology made available by executive agencies to other executive agencies through common contract solutions, shared services, acquisition vehicles, or other assisted acquisition services; and

(9) plans to strengthen the capacity of all executive agencies to conduct assessments of—

(A) the supply chain risk posed by the acquisition of covered articles; and

(B) compliance with the requirements of this subchapter.

(b) SUBMISSION TO CONGRESS.—Not later than 7 calendar days after completion of the strategic plan required by subsection (a), the Chairperson of the Council shall submit the plan to the appropriate congressional committees and leadership.

(Added Pub. L. 115–390, title II, §202(a), Dec. 21, 2018, 132 Stat. 5184.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Federal Acquisition Supply Chain Security Act of 2018, referred to in subsec. (a), is the date of enactment of Pub. L. 115–390, which was approved Dec. 21, 2018.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Dec. 21, 2018, and applicable to contracts that are awarded before, on, or after that date, see section 202(c) of Pub. L. 115–390, set out as a note under section 1321 of this title.

Title II of Pub. L. 115–390 effective 90 days after Dec. 21, 2018, see section 205 of Pub. L. 115–390, set out as a note under section 1321 of this title.

§ 1325. Annual report

Not later than December 31 of each year, the Chairperson of the Council shall submit to the appropriate congressional committees and leadership a report on the activities of the Council during the preceding 12-month period.

(Added Pub. L. 115-390, title II, §202(a), Dec. 21, 2018, 132 Stat. 5184.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Dec. 21, 2018, and applicable to contracts that are awarded before, on, or after that date, see section 202(c) of Pub. L. 115-390, set out as a note under section 1321 of this title.

Title II of Pub. L. 115-390 effective 90 days after Dec. 21, 2018, see section 205 of Pub. L. 115-390, set out as a note under section 1321 of this title.

§ 1326. Requirements for executive agencies

(a) IN GENERAL.—The head of each executive agency shall be responsible for—

(1) assessing the supply chain risk posed by the acquisition and use of covered articles and avoiding, mitigating, accepting, or transferring that risk, as appropriate and consistent with the standards, guidelines, and practices identified by the Council under section 1323(a)(1); and

(2) prioritizing supply chain risk assessments conducted under paragraph (1) based on the criticality of the mission, system, component, service, or asset.

(b) INCLUSIONS.—The responsibility for assessing supply chain risk described in subsection (a) includes—

(1) developing an overall supply chain risk management strategy and implementation plan and policies and processes to guide and govern supply chain risk management activities;

(2) integrating supply chain risk management practices throughout the life cycle of the system, component, service, or asset;

(3) limiting, avoiding, mitigating, accepting, or transferring any identified risk;

(4) sharing relevant information with other executive agencies as determined appropriate by the Council in a manner consistent with section 1323(a) of this title;

(5) reporting on progress and effectiveness of the agency's supply chain risk management consistent with guidance issued by the Office of Management and Budget and the Council; and

(6) ensuring that all relevant information, including classified information, with respect to acquisitions of covered articles that may pose a supply chain risk, consistent with section 1323(a) of this title, is incorporated into existing processes of the agency for conducting assessments described in subsection (a) and ongoing management of acquisition programs, including any identification, investigation, mitigation, or remediation needs.

(c) INTERAGENCY ACQUISITIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of an interagency acquisition, subsection (a) shall be carried out by

the head of the executive agency whose funds are being used to procure the covered article.

(2) ASSISTED ACQUISITIONS.—In an assisted acquisition, the parties to the acquisition shall determine, as part of the interagency agreement governing the acquisition, which agency is responsible for carrying out subsection (a).

(3) DEFINITIONS.—In this subsection, the terms “assisted acquisition” and “interagency acquisition” have the meanings given those terms in section 2.101 of title 48, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(d) ASSISTANCE.—The Secretary of Homeland Security may—

(1) assist executive agencies in conducting risk assessments described in subsection (a) and implementing mitigation requirements for information and communications technology; and

(2) provide such additional guidance or tools as are necessary to support actions taken by executive agencies.

(Added Pub. L. 115-390, title II, §202(a), Dec. 21, 2018, 132 Stat. 5184.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 90 days after Dec. 21, 2018, and applicable to contracts that are awarded before, on, or after that date, see section 202(c) of Pub. L. 115-390, set out as a note under section 1321 of this title.

Title II of Pub. L. 115-390 effective 90 days after Dec. 21, 2018, see section 205 of Pub. L. 115-390, set out as a note under section 1321 of this title.

§ 1327. Judicial review procedures

(a) IN GENERAL.—Except as provided in subsection (b) and chapter 71 of this title, and notwithstanding any other provision of law, an action taken under section 1323 or 4713 of this title, or any action taken by an executive agency to implement such an action, shall not be subject to administrative review or judicial review, including bid protests before the Government Accountability Office or in any Federal court.

(b) PETITIONS.—

(1) IN GENERAL.—Not later than 60 days after a party is notified of an exclusion or removal order under section 1323(c)(6) of this title or a covered procurement action under section 4713 of this title, the party may file a petition for judicial review in the United States Court of Appeals for the District of Columbia Circuit claiming that the issuance of the exclusion or removal order or covered procurement action is unlawful.

(2) STANDARD OF REVIEW.—The Court shall hold unlawful a covered action taken under sections 1323 or 4713 of this title, in response to a petition that the court finds to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;