

117TH CONGRESS
1ST SESSION

H. R. 4611

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2021

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

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.

(6) UNDER SECRETARY.—The term “Under Secretary” means the Under Secretary for Management of the Department of Homeland Security.

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: CHERYL L. JOHNSON,
Clerk.